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# LEGAL FRAMEWORKS FOR DE-ADDICTION AND REHABILITATION

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## **Abstract**

India is facing a surge in drug abuse, prompting demands for both effective treatment and the protection of patients' fundamental rights. De-addiction is a highly complex process, and rehabilitation becomes essential when patients lose control over their behavior. Patients often hesitate to pursue de-addiction treatment because of barriers such as inadequate infrastructure, financial constraints, and social stigma. When a patient is psychologically active during de-addiction, rehabilitation is necessary. In India, the most frequently used substances are alcohol, cannabis, and opioids. India's legal framework for narcotic drugs and psychotropic substances includes the 1985 Narcotic Drugs and Psychotropic Substances (NDPS) Act, complemented by the 2017 Mental Healthcare Act and the National Action Plan for Drug Demand Reduction (NAPDDR). The study highlights the importance of community-based legislative frameworks for de-addiction and rehabilitation, aiming to enhance family support, foster community engagement, and leverage technology to surmount geographic barriers in care delivery. India can establish a sustainable and empowering drug treatment system for its citizens by prioritizing humanity and rehabilitation [1,2]. This discussion centers on drug abuse and de-addiction, particularly addressing reluctant individuals within the context of India's legal framework, including the Narcotic Drugs and Psychotropic Substances (NDPS) Act of 1985, the Mental Healthcare Act of 2017, and the National Action Plan for Drug Demand Reduction.

**Keywords:** *Drug Abuse, De-Addiction, Reluctant, legal framework, Narcotic Drugs and Psychotropic Substances (NDPS) Act of 1985, Mental Healthcare Act of 2017, National Action Plan for Drug Demand Reduction.*

## **Introduction**

Drug use has consistently been an issue throughout human history. Society always manages and regulates the use of drugs. In contemporary society, the misuse and overuse of drugs have emerged as a legal crisis that erodes the foundations of families and communities. Drug use

harms an individual's health and often negatively impacts their family, livelihood, and the broader community's well-being. This may lead to heightened vulnerability and social marginalization, particularly for those already at risk [3].

This stands in direct opposition to the Constitution's aim of justice, particularly social justice. As defined in the preamble, the term "justice" aims to strike a balance between individual rights and societal well-being. Moreover, drug misuse contravenes Article 47 of the Constitution, which prohibits the use of substances detrimental to one's health [3]. According to the 2019 National Survey on the extent and pattern of substance use in India, approximately 3.1 crore individuals (2.8%) consumed cannabis in the preceding year, while 72 lakh (0.66%) experienced cannabis-related disorders. According to the survey, approximately 2.2 crore people (2%) consume bhang, while about 1.3 crore people (1.2%) use ganja and charas. Opioid consumption stood at 2.06%, while 1.18 crore individuals (1.08%) used sedatives for non-medical purposes. Additionally, it is estimated that 850,000 individuals are classified as having injected narcotics [3].

Drug use and abuse stem from a variety of factors, including unemployment, peer pressure, trauma, and mental health issues. However, the state's strategy has primarily focused on repression and punitive measures rather than rehabilitation or social reform. In response to the escalating threat, the Indian legal system has predominantly relied on criminal law, with the Narcotic Drugs and Psychotropic Substances Act of 1985 (NDPS Act) serving as its cornerstone. Enacted to meet India's obligations under UN drug control treaties, the Act establishes a rigorous legal framework imposing severe penalties for various drug-related offenses. It enforces stringent bail conditions, such as mandatory minimum fines for certain offenses, and empowers law enforcement with significant authority to conduct searches, seize property, and make arrests [4].

Nevertheless, the stringent provisions of the NDPS Act have raised concerns among the judiciary, civil society, and legal experts. A primary criticism is its failure to differentiate between drug users, who frequently suffer from addiction and socioeconomic hardship, and traffickers, who are part of organized crime syndicates. This failure to distinguish between users and traffickers has undermined the principles of justice and proportionality, resulting in individuals with small quantities for personal use being punished as severely as serious drug traffickers [4].

Over time, the Indian legal system has sought to mitigate the harshness of its laws. Beyond establishing procedural safeguards, courts have underscored the importance of fair inquiry and trial. Landmark cases such as *State of Punjab v. Baldev Singh* and *Tofan Singh v. The State of Tamil Nadu* underscored the significance of constitutional rights, particularly concerning search and seizure and the admissibility of confessions under the Act [3]. Despite these efforts, the judiciary's stance has occasionally been inconsistent, with numerous courts prioritizing public order and deterrence over individual rights and rehabilitation [4].

