

Chapter Four

Indian Policy on Narcotic Drugs

National Policy on Narcotic Drugs and Psychotropic Substances in India is based on the directive principles contained in Article 47 of the Indian Constitution which directs that the State shall endeavor to bring about prohibition of the consumption, except for medicinal purposes, of intoxicating drugs injurious to health. The same principle of preventing use of drugs except for medicinal use was also adopted in the three international conventions on drug related matters, viz., Single Convention on Narcotic Drugs, 1961 as amended by 1972 Protocol, Convention on Psychotropic Substances, 1971 and the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988. India has signed and ratified these conventions.

India has been a signatory of international conventions on narcotic drugs and therefore under an obligation to take appropriate measures to ensure that those conventions are effectively implemented in the country. In order to fulfill its treaty obligations, India has enacted the *Narcotic Drugs and Psychotropic Substances Act, 1985* and the *Prevention of Illicit Trafficking in Narcotic Drugs and Psychotropic Substances Act, 1988*. Under the NDPS Act, it is illegal for a person to produce, manufacture, cultivate, possess, sell, purchase, transport, store, or consume any narcotic drug or psychotropic substance. Under the provisions of the act, the *Narcotics Control Bureau* was set up, as a supervisory body, with effect from March 1986. The Act is designed to fulfill India's obligations under the Single Convention on Narcotic Drugs, 1961; Convention on Psychotropic Substances, 1971; and United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988. The NDPS Act has been amended twice in 1988 and 2001.

The NDPS Act was enacted to consolidate and amend the law relating to narcotic drugs, to make stringent provisions for the control and regulation of operations relating to narcotic drugs and psychotropic substances, to provide for the forfeiture of property derived from, or used in, illicit traffic in narcotic drugs and psychotropic substances, to implement the provisions of the International Conventions on Narcotic Drugs and Psychotropic Substances and for matters connected therewith. The other enactment i.e., the *Prevention of Illicit Trafficking in Narcotic Drugs and Psychotropic Substances Act, 1988* was established to

enable the full implementation and enforcement of the Narcotic Drugs and Psychotropic Substances Act of 1985.

The *Narcotics Control Bureau* (NCB) is the chief law enforcement and intelligence agency of India responsible for fighting drug trafficking and the abuse of illegal substances. It was created on 17 March 1986 to enable the full implementation of the Narcotic Drugs and Psychotropic Substances Act (1985) and fight its violation through the Prevention of Illicit Trafficking in Narcotic Drugs and Psychotropic Substances Act (1988).¹

June 26 is celebrated as *International Day against Drug Abuse and Illicit Trafficking* every year. It is an exercise undertaken by the world community to sensitize the people in general and the youth in particular, to the menace of drugs. The picture is grim if the world statistics on the drugs scenario is taken into account. With a turnover of around \$500 billions, it is the third largest business in the world, next to petroleum and arms trade. About 190 million people all over the world consume one drug or the other. Drug addiction causes immense human distress and the illegal production and distribution of drugs have spawned crime and violence worldwide. Today, there is no part of the world that is free from the curse of drug trafficking and drug addiction. Millions of drug addicts, all over the world, are leading miserable lives, between life and death. India too is caught in this vicious circle of drug abuse, and the numbers of drug addicts are increasing day by day. According to a UN report, one million heroin addicts are registered in India, and unofficially there are as many as five million. What started off as casual use among a minuscule population of high income group youth in the metros has permeated to all sections of society. Inhalation of heroin has given way to intravenous drug use, that too in combination with other sedatives and painkillers. This has increased the intensity of the effect, hastened the process of addiction and complicated the process of recovery. Cannabis, heroin, and Indian-produced pharmaceutical drugs are the most frequently abused drugs in India. Cannabis products, often called charas, bhang, or ganja, are abused throughout the country because it has attained some amount of religious sanctity because of its association with some Hindu deities. The International Narcotics Control Board in its 2002 report released in Vienna pointed out that in India persons addicted to opiates are shifting their drug of choice from opium to heroin. The pharmaceutical products containing

¹ Annual Report, 2006, of Narcotics Control Board.

narcotic drugs are also increasingly being abused. The intravenous injections of analgesics like dextropropoxyphene etc are also reported from many states, as it is easily available at 1/10th the cost of heroin. The codeine-based cough syrups continue to be diverted from the domestic market for abuse.

Drug abuse is a complex phenomenon, which has various social, cultural, biological, geographical, historical and economic aspects. The disintegration of the old joint family system, absence of parental love and care in modern families where both parents are working, decline of old religious and moral values etc lead to a rise in the number of drug addicts who take drugs to escape hard realities of life. Drug use, misuse or abuse is also primarily due to the nature of the drug abused, the personality of the individual and the addict's immediate environment. The processes of industrialization, urbanization and migration have led to loosening of the traditional methods of social control rendering an individual vulnerable to the stresses and strains of modern life. The fast changing social milieu, among other factors is mainly contributing to the proliferation of drug abuse, both of traditional and of new psychoactive substances. The introduction of synthetic drugs and intravenous drug use leading to HIV/AIDS has added a new dimension to the problem, especially in the Northeast states of the country.²

Drug abuse has led to a detrimental impact on the society. It has led to increase in the crime rate. Addicts resort to crime to pay for their drugs. Drugs remove inhibition and impair judgment egging one on to commit offences. Incidence of eve-teasing, group clashes, assault and impulsive murders increase with drug abuse. Apart from affecting the financial stability, addiction increases conflicts and causes untold emotional pain for every member of the family. With most drug users being in the productive age group of 18-35 years, the loss in terms of human potential is incalculable. The damage to the physical, psychological, moral and intellectual growth of the youth is very high. Adolescent drug abuse is one of the major areas of concern in adolescent and young people's behavior. It is estimated that, in India, by the time most boys reach the ninth grade, about 50 percent of them have tried at least one of the gateway drugs. However, there is a wide regional variation across states in terms of the incidence of the substance abuse. For example, a larger proportion of teens in West Bengal and Andhra Pradesh use gateway drugs (about 60 per cent in both the states) than Uttar Pradesh

² Ibid

or Haryana (around 35 percent). Increase in incidences of HIV, hepatitis B and C and tuberculosis due to addiction adds the reservoir of infection in the community burdening the health care system further. Women in India face greater problems from drug abuse. The consequences included domestic violence and infection with HIV, as well as the financial burden. Eighty seven per cent of addicts being treated in a de-addiction center run by the Delhi police acknowledged being violent with family members. Most of the domestic violence is directed against women and occurs in the context of demands for money to buy drugs. At the national level, drug abuse is intrinsically linked with racketeering, conspiracy, corruption, illegal money transfers, terrorism and violence threatening the very stability of governments. In a national survey conducted by the Ministry of Social Justice and Environment and the United Nations Office of Drugs and Crimes, it was stated that abuse of different drugs is prevalent in different states of India. Rajasthan, has the highest proportion of opium users (76.7%), followed by Haryana (58.0%)³. So far as heroin is concerned, 43.9% of its users are found in Uttar Pradesh while Orissa and Himachal Pradesh, at 43.9% and 37.3% respectively top in alcohol consumption. This indicates not only the dimension and diversity of the social problem that is facing our country, but also that the problem does not relate only to investigation and law in relation to drug abuse and drug-related crimes. The statistics released by the Narcotic Bureau also indicate the magnitude of the problem facing our nation. Let us see last ten years track record. From the year 1996-2006, amongst others 21895 kgs of Opium, 855667 kgs of Ganja, 48278 kgs of hashish and 10147 kgs of heroin have been seized by various enforcing agencies. In the cases arising from these seizures, a total of 142337 persons were involved including the foreigners. Out of these, 38030 persons stand convicted for offences while 44656 persons have been acquitted. The rate of acquittal has, varied from 27.7% to 59.1% annually during this period.⁴

In its annual press conference, the Central Jail, Tihar, indicated that amongst the undertrials and convicts (both male and female) arrested under the NDPS Act, there are 10.70% male undertrials and 5.37% male convicts and 16.12% female undertrials and 13.28% female convicts. There are nearly 340 NGOs run or aided by the Ministry of Social Justice and Empowerment, Government of

³ Annual Report, 2010, NCB

⁴ Ibid

India, to take reformative and remedial steps. Increase in de-addiction centres is an encouraging step taken by the concerned authorities.⁵

The *Narcotics Control Bureau* was set up in 1986 as a primary enforcement agency to deal exclusively with drugs. This high powered body which is controlled by a Director General has direct liaison with the United Nations Narcotics Control Bureau and other international agencies working against drug trafficking. A number of the other enforcement agencies have been provided effective support with the Narcotics Control Bureau acting as a nodal agency to enforce the law which includes the central excise, customs, border security force, CBI, Directorate of Revenue Intelligence and Food and Drug Control officers.

