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7.1 Introduction:

The Constitution of India directs the State to regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and in particular to endeavour to bring about prohibition of consumption except for medical purpose of intoxicating drinks and of drugs which are injurious to health. The same principle of preventing use of drugs except for medicinal use was also adopted in the three International Conventions on drugs related matters, viz -

1) Single Convention of Narcotic Drugs, 1961;
2) Convention on Psychotropic Substances, 1977 and
3) The UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.

Narcotic Drugs and Psychotropic Substances, 1988, India has signed and ratified these three Conventions. In 1985, the Narcotic Drugs and Psychotropic Substances Act came into existence. This Act has given the power of enforcement to various central and state laws enforcement agencies. It is also possible for the central and state governments to notify any new class of officers of any department to enforce. According to Section 71 of the Narcotic Drugs and Psychotropic Substances Act, 1985, the government may, in its discretion establish as many centres as it thinks fit for identification, treatment, education, after care, rehabilitation, social re-integration of addicts and for supply, subject to conditions and in such manner as may be prescribed, by the concerned government of any Narcotic Drugs and Psychotropic Substances to addicts registered with the Government and to others where such supply is a medical necessity. The government may make rules consistent with this Act providing for the establishment, appointment, maintenance, management and superintendence of and for supply of Narcotic Drugs and Psychotropic Substances from the centres referred to in sub section (1) and for the appointment, training, powers, duties and persons employed in such centres. For this, the NDPS Act has created various statutory authorities.
such as Narcotic Commissioner (Section 5), the Competent Authority (Section 68-D), the Administrator (Section 68-G), Central Bureau of Narcotics, Narcotic Central Bureau. The NDPS Act is administered by the Ministry of Finance, Department of Revenue. However, matters belonging to Drug Demand Reductions are handled by the Ministry of Social Justice and Empowerment.

7.2 The Role of Ministry of Social Justice and Empowerment:

The Ministry of Social Justice and Empowerment, Government of India supports various NGOs involved in Drug Demand Reduction. The Ministry of Health, Government of India is responsible for all health issues. They run several drug de-addiction centres in the Government Hospitals across the country. The state governments also have their own Health Department and Social Welfare Departments each of which has its own set of activities relating to Drug Demand Reduction.

7.2.1 Drug Demand Reduction:

It has two components – (1) treating the drug addicts and educating and enabling the society to prevent addiction and (2) to rehabilitate addicts after they have been treated. The Government of India has tried to make a plan relating to –

1) Building awareness and educating people about ill effect of drug abuse.

2) Educating addicts through programme of motivational counseling, treatment, follow-up and social-reintegration of recovered addicts.

3) To impart drug abuse prevention/rehabilitation training to volunteers.

7.2.2 Programmes for Primary Prevention:

Programmes have been initiated in all areas, voluntary and governmental. Parents and teacher have to take roots within the school system in the country. There is a great need for specially designed educational programmes for children. Some of the following steps can be taken for primary prevention of drug abuse –
• Research and survey on drug abuse,
• Drug education of secondary school and college students, teachers and parents,
• Dissemination of information on the dangerous effects of intoxicants substances by radio, television, films and discussion of the social consequences in conferences and seminar in educational institutions;
• 'Family life education' which envisages the provision of community based services to prevent drug abuse by education of parents and children and offering counseling and guidance to drug prone individuals within the family setting.

7.2.3 Drug Treatment as a right:

According to Rule 67-A(a) and (c) NDPS Rules, allows use of Narcotic Drugs and Psychotropic Substances by foreign nationals on medical advice for 'De-addiction' of drug dependent persons by government or voluntary organization or other institution approved by the central government. Though guided by prohibition, the NDPS Act does provide room to accommodate use of drugs in medical as well as non-medical contexts. Through their rule making powers, the central and state government can prescribe conditions for supplying Narcotic Drugs and Psychotropic Substances to a select class of persons, which include patients, foreign nationals, registered 'Addicts' and persons undergoing treatment for drug dependence. In the later category, the NDPS Act supports treatment both as an alternative to and independent of penal measures. Arguably, for drug users, addiction treatment is part of the right to health which the Supreme Court has recognized within the constitutional guarantee of life and liberty\(^1\) and international human rights law.\(^2\) Treatment provision must then be guided by principles of non-discrimination, participation, quality and evidence informed standards that characterize the right to health.