Moreover, individuals struggling with substance abuse often hesitate to seek de-addiction treatment due to financial barriers, social isolation, and stigma; disparities in the judiciary's application of the NDPS Act; and the Act's punitive nature, which prioritizes enforcement over a health-centered, rights-based approach.

Today, drugs are sourced from diverse channels such as advanced concealment methods, intermodal shipping containers, a growing volume of small-scale maritime shipments, and dark web markets. Other sources of drugs include the plantations themselves. Additionally, drug traffickers exploit corruption, infiltrate logistics networks, and utilize unconventional routes, such as minor ports, to transport narcotics.

It is crucial to emphasize that rules and policies must be crafted to balance strict enforcement with constitutional safeguards. In India, statutory control over narcotic drugs is enforced through various federal and state laws, including the Narcotic Drugs and Psychotropic Substances (NDPS) Act of 1985, the Mental Healthcare Act of 2017, and the National Action Plan for Drug Demand Reduction (NAPDDR). The legal framework should prioritize stricter governance and oversight over punitive measures. Treatment motivation among patients can be enhanced by implementing various campaigns in both rural and urban settings. At a different level, various legal agencies should promote awareness of the Act. Furthermore, several programs will be developed to enable patients to actively participate in their own well-being.

Furthermore, it is important to note that drug addiction leads to a dependence on the regular use of substances. Dopamine regulates the need for drugs, leading an individual to begin abusing them. As time passes, individuals may experience mental deterioration and exhibit abnormal behavior. Their decision-making capabilities are diminished, and they exhibit symptoms consistent with ICD-10 criteria. Patients are treated and rehabilitated under the

Mental Healthcare Act of 2017 to ensure their safety. It also underscores the growing annual number of patients undergoing de-addiction rehabilitation, while noting that some parents or guardians remain reluctant to bring their recovered loved ones home. Patients may remain in mental hospitals for extended periods, sometimes for the rest of their lives. Statutory control must monitor the situation and enact stringent laws and policies to ensure that patients are not neglected and that their self-respect is preserved throughout rehabilitation and after discharge [5].

## 1. Objective

This research primarily examines the existing legal framework governing the control and regulation of narcotic and psychotropic substances. Furthermore, pinpoint the policy challenges that demand urgent attention. Consequently, to substantiate the aforementioned claim, this study endeavored to:

1. To study India's legal framework, de-addiction.
2. To go over India's current legal system for rehabilitation.
3. To comprehend the different origins and effects of drug addiction and abuse.

By pursuing these objectives, this research seeks to demonstrate that the legal framework should prioritize treatment and individual rights over punishment [6].

## 2. Methodology

The methodology employs a normative approach grounded in the legal framework governing de-addiction and rehabilitation. This method is well-suited for analyzing current laws and policies regarding treatment and rehabilitation. This analysis will help us understand how our country's legal system operates in the context of de-addiction and rehabilitation.

## 3. Literature

The Narcotic Drugs and Psychotropic Substances Act of 1985 serves as the primary legislative framework governing drugs in India [6]. It contains strict provisions for controlling and regulating operations involving narcotic drugs and psychotropic substances. The maximum penalty for trafficking commercial quantities of drugs is typically a rigorous prison term of 10 to 20 years, accompanied by a fine ranging from ₹1 lakh to ₹2 lakh. In cases of repeat offenses, the penalty may be extended to the death penalty. The severity of the punishment varies depending on whether the quantity is small, intermediate, or commercial [5]. Consequently,

the NDPS Act prioritizes a punitive and deterrent strategy over addressing an individual's livelihood and treatment. The punishment discourages individuals from seeking de-addiction treatment due to fear, social stigma, and isolation. One of its primary criticisms is that drug end users are treated as severely as serious traffickers without any distinction.

Ray R. 's (2004) nationwide study identified alcohol, cannabis, opium, and heroin as the four primary substances of abuse. Drug abuse is widespread across both rural and urban areas in India, necessitating therapy for many individuals. The outpatient department of the mental institution is overcrowded and has seen an increase in patient volume. Drug misuse affects most people during the festive season, especially around Holi. Whenever someone's feelings are hurt, there is a tendency for drug addiction to be triggered [7].