India has braced itself to face the menace of drug trafficking both at the national and international levels. Several measures involving innovative changes in enforcement, legal and judicial systems have been brought into effect. The introduction of death penalty for drug-related offences has been a major deterrent. The Narcotic Drugs and Psychotropic Substances Act, 1985, aimed at making stringent provisions to curb the menace of drug abuse and trafficking. The Act envisages a minimum term of 10 years imprisonment extendable to 20 years and fine of Rs. 1 lakh extendable up to Rs. 2 lakhs for the offenders. The Act has been further amended by making provisions for the forfeiture of properties derived from illicit drugs trafficking. Comprehensive strategy involving specific programmes to bring about an overall reduction in use of drugs has been evolved by the various government agencies and NGOs and is further supplemented by measures like education, counselling, treatment and rehabilitation programmes. India has bilateral agreements on drug trafficking with 13 countries, including Pakistan and Myanmar. Prior to 1999, extradition between India and the United States occurred under the auspices of a 1931 treaty signed by the United States and the United Kingdom, which was made applicable to India in 1942. However, a new extradition treaty between India and the United States entered into force in July 1999. A Mutual Legal Assistance Treaty was signed by India and the United States in October 2001. India also is signatory to the 2000 Transnational Crime Convention.⁶

The spread and entrenchment of drug abuse needs to be prevented, as its cost to the society, environment and economy will be colossal. The unseemly spectacle of

⁵ Ibid

⁶ Annual Report, 2010, NCB

unkempt drug abusers dotting lanes and by lanes, cinema halls and other public places should be enough to goad the authorities to act fast to remove the scourge of this social evil. Moreover, the spread of such reprehensible habits among the relatively young segment of society ought to be arrested at all cost. There is a need for the government enforcement agencies, the non-governmental philanthropic agencies, and others to collaborate and supplement each other's efforts for a solution to the problem of drug addiction through education and legal actions. The World Drug Report 2009, released by Vienna-based International Narcotics Control Board (INCB) said India has of late become a hub of drugs sold through illegal internet pharmacies. The report pointed out stringent measures to prevent the use of the Internet to divert controlled substances. Orders placed with such pharmacies are often dispatched to buyers abroad using courier or postal services. Courier and postal services have become a common means of smuggling drugs out of India. A range of substances under international control have been detected by authorities in parcels transported by courier or post. In recent years, heroin and diazepam have been most frequently found in seized parcels, while morphine, cannabis herb, cannabis resin, ephedrine and pseudoephedrine have been seized occasionally. According to the report, drug traffickers were increasingly using social networking sites to recruit youngsters to work as 'mules' or peddlers in their countries. The traffickers are believed to be targeting single unemployed women aged 20-30 who do not have a criminal record.⁷ They also target those in clerical or sales jobs to escape suspicion. The report said India had 72.2 million drug addicts, a figure that was contested by the Government officials. Widespread abuse of pharmaceutical preparations containing narcotic drugs such as codeine was found, which are smuggled from India to Bangladesh. Codeine, used in cough syrups and painkillers, is heavily used by students. In India, pharmaceutical preparations containing dextropropoxyphene (analgesic) are used by persons who inject drugs into their bodies. Such preparations are used as alternatives to heroin as they are cheaper and easily available.

Understanding the various aspects that govern the drug trade can provide a better comprehension of the issue and indicate the relevance of the strategies used for controlling the drug trade. Within the context of India, drug trade is determined by socio-cultural factors, historic reality, geographic location,

⁷ World Drug Report, 2009

political conditions and exposure to new derivatives and synthetic drugs through advancement in pharmacology and all have contributed to the existing patterns of drug use and trade in the country.

Sources of drugs

From the late seventies and eighties when heroin made its presence felt in Indian market, the official stand has been to highlight the role of India as a transit country, for drugs came from the bordering states close to Pakistan and Afghanistan in the north and Myanmar in the North East. Through the years the factors that shape drug trade in the country has changed even though the political and official stand continues to focus on transit of drugs via India to other countries. Drugs from Afghanistan and Pakistan are supplied from the western borders through the states of Rajasthan, Gujarat, Punjab, Jammu and Kashmir or through Nepal borders. Geographical locations that are most vulnerable to drug trade from SEA are the states of Assam, Manipur, Nagaland, Assam and Mizoram in the North Eastern regions. The seizures made from this area have been minimal and it accounts for less than one percent of the heroin seizures made in the country⁸. The drug brought in is meant for local consumption in seven north eastern states of the country. As per the Narcotics Control Bureau Annual Report, 2002 there is some extent of diversion from licit cultivation and also from legitimate production of chemicals that play a role in processing of heroin.

India is uniquely placed in the global illicit drugs trade, sandwiched between the *Golden Triangle* of the North-East and the *Golden Crescent* of the North-West. India is also used as a transit point for drugs from South and South-East Asia onwards to Europe. The profitability of the drugs trade has been made possible by the fact that India is surrounded by weak states with endemic corruption. India's own security has become intrinsically tied to the strength of states not only within its immediate neighborhood but also at a distance.

Presently, India is not only an exporter of locally grown and manufactured drugs, it is also on the receiving end and serves as a major transit hub in the global narcotics network. India's connections with Africa, as well as Africans operating in the rest of the South Asian region, have single-handedly emerged as one of the gravest and most complex *invisible* security dilemmas. In India alone, hundreds

⁸ Annual Report 2010, of the Narcotics Control Bureau

of Africans are languishing in prisons around the country on drug related offenses. An average of one ton of heroine alone is seized every year all over India. Pockets of African communities in Goa, Rajasthan and the South often use tourists for _quick trades_ or as carriers for transporting drugs to foreign destinations.⁹

As part of the national efforts to reduce drug trade, Indian government has set up electrified fences along the border areas, where terrain is conducive for the same. This expensive proposition has modified the strategies adopted by the drug dealers to smuggle drug across the borders. Prior to electrification heroin and opium was brought along with other smuggled items on unaccompanied camels. These camels were made addicted to the drug and trained to reach specific spots where they would be given their next dose on arrival. With electrification, people have been carrying drugs through underground tunnels across the border. Another method used has been to throw drug parcels over the fence and certain individuals have specialised in this activity.

While enforcement activities focus on land border control, trade through open terrain or trade by sea and rivers continued unperturbed even during period of alert. During the recent period of tension when trading was stopped with Pakistan across the land border, trade continued through sea ports of adjacent states, this led the local people asking about the relevance of such decisions which favoured the trading communities in neighbouring states and destroyed the livelihood of many in the state of Punjab. The relevance of this venture is also questionable when arms smuggling and drug trade can take place through sea routes.