\(^1\) Paschim Banagkhet Samity Vs State of West Bengal (1996) 4 SCC 37
\(^2\) International Covenant on Economic, Social and Cultural Rights, Article 12
• **Problems in the legal issued surrounding drug treatment centres in India**: According to NDPS Act, 'De-addiction Centres' may be set up by the central or state governments or by voluntary organizations with government approval. Drug treatment centres in India largely remains unregulated, the health and safety of patient is under risk.³ With the exception of some reputed institutions, most centres do not follow sound clinical practices; instead, utilize outmoded and unscientific methods. There is no standardized care; anything and everything is called treatment. In some parts of the country, mainly faith based centres run on the belief that god, not medicines will help 'Addicts'. In Punjab, where drug dependence has reached enormous proportions, numerous 'Clinics' have opened up to cash in on the desperation of persons who use drug and their families.⁴ Instead of medical care, 'Punishments' are meted out to rid patients of addiction. Physical isolation, chaining, electric shocks, beating, forced labour, denial of meals, other cruel and inhuman behavior are commonly practiced at such unauthorized centres. Many drug users have reportedly died because of physical torture and/or lack of timely medical attention.⁵ Existing guidelines are incomplete; they elaborate neither clinical nor human rights standards in managing drug dependence. Further still, they are operational codes and not statutorily binding on private centres. Legally, confusion prevails over whether drug dependence is governed by the NDPS or the Mental Health Act. Systems for review and oversight are non-existent. The NDPS Act allows the medical use of narcotics and psychotropic substances. It also supports the provisions of opiates to drug dependent persons as part of medical care. Drug control agencies must abandon their restrictive understanding of treatment as 'De-addiction'. Instead, governments must be encouraged to make use of flexibilities within the law to provide

³ Drug Abuse : News-N-Views (Minimum Standards of Care) April-2007
⁴ Priya Yadav, Drug addicts open to fraud, Times News Network, 24th Feb 2008
quality and evidence based treatment to discharge its constitutional obligation to safeguard the right to health of all persons including persons dependent on drugs.

7.2.4 Frame a policy for drug trafficking convicts:

A Delhi Court asked the government to consider framing a policy which could act as an eye opener for drug trafficking convicts by showing them the pain and agonies suffered by addicts, victims of their offence. The court stressed the need to make drug traffickers aware of the plight of the victims while awarding their jail terms.

The Narcotic Drugs and Psychotropic Substances Act does not contain any such provision. It is for the governments and all concerned authorities, including prison authorities to think over as to the manner in which drug traffickers can be sensitized of the pains and agonies of drug addicts so that when such like convicts became free from jail, they do not option for such wicked trade.6

Such convicts, while serving prison terms, be periodically taken to hospital, drug de-addiction centres so that they see the pain and agonies of victims and such visuals would leave an indelible impression on their minds.

7.2.5 Diversion from Prison to Treatment:

The NDPS Act (Section 39) confers powers on the court to direct 'Addicts' convicted for certain low grade offences to treatment. Instead of sentencing a drug dependent offender to jail, the court can, after assessing his background and health status and obtaining consent, remand him to treatment facility maintained or recognized by the Government. Treatment access is contingent upon undertaking on oath not to commit drug related offences including use and submission of medical reports. On completion of treatment, the court may defer the sentence and release the offender on a bond. Till date, few drug dependent persons, if any, have benefited from this provision. Neither

6 Reports, Drug Traffickers be shown agonies of addicts: court tells government, DNA, Daily News and Analysis, published Oct. 25, 2011
the government nor the judicial authorities have framed protocols, without which Magistrates are reluctant to transfer drug defendant offenders to medical care. Further still, courts are not provided with a list of recognized drug treatment facilities and often, do not know where to refer the user. Unlike other jurisdictions, courts in India do not elicit support of medical and social workers, who are critical to drug treatment. Given the relapsing nature of dependence, insistence on abstinence for a judicially determined period is both unsound and impractical.

