

## **Drug Use - Narcotic Drugs and Psychotropic Substances (NDPS) Act**

### **What is the issue?**

- Bollywood actor Shah Rukh Khan's son Aryan Khan was recently arrested following a raid on a cruise ship by the Narcotics Control Bureau.
- This has brought focus to the Narcotic Drugs and Psychotropic Substances (NDPS) Act of 1985 and the problem of drug use.

### **What is the procedure of seizing narcotic drugs?**

- The NDPS Act, 1985 is a stringent law where the death penalty can be prescribed for repeat offenders.
- Section 50 of the Act specifies the conditions under which search of persons shall be conducted.
- When officials come across a person carrying drugs during raids or a routine check, the drugs must be seized in front of a Gazetted Officer or a Magistrate.
- In cases of sudden development, the suspect is taken to the nearby Magistrate or the magistrate is brought to the spot and only then drugs are seized.
- If this is not adhered to, the court acquits the accused persons. Only then the next stage of investigation commences.
- The onus is on the accused to prove their innocence.

### **What are the challenges to NDPS Act implementation?**

- Catching the persons involved from the point of source to the point of destination as drug transaction is an organised crime.
- Going beyond State jurisdiction, and finding the source of narcotic substances and destroying them.
- Catching the accused cultivating ganja in areas bordering the States and especially, in areas that are Maoist hideouts.
- Unless every vehicle is checked (which is unfeasible) with specially trained sniffer dogs, it is difficult to check narcotic drugs transportation.
- [Given these, most drug bust cases are made possible with specific information leads.]
- Securing conviction for the accused in drugs because -
  - i. of frequent delays in court procedures
  - ii. sometimes, cases do not come up for trial even after 2 years of having registered them
  - iii. the accused go out on bail and do not turn up for trial. Bringing them back from their States to trial is quite difficult

## Why should drug peddlers and end users be distinguished?

- The person using drugs in smaller quantities for personal use cannot be equated with the person producing narcotic drugs.
- A drug user needs to be seen as a patient.
- The Act as of now prescribes jail for everyone - the end user and the drug supplier.
- The Union Ministry of Social Justice and Empowerment has proposed certain changes in this regard:
  - i. Decriminalise the possession of narcotic drugs in smaller quantities for personal purposes.
  - ii. Persons using drugs in smaller quantities be treated as victims.
  - iii. They should be referred to government-run rehabilitation centres instead of awarding jail terms and imposing fines.

### Measures needed

- Address the acute shortage of psychiatrists and counsellors.
- Ensuring adequate de-addiction centre counsellors.
- Addressing street children who use whiteners, glue, painting chemicals, etc. as drugs

## What are the long-term measures needed?

### Social

- Examine why and how people are getting addicted to narcotic drugs.
- Addressing the growing hopelessness in society due to various factors.
- Adopting some of the best practices in the world such as Iceland that had a community-led approach to the drug use problem.
- Helping transform drug addicts and making the job of policing easier
- Parents have to act as confidants first. They must be able to talk to their children and assure them of all support should they face a problem.
- Teachers should keep an eye on school surroundings to ascertain whether anyone is selling addictive substances.

### Legal and administrative

- Redefine and redesign the law so as to tackle what acts as a trigger for drug use.
- Making the implementation state-specific, depending on the level of drugs-related problems there.
- Setting up a national fund for rehabilitation.
- Not anybody and everybody connected to drugs cases should be sent to prison. Only repeat offenders should be sent to prison.
- Civil society and governments will have to work together to create an enabling environment to address the issue.
- Certain provisions of the NDPS Act could be changed to ensure a reformatory approach towards addicts.

### Reference

<https://www.thehindu.com/todays-paper/tp-opinion/should-the-ndps-act-be-amended/article37223567>

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