Legal measures of drug control in India

India has long recognised the problems of drug trafficking and abuse. The Opium Act of 1857, and of 1878 and the Dangerous Drugs Act, 1930 manifest the same. As a result of experience gained on account of India's participation in various international conventions and realising gravity of the problem and the need to enact laws in tune with times, the Narcotic Drugs and Psychotropic Substances Act of 1985 was passed by Indian Parliament as a comprehensive legislation on narcotics, providing for stringent and long term prison sentences and heavy fines for offenders. Offender, under this Act, includes the cultivator, supplier, seller as

⁹ M. Mahtab Alam Rizvi, Indian Defence Studies and Analyses, (paper presentation) New Delhi

well as the drug consumer. Bail provisions were made very stringent. The minimum sentence is ten years. The amended Drugs and Cosmetics Act and Rules also provide for deterrent punishment and stringent control over manufacture, sale, distribution of psychotropic substances. Despite these measures, the crime is on rise.

The Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 was enacted in order to fulfill India's commitments under the UN drug Conventions as well as Article 47 of the Indian Constitution. This Act prohibits, except for medical or scientific purposes, the manufacture, production, trade, use, etc. of narcotic drugs and psychotropic substances¹⁰.

The Government's policy in India has been to promote the use of drugs for medical and scientific purposes while preventing their diversion from licit sources, and prohibiting illicit traffic and abuse. Unlike the earlier Opium Acts and the Dangerous Drugs Act which it replaced, the NDPS Act has given the power of enforcement to various central and state law enforcement agencies, thus spreading the net of law enforcement far and wide. The Narcotic Drugs and Psychotropic Substances Act 1985 sets out the statutory framework for drug law enforcement in India. This Act consolidates the erstwhile principal Acts, viz. the Opium Act, 1857, the Opium Act, 1878 and the Dangerous Drugs Act, 1930, and incorporates the provisions designed to implement India's obligations under the International Conventions. Certain significant amendments were made in the Act in 1989 to provide for the forfeiture of property derived from drug trafficking and for control over chemicals and substances used in the manufacture of narcotic drugs and psychotropic substances. In order to give effect to the statutory provisions relating to these matters, an order, namely, the NDPS (Regulation of Controlled Substances) Order, was promulgated by the Government of India in 1993 to control, regulate and monitor the manufacture, distribution, import, export, transport etc of any substance which the Government declare to be a controlled substance under the Act.

The statutory regime in India consequently covers drug trafficking, drug related assets as well as substances which can be used, in the manufacture of narcotic drugs and psychotropic substances. Amendments were incorporated in the NDPS

¹⁰ Indian Constitution, Article 47, and the Preamble of NDPS Act, 1985.

Act in 2001, mainly to introduce a graded punishment. The basic purpose of the enactment of NDPS Act was to make stringent provisions for the control and regulation of operations relating to narcotic drugs and psychotropic substances, to provide for the forfeiture of property derived from, or used in, illicit traffic in narcotic drugs and psychotropic substances, to implement the provisions of the International Convention on Narcotic Drugs and Psychotropic Substances and for matters connected therewith. This Act is a special law dealing with drug control in India. The Act divides the powers and responsibility of regulation of licit activities between the Centre and States. Section 9 of the Act has listed various activities which the Central Government can, by rules, regulate while section 10 lists various activities which the State Governments can, by rules, regulate. Thus, there are NDPS Rules of the Central Government and the State NDPS Rules framed by each State Government under the same Act. The rules are enforced by the Central or concerned State Government authorities.¹¹

The NDPS Act has created statutory authorities such as the Narcotics Commissioner (Section 5), the Competent Authority (Section 68D) and the Administrator (Section 68G). The organization headed by the Narcotics Commissioner is known as the *Central Bureau of Narcotics* (CBN). Another authority called the *Narcotics Control Bureau* (NCB) was created through a notification under Section 4 of the Act. Each of these authorities has specified functions.

The Narcotic Drugs and Psychotropic Substances Act, 1985 views drug offences very seriously and prescribes stiff penalties. The Act follows a graded system of punishment varying with the quantum of violation being dependent upon whether the offence pertains to small, commercial and intermediate quantities of narcotic drugs and psychotropic substances. For offences involving commercial quantities of drugs, a minimum penalty of ten years rigorous imprisonment is prescribed, which may extend to twenty years. Repeat offences attract one and half times the penalty and in a few cases even the death penalty. The quantum of sentence and fine for violations under the Act varies with the offence. For many offences, the penalty depends on the quantity of drug involved, small quantity, more than small but less than commercial quantity or commercial quantity of drugs. Small and Commercial quantities are notified for each drug. Under the Act, abetment, criminal

¹¹ NDPS Act, 1985

conspiracy and even attempts to commit an offence attract the same punishment as the offence itself. Preparation to commit an offence attracts half the penalty. Since the penalties under this Act are very stiff, several procedural safeguards have been provided in the Act. Some immunities are also available under the Act.

Alongside the stringent provisions, the Act has following procedural safeguards:¹²

1. *Personal search*: Any person being searched has a right to be searched before a Gazetted Officer or a Magistrate (Section 50). The officer searching the person has to explain to the person that he has a right to be searched before a Gazetted Officer or a Magistrate and if the person wishes to be searched before a Gazetted Officer or a Magistrate he should be taken to the Gazetted Officer or the Magistrate and searched. However, if the officer has reason to believe that it is not possible to take him to a Gazetted officer or a magistrate without giving him a chance to part with the drug, controlled substance, etc., he can search him under Section 100 of the Cr. P. C. [Section 50(5) and 50 (6)].

2. *Searches*: As per Section 41 of the NDPS Act, Gazetted Officers of the empowered Departments can authorize searches. Such authorization has to be based on information taken down in writing. As per Section 42, searches can be made under certain circumstances without a warrant (from a magistrate) or an authorization (from a Gazetted Officer). In case of such searches, the officer has to send a copy of the information taken in writing or the grounds of his belief to his immediate official superior within 72 hours.

3. *Arrests*: The person who is arrested should be informed, as soon as may be, the grounds of his arrest [Section 52 (1)]. If the arrest or seizure is based on a warrant issued by a magistrate, the person or the seized article should be forwarded to that magistrate [Section 52(2)].

4. The officer who arrests a person has to make a full report to his official superior within 48 hours [section 57].

¹² NDPS Act, 1985.

In relation to drug offences immunities can be granted to certain individuals-

1. *Officers*: Officers acting in discharge of their duties in good faith under the Act are immune from suits, prosecution and other legal proceedings (Section 69).

2. *Addicts*: Addicts charged with consumption of drugs (Section 27) or with offences involving small quantities will be immune from prosecution if they volunteer for de-addiction. This immunity may be withdrawn if the addict does not undergo complete treatment (Section 64A).

3. *Offenders*: Central or state governments can tender immunity to an offender in order to obtain his evidence in the case. This immunity is granted by the government and not by the court (Section 64).

4. *Juvenile offenders*: Juvenile offenders (below 18 years of age) will be governed by the Juvenile Justice (Care and Protection of Children) Act, 2000.¹³

5. Immunities to diplomats as applicable.

Drug offences, unlike most other offences, are committed only with profit motive. One of the strategies to fight drug trafficking is denying the traffickers the fruits of their trafficking. Chapter VA of the NDPS Act provides for forfeiture of such illegally acquired properties. This chapter applies to:

a. every person who has been convicted of an offence punishable under this Act with imprisonment for a term of ten years or more;

b. every person who has been convicted of a similar offence by a competent court of criminal jurisdiction outside India;

c. every person in respect of whom an order of detention has been made under the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (46 of 1988), or under the Jammu and Kashmir Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (J & K Act XXIII of 1988):

Provided that such order of detention has not been revoked on the report of the

¹³ NDPS Act, 1985.

Advisory Board constituted under the said Acts or such order of detention has not been set aside by a court of competent jurisdiction;

(cc) every person who has been arrested or against whom a warrant or authorisation of arrest has been issued for the commission of an offence punishable under this Act with imprisonment for a term of ten years or more, and every person who has been arrested or against whom a warrant or authorisation of arrest has been issued for the commission of a similar offence under any corresponding law of any other country.