There is an urgent need for drug treatment and law authorities to collaborate and develop mechanism to work this provisions. Assistance may be sought from enforcement officials, lawyers and drug user groups whose practical insights can help create diversion programmes that are pragmatic.

7.2.6 Establishment of Drug De-addiction Centres:

In 1976, the Government of India's Ministry of Health and Family Welfare appointed of high powered committee of examine the problem of Drug De-addiction and Suggest Future guidelines. The Drug De-addiction Programmes in the Ministry of Health was started in the year 1987-88. At present, 122 De-addiction Centres have been establishment across the country including centres in central government hospitals and institutions.\(^7\) The list of such centres is enclosed in Appendices.

The Government of India supports 361 Non-Governmental Organisations. They are running 376 De-addiction-cum-Rehabilitation Centres, De-addiction Camps.\(^8\)

Over the years, several De-addiction Centres have come up. But there is no uniformity to give treatment to the addiction. It is necessary that there should be co-ordination among all De-addiction

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\(^7\) Dr. Rakesh Lal, Manual for Physicians of Oct-2003, Substance use, disorder, website, www.google.co.in

\(^8\) An article, National Policy on NDPS, website, www.google.co.in
Centres. The central government can give some guidelines and standards for De-addiction Centres to follow.

It is observed that the majority of De-addiction Centres are established in big cities only. It is essential that Government shall ensure that there is easy access to the service of treatment provided by Government's Institution and Hospital. At least, one De-addiction Centre for each Tahsil level should be established.

7.2.7 Establishment of counseling and awareness centres:

The Ministry of Health and Family Welfare of the Government of India runs near about 68 counselling and awareness centres.\(^9\)

To give wider coverage, provisions of awareness centres has been made in the urban and rural where such centres have not yet been established but there is need for the service. There is not awareness in society about the ill effect of drug abuse on the individual, the family and the community. There is need to take deliberate division to step up awareness generation programmes. It will inculcate through various seminars, conferences, workshops, corner meeting, essay/debate, competitions, publicity through mass media, etc. Several radio, TV programmes should be launched and film produced to create awareness about role of parents, teachers in the prevention and control of alcohol and drug abuse. It is necessary that the counseling and awareness centres should be conducted through Village Panchayat.

7.2.8 Training and Manpower Development – Development of Service Providers:

The National Drug Dependence Treatment Training Centre, at All India Institute of Medical Sciences, New Delhi trains doctors in treatment of drug addicts. The National Institute of Social Defence, New Delhi trains those who works in NGOs in Drug De-addiction Centres.

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\(^9\) An article, National Policy on NDPS, website, www.google.co.in
The Central Government should give some guidelines and standards for giving the training to those who work in De-addiction Centres.

7.3 The Role of Narcotic Control Bureau:

According to Section 4(3) of the NDPS Act, 1985, constitutes a central authority for the purpose of exercising the powers and functions of the central government under the Act. In pursuance of this provision, Government of India Constituted the Narcotic Control Bureau on the 17th March 1986. The national drug control strategy involves supply and demand reduction measures. In multi-agency approach, several central and state agencies like Customs and Central Excise, DRI, CBN, Border Guarding Forces, state policy, Excise, Forest Departments are empowered under the NDPS Act. The Narcotic Control Bureau has been performing following functions:

i) Collection, collation and dissemination of intelligence relating to smuggling peddling and abuse of narcotic drugs and psychotropic substances both on national and international levels.

ii) Study of modus operandi, price structure, marketing pattern and classification of drugs and smuggling, peddling and consumption thereof so that field formations are alerted and loopholes plugged.

iii) Co-ordination of actions of central and state enforcement agencies and supplementing such actions where cases have inter-state or international ramifications.

iv) To act as nodal agency for liaison, co-operation and co-ordination at the international level with other drug law enforcement agencies and international organizations.

v) To have at all times a complete and detailed and up to date study on implementation of drug laws and to make recommendations to the Government from time to time for plugging loopholes and taking action wherever necessary.

vi) To make from time to time a comprehensive study of the procedures, practices, functions, conventions and understandings (Both national and
international) formal or informal, recognized or implied, to see their relevance to and bearing on the smuggling or drugs.

vii) To study critically court judgements and guide complicated prosecution proceedings launched against drug smugglers by the field formations to secure enhanced punishments.