### **Major reasons behind drug addiction**

- Socioeconomic challenges like unemployment, poverty, financial strain, and a lack of opportunities may drive individuals to use drugs as a coping mechanism. Social inequalities in access to resources and opportunities contribute to drug abuse, especially within marginalized communities.
- Individuals with mental health issues may turn to drug use as a form of self-medication to alleviate their symptoms. Being exposed to ongoing stress or traumatic events can increase the likelihood of developing substance abuse issues.
- Other factors include biological elements, the accessibility and availability of medications, and cultural and societal influences [8].

**Furthermore, drug abuse has resulted in a range of diseases and strained relationships [9,10].**

1. Consequences for both physical and mental health include brain alterations, organ damage and illness, as well as mental health problems such as depression, anxiety, apathy, and suicidal thoughts. Physical dependence, and so on.
2. Examples include relationship breakdowns, family dysfunction, neglect of obligations, and isolation. These serve as examples of social and familial connections.
3. Examples include financial ruin, job loss, poor performance, and reduced productivity. These serve as examples of economic and occupational repercussions.
4. Criminal acts, accidents, and violence, among other incidents. These are examples of legal and safety violations.

The goal is to highlight that the administration must prioritize drug-related offenses and patient safety. In either scenario, the patient must be isolated from society and the community. For this reason, the Mental Health Act of 2017 plays a crucial role. Patients receive treatment and are kept under observation while undergoing rehabilitation at the mental hospital. Furthermore, the administration must prioritize safeguarding patients' rights and ensuring their return to parents or legal guardians upon recovery [8].

Furthermore, India's population is growing, and drug abuse is on the rise. The Government of India should prioritize addressing the current situation by developing necessary facilities and infrastructure.

### 3. 1 Gap in Literature

- Consequently, the Narcotic Drugs and Psychotropic Substances Act of 1985 prioritizes punishment and deterrence over the treatment and rehabilitation of individuals. Consequently, the legal framework must strike a balance between punishment and deterrence while also accounting for the individual's treatment and rehabilitation [11,12].
- During the rehabilitation phase of the mental hospital, patients receive medication and counselling customized to their specific needs. Although the patients have recovered and the physicians have agreed to discharge them, their biological families refuse to accept them. Consequently, there must be a firm legal basis for the family's reluctance and the hostility [5].

## 4. Results

The Government of India oversees various laws, policies, and programs designed to manage and assess de-addiction and rehabilitation efforts. Currently, the Narcotic Drugs and Psychotropic Substances (NDPS) Act of 1985 serves as the governing framework to punish and deter offenders while regulating and controlling de-addiction efforts. In addition to the Government of India, state governments and other local authorities are also playing a role in overseeing de-addiction and rehabilitation efforts.

Legislative acts and schemes, whether at the central or state level, such as the Narcotic Drugs and Psychotropic Substances (NDPS) Act of 1985, are supported by the Mental Healthcare Act of 2017 and the National Action Plan for Drug Demand Reduction (NAPDDR). The Mental Health Act of 2017 emphasizes the treatment and rehabilitation of individuals [2].

However, owing to multiple factors such as the heavy burden on caregivers, insufficient resources, societal stigma, and safety concerns, parents often hesitate to bring their family members home after discharge from mental health facilities. Institutional care often seems to be the only viable option because patients cannot manage their behavioral issues at home due to budget limitations and a shortage of community-based rehabilitation services [5].

## Conclusion

Drug addiction and its recovery cannot be completely eradicated. However, it can be managed by progressively tightening the law.

- Despite the daily rise in drug abuse, the government must expand its treatment infrastructure.
- Both individuals with small quantities for personal use and major traffickers must be properly identified. Furthermore, traffickers must be punished in strict accordance with the severity of their crimes. To lower financial barriers, the government will provide these facilities to patients free of charge.
- The legal framework should strike a balance between punishment and deterrence while also prioritizing the individual's treatment and rehabilitation.
- All plant-derived drugs, such as ganja and bhang, should be destroyed at their source.
- Drug awareness programs should be implemented for individuals.
- Organizing a camp that offers medical treatment, individual and group therapy, vocational training, and other services. Which aids in recovery from illness caused by drug abuse.
- Whenever a family member suspects drug abuse, the family should promptly identify the nearest rehabilitation center to their hometown.
- The patient's family must ensure that the patient's rights are not violated.
- The community should step up to assist drug addicts.

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