

# Narcotics Drugs & Psychotropic Substances Act

# Outline

- \* Definition & Classification
- \* History
- \* The Act and its chapters
- \* Opioid Substitution Therapy
- \* Amendments 2014
- \* Critique
- \* Remedies

# Drug

- \* Chemically: Any chemical substance that affects normal functioning of body and/or brain
- \* Medicine: Any substance with potential to prevent/cure disease or enhance physical/mental welfare

# Drug

- \* Pharmacology: Any chemical agent that alters physiological/biochemical processes of tissues/organisms
- \* Legal terms: *Any substance listed in Schedule I & II of 1961 Single Convention on Narcotic drugs, (prohibit to sell) whether natural or synthetic*

# Classification of Drugs (Legality)

- \* Licit: use is sanctioned legally eg: alcohol, tobacco
- \* Illicit: use is contravened by law eg: cocaine

# Drug Abuse & Crime

- \* Crimes related to **cultivation, manufacture, supply and possession of illicit substances**
- \* Crimes committed to **procure (obtain) substance**
- \* Crimes related to effect of altered mental state due to drug use

# History

Before 1985, drug related matters were dealt under:

- \* The Opium Act, 1857
- \* The Opium Act, 1878
- \* The Dangerous Drugs Act, 1930

# History

- \* Opium Acts dealt exclusively with matters related to opium
- \* Dangerous Drugs Act dealt with other drugs like cannabis & cocaine; psychotropic drugs not covered (Drugs & Cosmetic Act, 1940)

# History

- \* Max. punishment: simple imprisonment of 3 years for first offence, with(out) fine
- \* No mention of cannabis cultivation
- \* Did not deal with psychotropic substances covered partially under the Drugs and Cosmetics Act 1940

# History

- \* Early 1980s: Drug situation in India worsened rapidly due to influx of heroin
- \* Narcotic Drugs and Psychotropic Substances Act (NDPSA) in 1985 was brought to cope up with the situation

# The Act

- \* Narcotics Drugs & Psychotropic Substances Act, Act 61 of 1985, amended up to Act 2 of 1989
- \* Narcotic Drugs & Psychotropic Substances Rules (NDPSR), 1985
- \* Narcotic Drugs and Psychotropic Substances (Execution of Bond by Convicts or Addicts) Rules [NDPS (EBCA) R], 1985

# The Act

- \* Enacted on 16/9/1985
- \* Came into force on 14/11/1985
- \* Consists of **6 chapters with 83 sections**
- \* Previous Opium Acts and The Dangerous Drugs Act have been repealed

# Goals

- \* Consolidate(merge) and amend(make minor changes) the law relating to narcotic drugs
- \* **Make stringent** provision for control & regulation of operations relating to narcotic drugs and psychotropic substances

# Goals

- \* Provide for forfeiture (loss) of property derived from, or used in illicit traffic of narcotic drugs & psychotropic substances
- \* **Implement provisions** of the International Conventions on Narcotic Drugs and Psychotropic Substances

# Chapters

1. Definitions
2. Authorities and officers
3. Prohibition, control and regulation
4. Offences and penalties
5. Procedures
6. Miscellaneous

# Chapter I (Preliminary)

Deals with definitions of various terms

- \* **Addict:** a person addicted to any narcotic drug or psychotropic substance
- \* **Narcotic drug:** Coca leaf, cannabis, opium, poppy straw, all manufactured drugs

# Chapter I (Preliminary)

- \* **Manufactured Drugs:** All coca derivatives, medicinal cannabis, opium derivatives, poppy straw concentrate, any other notified narcotic substance or preparation
- \* **Psychotropic Substance:** Any substance, natural or synthetic, or any natural material, or any salt or preparation of such substance or material included in the list of psychotropic substances specified in the schedule (75)

# Chapter I (Preliminary)

Minimum concentrations specified in respect of opium preparations and coca derivatives

- \* Not less than 0.2% of morphine
- \* Any amount of diacetylmorphine
- \* Not less than 0.1% of cocaine

# Chapter II

- \* **Deals with authorities and officers**
- \* **Provisions (servicies)for appointment of a Narcotics Commissioner by central govt.**

# Chapter II

- \* Narcotic Drugs and Psychotropic substance Consultative Committee (with a chairman and other members not exceeding 20)
- \* **Chapter IIA - provision for constitution of a National Fund for Control of Drug Abuse** (with a governing body consisting of a chairman and other members, not more than 6)