viii) To receive inter-agency requests from one agency for actions by another and transmitting the same after supplying such other relevant information as may be in the possession of the Bureau to achieve optimum results and also to supply information to the Interpol (CBI) India for transmission to the foreign member countries of the ICPO-Interpol.

ix) To arrange training for officers of the NCB and field formations within and outside India and to make on the spot studies at selected centres of drug smuggling in foreign countries.

x) To organize conferences and meetings at the national and international level to discuss, consider and adopt counter measures to combat the menace of drug smuggling.

xi) To gauge and assess from time to time the practical operational requirements of various field formations and to advise the Government of whether these field formations have proper and adequate resources to meet the challenges of technological and operational means adopted by drug traffickers generally or in a particular sector and suggest improvements.

xii) Complements efforts of the field formations and the Central Government with regard to implementation of the NDPS Act, 1985 and other laws on the subject.

Thus, the Narcotic Control Bureau has been gathering statistics on seizures, etc. from various states and central law enforcement agencies and has been gathering the National Drug enforcement statistics every month. These statistics represent the drug law enforcement as well as the comparative performance of various agencies. But there is no similar mechanism to regularly collect statistics on the drug addiction. It is essential that there should be a comprehensive survey of drug addiction.
7.3.1 Collection of statistics:

In the field of drug control, statistics are important –

a) To monitor the legitimate manufacture, trade, import, export, use, consumption and stock of narcotic drugs and psychotropic substances.

b) To collect baseline data on drug addiction and monitor the impact of various drug demand reduction interventions.

c) To serve as a basis to work out master plans for drug control and to assess the impact of implementation of such plan.

It is necessary that the government shall try to make such types of collection of statistics and it shall be repeated every year or every 5 years so that the change and pattern of drug abuse can be studied and the impact of various measures taken for reduction in drug supply and demand can be assessed.

7.3.2 Special attention to vulnerable groups:

There is a need to give special attention to tackle drug abuse problem amongst socially and economically vulnerable groups such as street children, transportation workers, commercial sex workers, destitute women. It is necessary to make a city level plans and rural level plans.\footnote{An article, Drug Abuse, website, rrtd.nic.in/DrugCover.html}

7.4 Laboratories:

The NDPS Act establishes several agencies in several parts of the country. Such as Central Revenue Chemical Laboratories (CRCL), Central Forensic Science Laboratories (CFSL), State Forensic Science Laboratories (SFSL) of each state.

It is essential that the Government of India shall continuously build the capacity of the personnel working in the forensic labs in the country and improve the quality of their equipment so as to get in the shortest possible time precise and accurate test reports which can withstand the legal scrutiny. In order to achieve the above objective, one nodal national drug testing
laboratory will be identified which shall, in addition to testing samples that it receives, be responsible for the following –

a) Developing/documenting/prescribing standard testing protocols for each narcotic drug, psychotropic substance and any other related tests.

b) Developing advanced forensic testing methods such as impurity profiling.

c) Developing standardized forms of reporting which can withstand legal scrutiny.

d) Conduct training programmes for the personnel in various forensic laboratories in the country.¹¹

7.5 **Summary:**

There are different arms of the government which look at problems related to drugs with different perspectives. The control on illicit drug trafficking and its production as well as co-ordination with international agencies is the responsibility of the Ministry of Home Affairs. Legal production of opium is looked after by the department of Revenue (Ministry of Finance). Rehabilitation and counseling of addicts is the responsibility of Ministry of Social Justice and Empowerment. Demand reduction by way of treatment and after care is the concern of Ministry of Health and Family Welfare. There should be co-ordination while functioning these duties.¹²

While all around efforts are being made for prevention of drug abuse in our society, a long journey is yet to be covered before we can draw some satisfaction. Efforts on the part of all institutions are very essential. The empowerment of society through satisfaction and awareness is the only solution to support the efforts of enforcement agencies in controlling the growth of drug trafficking and drug abuse.

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¹¹ An article, National Policy on Narcotic Drugs and Psychotropic Substance, website, www.google.co.in

¹² Rajiv Wallia, an article, Drug Abuse, News-N-Views, the Nation of Drug Dependence Treatment Centres, December 2009