Every person who is a relative ,or associate or a holder of the property of the abovementioned persons will also be covered under this provision. The procedure for forfeiture is as following-¹⁴

1. Every officer empowered under section 53 and every officer in-charge of a police station shall, on receipt of information, proceed to trace and identify the illegally acquired properties (section 68E).

2. The officer may issue an order seizing the properties and if it is not possible to seize, freezing the properties. He shall send a copy of the order within 48 hours to the Competent Authority.

3. The Competent Authority has to confirm the order within 30 days, else, it will not be valid.

4. The Competent Authority issues a Notice to the affected person and after considering the reply and other records of the case, passes an order forfeiting the properties or otherwise.

5. If the person is only arrested, the issue of Notice and subsequent forfeiture will proceed only after his conviction or after an order of preventive detention is issued.

6. The Burden of Proving that the properties are not illegally acquired is on the affected person.

¹⁴ The NDPS Act, 1985.

7. Appeals against the orders of forfeiture lie with the Appellate Tribunal for Forfeited Properties.

8. Seized or forfeited properties are managed and disposed by the Administrators as per Illegally Acquired Property (Receipt, Management and Disposal) Rules. So far the Government of India has appointed officers as Competent Authority cum Administrator.

The NDPS Act empowers the Central Government to permit and regulate cultivation of opium poppy for medical and scientific purposes. The Government of India notifies the tracts where opium cultivation can be licenced as well as the General Conditions for issuance of licence every year. These notifications are commonly referred to as Opium Policies. Opium cultivation is permitted in the notified tracts in the states of Madhya Pradesh, Rajasthan and Uttar Pradesh. The General Conditions, among others, include a Minimum Qualifying Yield (MQY) to be tendered by the cultivators of each of these three states, to be eligible for license in the succeeding year.

Beside various other terms the NDPS Act defines illicit traffic in drugs.¹⁵ According to it "illicit traffic", in relation to narcotic drugs and psychotropic substances, means:

- (i) cultivating any coca plant or gathering any portion of coca plant;
- (ii) cultivating the opium poppy or any cannabis plant;
- (iii) engaging in the production, manufacture, possession, sale, purchase, transportation, warehousing, concealment, use or consumption, import inter-State, export inter-State, import into India, export from India or transshipment, of narcotic drugs or psychotropic substances;
- (iv) dealing in any activities in narcotic drugs or psychotropic substances other than those referred to in sub-clauses (i) to (iii); or
- (v) handling or letting out any premises for the carrying on of any of the activities referred to in sub-clauses (i) to (iv); other than those permitted under this Act, or

¹⁵Section 2 (viii), NDPS, Act, 1985

any rule or order made, or any condition of any licence, term or authorisation issued, thereunder, and includes

- (1) financing, directly or indirectly, any of the aforementioned activities;
- (2) abetting or conspiring in the furtherance of or in support of doing any of the aforementioned activities; and
- (3) harbouring persons engaged in any of the aforementioned activities.

Under the Act the Central Government has been put under an obligation to take measures for preventing and combating abuse of and illicit traffic in narcotic drugs and these measures include all or any of the following¹⁶, namely:

- (a) coordination of actions by various officers, State Governments and other authorities
 - (i) under this Act, or
 - (ii) under any other law for the time being in force in connection with the enforcement of the provisions of this Act;
- (b) obligations under the International Conventions;
- (c) assistance to the concerned authorities in foreign countries and concerned international organisations with a view to facilitating coordination and universal action for prevention and suppression of illicit traffic in narcotic drugs and psychotropic substances;
- (d) identification, treatment, education, after care, rehabilitation and social reintegration of addicts;
- (e) such other matters as, the Central Government deems necessary or expedient for the purpose of securing the effective implementation of the provisions of this Act and preventing and combating the abuse of narcotic drugs and psychotropic substances and illicit traffic therein.

¹⁶ Section 4 (1&2), NDPS Act, 1985.

The Central Government has also been given power to constitute an authority for the purpose of exercising any of the powers and functions provided under the Act. According to Section 5, the Central Government shall appoint a Narcotics Commissioner and other officers such designations as it thinks fit for the purposes of the performance of functions under the Act. The Narcotics Commissioner shall, either by himself or through officers subordinate to him, exercise all powers and perform all functions relating to the superintendence of the cultivation of the opium poppy

and production of opium and shall also exercise and perform such other powers and functions as may be entrusted to him by the Central Government.

The Central Government may constitute an advisory committee to be called "The Narcotic Drugs and Psychotropic Substances Consultative Committee" to advise the Central Government on such matters relating to the administration of the NDPS Act as are referred to it by that Government from time to time¹⁷. The Committee shall consist of a Chairman and such other members, not exceeding twenty, as may be appointed by the Central Government and shall have power to regulate its own procedure. The Committee may, if it deems it necessary so to do for the efficient discharge of any of its functions constitute one or more sub-committees and may appoint to any such sub-committee, any person who is not a member of the Committee.

The Central Government may constitute a fund to be applied to meet the expenditure incurred in connection with the measures taken for-

- (a) Combating illicit traffic in narcotic drugs, psychotropic substances or controlled substances;
- (b) Controlling the abuse of narcotic drugs and psychotropic substances;
- (c) Identifying, treating, rehabilitating addicts;
- (d) Preventing drug abuse;
- (e) Educating public against drug abuse;

¹⁷ Section 6, NDPS, Act, 1985

(f) Supplying drugs to addicts where such supply is a medical necessity.

This fund is called the National Fund for Control of Drug Abuse.¹⁸

Chapter III of the NDPS Act provides for the prohibition, control and regulation of the narcotic substances. According to Section 8 of the Act, no person shall-

(a) cultivate any coca plant or gather any portion of coca plant; or

(b) cultivate the opium poppy or any cannabis plant; or

(c) produce, manufacture, possess, sell, purchase, transport, warehouse, use, consume, import inter-State, export inter-State, import into India, export from India or transship any narcotic drug or psychotropic substance, except for medical or scientific purposes.

This provision is an exhaustive rule providing for an absolute prohibition on the activities enumerated under it. The High Court of Calcutta have decided in **Addl. Collector of Customs v. Sitaram Agarwalla**¹⁹ (later approved by the Supreme Court in *Radha Kishan v. Union of India*, AIR 1965 SC 1072) that there need be no physical connection between the goods and the person charged. A man may be miles and miles away from the goods and yet if proof is available that he had an interest in or was concerned in illegal importation of goods he would be guilty of the offence. In another case, **Narvir Chand v. State**²⁰ it was decided that if the person possessing the drugs or substances does not carry himself but entrusts the same to some other person for carriage in a car, then that person (driver of the car) would be the person who transports the said drugs and the person who directs him to do so would be the abettor of the offence of transporting.

The conversion or transfer of the proceeds or property derived from illicit traffic in drugs is prohibited.²¹ The Central Government may, however, permit-

(i) the cultivation, or gathering of any portion of coca plant, or the production, possession, sale, purchase, transport, import inter-State, export inter-State, use or consumption of coca leaves;

¹⁸ Section 7A, NDPS Act, 1985

¹⁹ AIR 1962, Cal. 242.

²⁰ (1952), Cr. LJ, 256.

²¹ Section 8A, NDPS Act, 1985.