# Chapter II

- \* **Narcotics Control Bureau constituted by Central Govt. on 17/3/1986 to exercise powers and functions of central govt.** under this act
- \* Headed by Director General
- \* HQ at New Delhi; 5 zonal offices at Mumbai, Kolkata, Delhi, Chennai, Varanasi

# Chapter III

- \* **Deals with prohibition(banning), control and regulation**
- \* Section 8: No person shall:
  - \* Cultivate any coca, opium, poppy or cannabis plant
  - \* Produce, possess or consume any narcotic drug or psychotropic substance
  - \* Except for medicinal or scientific purpose and in the manner and to the extent provided by the act

# Chapter III

- \* Includes clauses regarding the power of central and state govt. to **permit, control and regulate the narcotic drugs and psychotropic substances, including the matter of licenses**

# Chapter IV

- \* **Deals with offences and penalties**
- \* Punishment for contravention in relation to poppy straw; coca plant and leaves; prepared opium, opium poppy and opium; cannabis plant (except ganja); manufactured drugs; psychotropic substances

# Chapter IV

- \* **1<sup>st</sup> offence: Rigorous imprisonment (RI) for not less than 10 years (may extend to 20 yrs) + Fine not less than 1 lakh rupees (extend to 2 lakhs or more)**
- \* **2<sup>nd</sup> & subsequent convictions: RI for not less than 15 yrs (up to 30 yrs) + Fine not less than 1.5 lakh (up to 3 or more)**

# Chapter IV

- \* Punishment for contravention in relation to **ganja or cultivation of cannabis plant:**
  - \* 1<sup>st</sup> offence: **RI up to 5 years + Fine up to 50,000 rupees**
  - \* 2<sup>nd</sup> and subsequent conviction: RI up to 10 yrs + Fine up to 1 lakh rupees or more

# Chapter IV

- \* Punishment for contravention in relation to **any controlled substance** (any substance which the Central Govt. may declare to be controlled substance):
  - \* RI up to **10 yrs + Fine up to 1 lakh rupees or more**

# Chapter IV

- \* **Punishment for illegal possession of small quantity for personal consumption of any narcotic drug or psychotropic substance (section 27):**

# Chapter IV

- \* Cocaine, morphine, heroin, or any other specified substance: imprisonment for a term up to 1 year or fine or both
- \* Other than specified: imprisonment for up to 6 months or fine or both

# Chapter IV

Drug	Small Quantity	Commercial Quantity
Amphetamine	2g	50g
Buprenorphine	2g	20g
Charas/Hashish	20g	500g
Cocaine	1kg	20kg
Ganja	5g	250g
MDMA	0.5g	10g
Methamphetamine	2g	50g
Morphine	5g	250g
Poppy Straw	1kg	50kg

# Chapter IV

- \* **Death penalty** may be given if any person who has been convicted earlier (under section 15-25 or 27A) has been subsequently convicted in relation to narcotic drugs or psychotropic substances specified below and involving quantities equal to or more than those indicated:

# Chapter IV

1. Opium (10kg)
2. Morphine (1 kg)
3. Heroin (1 kg)
4. Codeine (1 kg)
5. Thebaine (1 kg)
6. Cocaine (500 g)
7. Hashish (20 kg)
8. A mixture of above drugs (1.5 kg)
9. LSD (0.5 kg)
10. THC (0.5 kg)
11. Methamphetamine (1.5 kg)

# Chapter IV

- \* Existence of a culpable mental state is presumed (intention, motive, knowledge of a fact and belief in, or reason to believe a fact)
- \* Every offence punishable under this Act is cognizable
- \* Punishment more than 5 yrs imprisonment is non-bailable

# Chapter IV

- \* Any addict convicted under section 27 ( small quantities), instead of being sentenced, can be, with his consent, released for undergoing medical treatment for detoxification or deaddiction from a govt. maintained or recognized hospital or institution

# Chapter IV

- \* This can be done with regard to addicts age, character, antecedents, physical or mental conditions, and on his entering into a bond to appear and furnish before the court within a period not exceeding 1 yr, a report of his medical treatment and to abstain from commission of any offence under this act in the meantime

# Chapter IV

- \* If satisfied, the court may direct the release of such an offender after due admonition and entering into another bond covering a max. period of 3 yrs
- \* The court is empowered to publish names, places of business or residence and nature of contravention of offenders under this chapter

# Chapter V

- \* Details the procedure related to this act
- \* Chapter V-A **deals with forfeiture of property derived from or used in illicit traffic**

# Chapter VI

- \* Deals with miscellaneous issues like Central & State Govt. to have regard to international conventions while making rules, and power of Govt. to establish centres for identification, treatment etc. of addicts