- (ii) the cultivation of the opium poppy;
- (iii) the production and manufacture of opium and production of poppy straw;
- (iv) the sale of opium and opium derivatives from the Central Government factories for export from India or sale to State Government or to manufacturing chemists;
- (v) the manufacture of manufactured drugs (other, than prepared opium) but not including manufacture of medicinal opium or any preparation containing any manufactured drug from materials which the maker is lawfully entitled to possess;
- (vi) the manufacture, possession, transport import inter-State, export inter-State, sale, purchase, consumption or use of psychotropic substances;
- (vii) the import into India and export from India and transshipment of narcotic drugs and psychotropic substances;

The Central Government may, by making rules,

- (a) fix from time to time the limits within which licences may be given for the cultivation of the opium poppy;
- (b) require that all opium shall be delivered by the cultivators to the officers authorized in this behalf ;
- (c) prescribe the forms and conditions of licences for cultivation of the opium poppy and for production and manufacture of opium; the fees that may be charged therefor; the authorities by which such licences may be granted, withheld, refused or cancelled and the authorities before which appeals against the orders of withholding, refusal or cancellation of licences shall lie;
- (d) prescribe that opium shall be weighed, examined and classified according to its quality and consistence by the officers authorized in this behalf in the presence of the cultivator at the time of delivery by the cultivator;
- (e) fix from time to time the price to be paid to the cultivators for the opium delivered;

(f) provide for the weighing, examination and classification, according to the quality and consistence, of the opium received at the factory and the deductions from or additions (if any) to the standard price to be made in accordance with the result of such examination; and the authorities by which the decisions with regard to the weighing, examination, classification, deductions or additions shall be made and the authorities before which appeals against such decisions shall lie;

(g) require that opium delivered by a cultivator, if found as a result of examination in the Central Government factory to be adulterated, may be confiscated by the officers authorized in this behalf;

(h) prescribe the forms and conditions of licences for the manufacture of manufactured drugs, the authorities by which such licences may be granted and the fees may be charged therefor;

(i) prescribe the forms and conditions of licences or permits for the manufacture, possession, transport, import inter-State, export inter-State, sale, purchase, consumption or use of psychotropic substances, the authorities by which such licences or permits may be granted and the fees that may be charged therefor;

(j) prescribe the ports and other places at which any kind of narcotic drugs or psychotropic substances may be imported into India or exported from India or transhipped; the forms and conditions of certificates, authorizations or permits, as the case may be, for such import, export or transshipment; the authorities by which such certificates, authorizations or permits may be granted and the fees that may be charged therefor.²²

If the Central Government is of the opinion that, having regard to the use of any controlled substance in the production or manufacture of any narcotic drug or psychotropic substance, it is necessary or expedient so to do in the public interest, it may, by order, provide for regulating or prohibiting the production, manufacture, supply and distribution thereof and trade and commerce therein. The order so made may provide for regulating by licences, permits or otherwise, the production, manufacture, possession, transport, import inter-State, export inter-State, sale, purchase, consumption, use, storage, distribution, disposal or

²² Section 9, NDPS Act, 1985.

acquisition of any controlled substance.²³ Section 10 of the NDPS Act gives power to the State Governments to make rules to permit and regulate-

(i) the possession, transport, import inter-State, export inter-State, warehousing, sale, purchase, consumption and use of poppy straw;

(ii) the possession, transport, import inter-State, export inter-State, sale, purchase, consumption and use of opium;

(iii) the cultivation of any cannabis plant, production, manufacture, possession, transport, import inter-State, export inter-State, sale, purchase consumption or use of cannabis (excluding charas);

(iv) the manufacture of medicinal opium or any preparation containing any manufactured drug from materials which the maker is lawfully entitled to possess;

(v) the possession, transport, purchase, sale, import inter-State, export inter-State, use or consumption of manufactured drugs other than prepared opium and of coca leaf and any preparation containing any manufactured drug;

(vi) the manufacture and possession of prepared opium from opium lawfully possessed by an addict registered with the State Government on medical advice for his personal consumption:

By making the rules the State Governments may empower themselves to declare any place to be warehouse wherein it shall be the duty of the owners to deposit all such poppy straw as is legally imported inter-State and is intended for export inter-State or export from India; to regulate the safe custody of such poppy straw warehoused and the removal of such poppy straw for sale or export inter-State or export from India; to levy fees for such warehousing and to prescribe the manner in which and the period after which the poppy straw warehoused shall be disposed of in default of payment of fees. The States Governments may fix the limits within which licences may be given for the cultivation of any cannabis plant and the prices to be paid to the cultivators for the cannabis delivered to the government officers.²⁴ Section 12 of the Act imposes restrictions over external dealings in narcotic drugs and psychotropic substances and provides that no

²³ Section 9A, *ibid*

²⁴ Section 10, NDPS Act, 1985..

person shall engage in or control any trade whereby a narcotic drug or psychotropic substance is obtained outside India and supplied to any person outside India save with the previous authorisation of the Central Government and subject to such conditions as may be imposed by that Government in this behalf. Special provisions are made for allowing the cultivation of coca and cannabis plants for the purposes not connected to their illicit traffic and abuse.²⁵

Chapter IV of the NDPS Act provides for the offences and penalties. The cultivation, production, manufacture, possession, transportation, import inter-State, export inter-State, sale, purchase, or use of narcotic substances have been made an offence under the Act. If these offences are relating to the poppy straw, prepared opium, opium poppy or opium, cannabis, manufactured drugs, and psychotropic substances, there are three types of punishment for them according to the gravity of the offences.²⁶ These offences are punishable-

(a) where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees or with both;

(b) where the contravention involves quantity lesser than commercial quantity but greater than small quantity, with rigorous imprisonment for a term which may extend to ten years and with fine which may extend to one lakh rupees;

(c) where the contravention involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees.

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.

For the cultivation of cannabis plants the punishment under Section 20 (b)(i) is the rigorous imprisonment for a term which may extend to ten years and shall also be the fine which may extend to one lakh rupees.

²⁵ ଛାନ୍ଦ ୧୦୬(୧) ଓ ୧୦୬(୨) ଓ ୧୦୬(୩) ଓ ୧୦୬(୪) ଓ ୧୦୬(୫) ଓ ୧୦୬(୬) ଓ ୧୦୬(୭) ଓ ୧୦୬(୮) ଓ ୧୦୬(୯) ଓ ୧୦୬(୧୦) ଓ ୧୦୬(୧୧) ଓ ୧୦୬(୧୨) ଓ ୧୦୬(୧୩) ଓ ୧୦୬(୧୪) ଓ ୧୦୬(୧୫) ଓ ୧୦୬(୧୬) ଓ ୧୦୬(୧୭) ଓ ୧୦୬(୧୮) ଓ ୧୦୬(୧୯) ଓ ୧୦୬(୨୦) ଓ ୧୦୬(୨୧) ଓ ୧୦୬(୨୨) ଓ ୧୦୬(୨୩) ଓ ୧୦୬(୨୪) ଓ ୧୦୬(୨୫) ଓ ୧୦୬(୨୬) ଓ ୧୦୬(୨୭) ଓ ୧୦୬(୨୮) ଓ ୧୦୬(୨୯) ଓ ୧୦୬(୩୦) ଓ ୧୦୬(୩୧) ଓ ୧୦୬(୩୨) ଓ ୧୦୬(୩୩) ଓ ୧୦୬(୩୪) ଓ ୧୦୬(୩୫) ଓ ୧୦୬(୩୬) ଓ ୧୦୬(୩୭) ଓ ୧୦୬(୩୮) ଓ ୧୦୬(୩୯) ଓ ୧୦୬(୪୦) ଓ ୧୦୬(୪୧) ଓ ୧୦୬(୪୨) ଓ ୧୦୬(୪୩) ଓ ୧୦୬(୪୪) ଓ ୧୦୬(୪୫) ଓ ୧୦୬(୪୬) ଓ ୧୦୬(୪୭) ଓ ୧୦୬(୪୮) ଓ ୧୦୬(୪୯) ଓ ୧୦୬(୫୦) ଓ ୧୦୬(୫୧) ଓ ୧୦୬(୫୨) ଓ ୧୦୬(୫୩) ଓ ୧୦୬(୫୪) ଓ ୧୦୬(୫୫) ଓ ୧୦୬(୫୬) ଓ ୧୦୬(୫୭) ଓ ୧୦୬(୫୮) ଓ ୧୦୬(୫୯) ଓ ୧୦୬(୬୦) ଓ ୧୦୬(୬୧) ଓ ୧୦୬(୬୨) ଓ ୧୦୬(୬୩) ଓ ୧୦୬(୬୪) ଓ ୧୦୬(୬୫) ଓ ୧୦୬(୬୬) ଓ ୧୦୬(୬୭) ଓ ୧୦୬(୬୮) ଓ ୧୦୬(୬୯) ଓ ୧୦୬(୭୦) ଓ ୧୦୬(୭୧) ଓ ୧୦୬(୭୨) ଓ ୧୦୬(୭୩) ଓ ୧୦୬(୭୪) ଓ ୧୦୬(୭୫) ଓ ୧୦୬(୭୬) ଓ ୧୦୬(୭୭) ଓ ୧୦୬(୭୮) ଓ ୧୦୬(୭୯) ଓ ୧୦୬(୮୦) ଓ ୧୦୬(୮୧) ଓ ୧୦୬(୮୨) ଓ ୧୦୬(୮୩) ଓ ୧୦୬(୮୪) ଓ ୧୦୬(୮୫) ଓ ୧୦୬(୮୬) ଓ ୧୦୬(୮୭) ଓ ୧୦୬(୮୮) ଓ ୧୦୬(୮୯) ଓ ୧୦୬(୯୦) ଓ ୧୦୬(୯୧) ଓ ୧୦୬(୯୨) ଓ ୧୦୬(୯୩) ଓ ୧୦୬(୯୪) ଓ ୧୦୬(୯୫) ଓ ୧୦୬(୯୬) ଓ ୧୦୬(୯୭) ଓ ୧୦୬(୯୮) ଓ ୧୦୬(୯୯) ଓ ୧୦୬(୧୦୦)

²⁶ ଛାନ୍ଦ ୧୦୬(୧) ଓ ୧୦୬(୨) ଓ ୧୦୬(୩) ଓ ୧୦୬(୪) ଓ ୧୦୬(୫) ଓ ୧୦୬(୬) ଓ ୧୦୬(୭) ଓ ୧୦୬(୮) ଓ ୧୦୬(୯) ଓ ୧୦୬(୧୦) ଓ ୧୦୬(୧୧) ଓ ୧୦୬(୧୨) ଓ ୧୦୬(୧୩) ଓ ୧୦୬(୧୪) ଓ ୧୦୬(୧୫) ଓ ୧୦୬(୧୬) ଓ ୧୦୬(୧୭) ଓ ୧୦୬(୧୮) ଓ ୧୦୬(୧୯) ଓ ୧୦୬(୨୦) ଓ ୧୦୬(୨୧) ଓ ୧୦୬(୨୨) ଓ ୧୦୬(୨୩) ଓ ୧୦୬(୨୪) ଓ ୧୦୬(୨୫) ଓ ୧୦୬(୨୬) ଓ ୧୦୬(୨୭) ଓ ୧୦୬(୨୮) ଓ ୧୦୬(୨୯) ଓ ୧୦୬(୩୦) ଓ ୧୦୬(୩୧) ଓ ୧୦୬(୩୨) ଓ ୧୦୬(୩୩) ଓ ୧୦୬(୩୪) ଓ ୧୦୬(୩୫) ଓ ୧୦୬(୩୬) ଓ ୧୦୬(୩୭) ଓ ୧୦୬(୩୮) ଓ ୧୦୬(୩୯) ଓ ୧୦୬(୪୦) ଓ ୧୦୬(୪୧) ଓ ୧୦୬(୪୨) ଓ ୧୦୬(୪୩) ଓ ୧୦୬(୪୪) ଓ ୧୦୬(୪୫) ଓ ୧୦୬(୪୬) ଓ ୧୦୬(୪୭) ଓ ୧୦୬(୪୮) ଓ ୧୦୬(୪୯) ଓ ୧୦୬(୫୦) ଓ ୧୦୬(୫୧) ଓ ୧୦୬(୫୨) ଓ ୧୦୬(୫୩) ଓ ୧୦୬(୫୪) ଓ ୧୦୬(୫୫) ଓ ୧୦୬(୫୬) ଓ ୧୦୬(୫୭) ଓ ୧୦୬(୫୮) ଓ ୧୦୬(୫୯) ଓ ୧୦୬(୬୦) ଓ ୧୦୬(୬୧) ଓ ୧୦୬(୬୨) ଓ ୧୦୬(୬୩) ଓ ୧୦୬(୬୪) ଓ ୧୦୬(୬୫) ଓ ୧୦୬(୬୬) ଓ ୧୦୬(୬୭) ଓ ୧୦୬(୬୮) ଓ ୧୦୬(୬୯) ଓ ୧୦୬(୭୦) ଓ ୧୦୬(୭୧) ଓ ୧୦୬(୭୨) ଓ ୧୦୬(୭୩) ଓ ୧୦୬(୭୪) ଓ ୧୦୬(୭୫) ଓ ୧୦୬(୭୬) ଓ ୧୦୬(୭୭) ଓ ୧୦୬(୭୮) ଓ ୧୦୬(୭୯) ଓ ୧୦୬(୮୦) ଓ ୧୦୬(୮୧) ଓ ୧୦୬(୮୨) ଓ ୧୦୬(୮୩) ଓ ୧୦୬(୮୪) ଓ ୧୦୬(୮୫) ଓ ୧୦୬(୮୬) ଓ ୧୦୬(୮୭) ଓ ୧୦୬(୮୮) ଓ ୧୦୬(୮୯) ଓ ୧୦୬(୯୦) ଓ ୧୦୬(୯୧) ଓ ୧୦୬(୯୨) ଓ ୧୦୬(୯୩) ଓ ୧୦୬(୯୪) ଓ ୧୦୬(୯୫) ଓ ୧୦୬(୯୬) ଓ ୧୦୬(୯୭) ଓ ୧୦୬(୯୮) ଓ ୧୦୬(୯୯) ଓ ୧୦୬(୧୦୦)

If the offences are relating to the coca plant and coca leaves the punishment shall be the rigorous imprisonment for a term which may extend to ten years or with fine which may extend to one lakh rupees.²⁷ The embezzlement of opium, by a cultivator under a licence, and dealings in narcotic drugs and psychotropic substances out-side India, both are punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh but which may extend to two lakh rupees. But the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees²⁸. Similarly, the illegal import into and export from India has been made punishable.²⁹ The financing of illicit traffic and harbouring of offenders is severely punishable offence³⁰.

One of the peculiar feature of the NDPS Act is that it treats the persons who consume the drugs, leniently and provides for lesser punishment for them. According to Section 27, whoever, consumes any narcotic drug or psychotropic substance shall be punishable,-

(a) where the narcotic drug or psychotropic substance consumed is cocaine, morphine, diacetylmorphine or any other narcotic drug or any psychotropic substance as may be specified, with rigorous imprisonment for a term which may extend to one year, or with fine which may extend to twenty thousand rupees; or with both; and

(b) where the narcotic drug or psychotropic substance consumed is other than those specified, with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees or with both.