# Opioid Substitution Therapy

- \* Drugs available:
  - \* Buprenorphine (Psychotropic)
  - \* Methadone (Narcotic)

# Opioid Substitution Therapy

## Buprenorphine

- \* NDPS Act (Psychotropic)
- \* Drugs & Cosmetic Act (Pharmaceutical product)
- \* “Buprenorphine + Naloxone” – Fixed Drug Combination; FDC regulations of Central drugs standard control organization

# Opioid Substitution Therapy

- \* Drugs supplied only to “de-addiction centres” supported or authorized by the government
- \* No definition of “de-addiction centres”
- \* Buprenorphine has become difficult to procure, stock and dispense due to being caught in poorly coordinated multiple web of regulatory agencies

# Opioid Substitution Therapy

- \* Opioids – safe, economical and effective for management of severe pain and deaddiction
- \* Need to facilitate and improve access to opioids for medical use
- \* Maintain, strengthen and integrate programs to control misuse and diversion

# Latest additions

- \* Supply and prescription of BNX to be **updated daily**
- \* **Treat addicts after registering them on biometric**
- \* For every **missed follow-up visit, urine screening will be mandatory on the next visit.**
- \* Maximum take-home dose of **seven days** can be given to a patient.

# The Haryana De-Addiction centre rules 2010

- \* As per the minimum standards for staff requirement of De-addiction centre, the availability of a doctor- MD Psychiatry (preferably), or a doctor with at least 3 month training in De- addiction treatment from a recognized institution is must.

- \* State level license authority which has 2 departments

1. Director General Health Services

2. Director, Social Justice and Empowerment department

Provisional license is given for 6 months during which centre has to apply for permanent license which is valid for 3 years ( changed from 5years in 2018)

# Amended NDPS Act 2014

- \* **Expanded the scope of the Act to include Medical & Scientific Use**
- \* **Prepared a notified list of Essential Narcotic Drugs (ENDs), i.e. the opioids identified for medical use, approved by the Drug Controller General of India [Morphine, Methadone, Codeine, Hydrocodone, Oxycodone, Tramadol & Fentanyl]**

# Amended NDPS Act 2014

- \* Defined Recognized Medical Institutions (RMIs) with criteria for stocking and dispensing opioids for medical use
- \* State Drug Controller/Commissioner, FDA has the power to authorize RMIs for stocking and dispensing ENDS

# Amended NDPS Act 2014

- \* Institutes fulfilling the criteria for RMIs may apply to SDC to procure and dispense ENDS
- \* Authorization is for 3 years, renewable from the same agency

# Prerequisites for Registered Medical Institute

- \* Officer in-charge required within the RMI for managing the drugs
- \* Officer in-charge: qualified doctor, registered with MCI/DCI & trained in the use of opioids
- \* Safe storage facility for ENDS (double locking system)

# Prerequisites for Registered Medical Institute

- \* Basic infrastructure facilities and staff for evaluating and managing treatment of patients requiring ENDs
- \* Proof of space and personnel for mandated record keeping for at least 2 years
- \* Maintain register of consumption for each opioid

# Prerequisites for Registered Medical Institute

- \* ENDs prescribed only to selected patients registered with RMI
- \* END stock not to be transferred, loaned or sold to other institutions
- \* Expired stock of ENDs to be destroyed in presence of an official designated by SDC of FDCA

# Critique

- \* As signatory to the UN 1961 Single Convention, India like many other nations was obliged to eradicate culturally ingrained patterns of drug use

# Critique

- \* Many traditional forms of drug use became a criminal act
- \* Evidence suggest that in largely ignoring the socio-cultural context of drug use the Act led to significant increase in arrest of low level drug users

# Critique

- \* Total number of arrests (2001): 16315
  - \* Prosecuted – 12400 (76%)
  - \* Convicted – 4568 (28%)
- \* Provisions for arrestees to seek treatment is rarely used

# Critique

- \* Act inadvertently facilitated a shift to harder form of drugs and riskier modes of consumption
- \* Any form of use under this Act is criminal
- \* Most preventive efforts within India currently is based on experiences from western countries

# Critique

- \* Limited govt. funding
- \* Approach by Indian govt. is law enforcement led

# Remedies

- \* Strengthen efforts to understand patterns and trends of drug use within the country especially in the rural areas falling along the drug trading routes and those close to cultivating areas
- \* Develop methods for supporting socio-cultural controls on drug use

# Remedies

- \* Urgently assess the demand for drug treatment particularly amongst the urban poor engaging in the most dangerous forms of drug use and increase the coverage of a range of treatment interventions

# References

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**Thank You**