The attempt, abetment, criminal conspiracy to commit and preparation of the offence has also been made punishable under the Act.³¹

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³¹ Sections 28, 29 & 30, NDPS Act, 1985

The NDPS Act provide for the enhanced punishment for the offences after previous conviction. If any person who has been convicted of the commission of, or attempt to commit, or abetment of, or criminal conspiracy to commit, any of the offences punishable under this Act (sections 15 to 25) is subsequently convicted of the commission of, or attempt to commit, or abetment of, or criminal conspiracy to commit, an offence punishable under this Act with the same amount of punishment, shall be punished for the second and every subsequent offence with rigorous imprisonment for a term which shall not be less than the one half of the minimum term of imprisonment and fine and may extend to one-half of the maximum term of imprisonment and also be liable to fine which shall extend to one-half of the maximum amount of fine³². The death penalty has also been provided for the offences relating to certain drugs and the prescribed quantity³³. The Act also provides that if anyone contravenes any provision of this Act or any rule or order made, or any condition of any licence, permit or authorisation issued thereunder for which no punishment is separately provided, shall be punishable with imprisonment for a term

which may extend to six months, or with fine, or with both³⁴. The sentence awarded for the offences under the NDPS Act have been insulated from the executive power of suspension, remission or commutation under the Code of Criminal Procedure 1973. It means the sentence awarded under the Act cannot be suspended, remitted or commuted³⁵. The drug offenders cannot be released on probation unless they are under eighteen years of age. But if an addict is found guilty of an offence punishable for offences relating to small quantity of any narcotic drug for personal consumption and if the court by which he is found guilty is of the opinion, regard being had to the age, character, antecedents or physical or mental condition of the offender, that it is expedient so to do, then, notwithstanding anything contained in this Act or any other law for the time being in force, the court may, instead of sentencing him at once to any imprisonment, with his consent, direct that he be released for undergoing medical treatment for de-toxification or de-addiction from a hospital and on his entering into a bond with or without sureties, to appear and furnish before the court within a period not exceeding one year, a report regarding the result of his medical treatment and, in

³² Section 31, *ibid.*

³³ Section 31A, *ibid.*

³⁴ Section 32, *ibid.*

³⁵ Section 32A, NDPS Act, 1958

the meantime, to abstain from the commission of any offence³⁶. If an offence is committed under the NDPS Act for which a minimum punishment has been prescribed, the court may impose a higher punishment than the minimum term of imprisonment or amount of fine, in the following conditions-

- (a) the use or threat of use of violence or arms by the offender;
- (b) the fact that the offender holds a public office and that he has taken advantage of that office in committing the offence;
- (c) the fact that the minors are affected by the offence or the minors are used for the commission of an offence;
- (d) the fact that the offence is committed in an educational institution or social service facility or in the immediate vicinity of such institution or faculty or in other place to which school children and students resort for educational, sports and social activities³⁷.

One of the striking features of the offences under the NDPS Act is that in any prosecution for an offence which requires a culpable mental state of the accused, the Court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution³⁸.

The special courts are constituted by the Government, for the purpose of providing speedy trial of the offences under the NDPS Act. Every such court is consisted of a judge appointed by the Government with the concurrence of the Chief Justice of the High Court. All offences under this Act which are punishable with imprisonment for a term of more than three years are triable only by the Special Court. The offences under the Act are cognizable and non bailable³⁹. Section 38 of the NDPS Act makes provisions for the offences committed by companies. It provides that if an offence has been committed by a company, every person, who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, shall be deemed to be guilty of the

³⁶ Section 33 & 39, *ibid.*

³⁷ Section 32B, *ibid.*

³⁸ Section 35, *ibid.*

³⁹ Sections 36, 36A & 37, NDPS Act, 1985.

offence and shall be liable to be proceeded against and punished accordingly. But that person shall not be liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence. If a person has been convicted of an offence under the NDPS Act, his name, place of residence and business, nature of contravention and fact of conviction may be published in a news paper by the order of the court.⁴⁰

The power to issue arrest or search warrants have been given to the first class magistrate of a court under the NDPS Act. According to Section 41, a Metropolitan Magistrate or a Magistrate of the first class or any Magistrate of the second class specially empowered by the State Government in this behalf, may issue a warrant for the arrest of any person whom he has reason to believe to have committed any offence punishable under this Act, or for the search, whether by day or by night, of any building, conveyance or place in which he has reason to believe any narcotic drug or psychotropic substance or controlled substance in respect of which an offence punishable under this Act has been committed or any document or other article which may furnish evidence of the commission of such offence or any illegally acquired property or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under this Act is kept or concealed. The officers of gazetted ranks of various concerned departments also have the power to order the arrest of an offender or to make searches⁴¹. These officers have the power to enter, search, seize and arrest without warrant or authorisation in certain case⁴². Where it is not practicable to seize any goods (including standing crop) which are liable to confiscation under this Act, any officer duly authorised may serve on the owner or person in possession of the goods, an order that he shall not remove, part with or otherwise deal with the goods except with the previous permission of such officer⁴³. It is the duty of every holder of land to give immediate information, to any officer of the police or any of the concerned departments, of all the opium poppy, cannabis plant or coca plant which may be illegally cultivated within his land and every such holder of land who knowingly

⁴⁰ Section 40, *ibid.*

⁴¹ Section 41, NDPS Act, 1985.

⁴² Section 42, *ibid.*

⁴³ Section 45, *ibid.*

neglects to give such information, shall be liable to punishment⁴⁴. Every officer of the Government and every panch, sarpanch and other village officer of whatever description is under an obligation to give information to the police about the illegal cultivation of opium poppy, cannabis plant or coca plant on any land and if they are negligent in giving such information, they may be punished.⁴⁵ Illegally cultivated opium poppy, cannabis or coca plants may be attached by an order of a magistrate. In trials under this Act, it may be presumed, unless and until the contrary is proved, that the accused has committed an offence in respect of--

- (a) any narcotic drug or psychotropic substance;
- (b) any opium poppy, cannabis plant or coca plant growing on any land which he has cultivated.

There are certain procedural safeguards provided under the NDPS Act to the person on whom a search is made. It provides that when any officer duly authorised under the Act is about to search any person, he shall, if such person so requires, take such person without unnecessary delay to the nearest Gazetted Officer of any of the concerned departments or to the nearest Magistrate. The Gazetted Officer or the Magistrate before whom any such person is brought shall, if he sees no reasonable ground for search, forthwith discharge the person but otherwise shall direct that search be made. No female shall be searched by anyone excepting a female.⁴⁶

The NDPS Act gives wide powers to the enforcement officials in order to punish any one who is engaged in the vicious drug trade. But this Act also provides for punishing those who deliberately try to implicate someone without any reason. Section 58 of the Act provides that any person empowered under the Act who-

- (a) without reasonable ground of suspicion enters or searches, or causes to be entered or searched, any building, conveyance or place;
- (b) vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any narcotic drug or psychotropic substance or other

⁴⁴ Section 46, NDPS Act, 1985.

⁴⁵ Section 47, *ibid.*

⁴⁶ Section 50, *ibid.*

article liable to be confiscated, or of seizing any document or other article liable to be seized; or

(c) vexatiously and unnecessarily detains, searches or arrests any person,

shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both. Any person wilfully and maliciously giving false information and so causing an arrest or a search being made shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

If the officers on duty to enforce the provisions of the NDPS Act are negligent or unwilling in the performance of their duty or conniving with some one to commit an offence, they are punishable under the Act⁴⁷. Where an offence is committed under the provisions of the Act, the narcotic drugs seized, goods used for concealing illicit drugs or substances and the sale proceeds of illicit drugs or substances are liable to be confiscated⁴⁸. The Government can tender immunity from prosecution to a person who is accused of committing an offence. According to Section 64 of the Act the Central Government or the State Government may, if it is of opinion (the reasons for such opinion being recorded in writing) that with a view to obtaining the evidence of any person appearing to have been directly or indirectly concerned in or privy to the contravention of any of provisions of this Act or of any rule or order made thereunder it is necessary or expedient so to do, tender to such person immunity from prosecution for any offence under this Act or under the Indian Penal Code or under any other Central Act or State Act, as the case may be, for the time being in force, on condition of his making a full and true disclosure of the whole circumstances relating to such contravention. If the person to whom immunity has been tendered has not complied with the conditions on which the tender was made or is wilfully concealing anything or is giving false evidence, the Government shall withdraw the immunity and try him for the offence he has committed⁴⁹. Section 64A provides that an addict who voluntarily seeks to undergo medical treatment for de-toxification or de-addiction from a hospital or an institution maintained or recognised by the Government or a local authority and

⁴⁷ Section 59, NDPS Act, 1985.

⁴⁸ Sections 60, 61 and 62, *ibid*

⁴⁹ Section 64, NDPS Act, 1985

undergoes such treatment shall not be liable to prosecution under section 27 once in his lifetime. This immunity from prosecution may be withdrawn if the addict does not undergo the complete treatment for detoxification or de-addiction. This measure has been designed to encourage the drug addicts to come forward for the treatment and rehabilitation.

The NDPS Act confers wide powers on the enforcement agencies and protects their officers from being compelled to disclose the source of information they have got about the commission of an offence⁵⁰. This provision was enacted to ensure them the freedom from interference in the performance of their duty under the Act.

The NDPS Act makes a provision for the seizure and freezing of illegally acquired property of offenders to discourage them from getting involved in the illicit drug trade. According to Section 68F, where any officer conducting an inquiry or investigation has reason to believe that any property in relation to which such inquiry or investigation is being conducted is an illegally acquired property and such property is likely to be concealed, transferred or dealt with in any manner which will result in frustrating any proceeding relating to forfeiture of such property, he may make an order for seizing such property and where it is not practicable to seize such property, he may make an order that such property shall not be transferred or otherwise dealt with, except with the prior permission of the officer making such order, or of the competent authority and a copy of such order shall be served on the person concerned. The competent authority shall be duly informed of any such order made and a copy of such an order shall be sent to the competent authority within forty-eight hours of its being made. Any such order shall have no effect unless the said order is confirmed by an order of the competent authority within a period of thirty days of its being made⁵¹. Where an order for not to transfer a property has been made and the said property has been transferred, then, the transfer of such property shall be deemed to be null and void⁵². The Central Government has the power to constitute an Appellate Tribunal for hearing appeal against the orders made for seizure of the property alleged to be illegally acquired⁵³. The NDPS Act provides for the protection of actions taken in

⁵⁰ Section 68, *ibid.*

⁵¹ Section 38F, NDPS Act, 1985.

⁵² Section 68M, *ibid.*

⁵³ Section 68N, *ibid.*

good faith. In Section 69, it states that no suit, prosecution or other legal proceeding shall lie against the Central Government or a State Government or any officer of the Central Government or of the State Government or any other person exercising any powers or discharging any functions or performing any duties under this Act, for anything in good faith done or intended to be done under this Act or any rule or order made there under. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act and it has to take into account the international conventions on narcotic drugs while making these rules⁵⁴. The State Governments also have the rule making power under the Act. The Government may in its discretion, establish as many centres as it thinks fit for identification, treatment, education, after-care, rehabilitation, social reintegration of addicts and for supply, subject to such conditions and in such manner as may be prescribed, by the concerned Government of any narcotic drugs and psychotropic substances to the addicts registered with the Government and to others where such supply is a medical necessity.⁵⁵

The criticism levelled against NDPS Act is that it treats the drug user and trafficker on par. The Government has fixed the quantity possessed for personal use as an offence and provided a punishment for possession of quantities beyond such limits. One of the criticisms to this provision brought by way of amendment is that the quantity fixed is so small that it may not suffice for even a single use and that such provisions make it difficult for drug addicts to openly seek medical help and rehabilitation. It is also said that one of the causes of low conviction rate is the steep minimum sentence under the Act. How far these are relevant to ultimately check the problem of Drug Trafficking is a matter of debate.

In India, transit traffic in illicit drugs has been on the increase which caused problems of abuse and addiction. It created an illicit demand for drugs within the country and resulted in the illicit cultivation and manufacture of drugs. The deterrent penal provisions in the Narcotic Drugs and Psychotropic Substances Act, 1985 and other legislative, administrative and preventive measures were found inadequate to control the illicit transit traffic in drugs. The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 provides for preventive detention in

⁵⁴ Section 70, *ibid.*

⁵⁵ Section 71, NDPS Act, 1985.

relation to smuggling of drugs and psychotropic substances, but it cannot be invoked to deal with persons engaged in the traffic of drugs and psychotropic substances within the country. It was therefore, felt that a preventive detention law should be enacted with a view to effectively immobilise the persons engaged in any kind of illicit traffic in narcotic drugs and psychotropic substances. To achieve this objective, the President promulgated the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Ordinance, 1988 on 4th July, 1988. To replace this Ordinance, the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Bill, 1988 was introduced in the Parliament which was passed to become an Act.

The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 was enacted to provide for detention in certain cases for the purpose of preventing illicit traffic in narcotic drugs and psychotropic substances and for matters connected therewith. Preamble of the Act emphasised that the illicit traffic in narcotic drugs and psychotropic substances poses a serious threat to the health and welfare of the people and the activities of persons engaged in such illicit traffic have a deleterious effect on the national economy. Since the illicit trafficking in drugs have been considered an organized crime, it was felt necessary for the effective prevention of such activities to provide for detention of persons concerned in any manner with drug trafficking.

The 1988 Act also defines the term illicit traffic in the similar manner as the term was defined under the NDPS Act, 1985. This Act empowers the Central and State Governments to make an order for detention of any person if it is necessary to do so with a view to preventing him from engaging in illicit trafficking in narcotic drugs and psychotropic substances. The communication to a person detained in pursuance of a detention order of the grounds on which the order has been made shall be made as soon as may be after the detention, but ordinarily not later than five days, and in exceptional circumstances and for reasons to be recorded in writing, not later than fifteen days, from the date of detention⁵⁶. If a person absconds to escape the detention order, the judicial process to attach his property may start if the Government makes a report to this effect to the

⁵⁶ Section 3, Prevention of Illicit Traffic in NDPS Act, 1988.

court⁵⁷. The Central and State Governments are mandated to constitute Advisory Boards, consisting of a Chairman and two other members, to make a reference of a person under a detention order, made by it, within five weeks from the date of detention⁵⁸. The Advisory Board to which a reference is made shall after considering the reference and the materials placed before it, and after calling for such further information as it may deem necessary from the appropriate Government or from any person called for the purpose through the appropriate Government or from the person concerned, prepare its report specifying in a separate paragraph thereof its opinion as to whether or not there is sufficient cause for the detention of the person concerned and submit the same within eleven weeks from the date of detention of the person concerned. In every case where the Advisory Board has reported that there is in its opinion sufficient cause for the detention of a person, the appropriate Government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit and in every case where the Advisory Board has reported that there is in its opinion no sufficient cause for the detention of the person concerned, the appropriate Government shall revoke the detention order and cause the person to be released forthwith. The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed shall be one year from the date of detention⁵⁹. A detention order may, at any time be revoked or modified by the government.⁶⁰

The Prevention of Illicit Traffic in NDPS Act, 1988 makes a protective provision for the enforcement authorities if they have acted in good faith. It provides that no suit or other legal proceeding shall lie against the Central Government or a State Government and no suit, prosecution or other legal proceeding shall lie against any person for any thing in good faith done or intended to be done in pursuance of this Act.⁶¹

There are four broad aspects of narcotic drugs and psychotropic substances: administration of the NDPS Act and Rules framed there under, legal production, manufacturing, trade and use of narcotic drugs and psychotropic substances for medical

⁵⁷ Section 8, *ibid.*

⁵⁸ Section 9, *ibid.*

⁵⁹ Section 11, Prevention of Illicit Traffic in NDPS Act, 1988.

⁶⁰ Section 12, *ibid.*

⁶¹ Section 14, *ibid.*

and scientific uses, drug (Illicit) supply reduction, and drug (Illicit) demand reduction. Stringent laws and severe punishments have been able to control the drug menace to some extent but still it is one of the most pertinent threats in the progress of any developing country. Do we need comprehensive legislative changes or is there need of implementation of existing laws with greater precision and concerted effort by all concerned to resolve this issue? Laxity or pathetic attitude from any quarter in dealing with this issue is bound to prove disastrous for the society. All departments of the State are expected to work in unison and with utmost coordination to give an impressive display of the will to control, if not, completely eliminate this evil from the society.

In 2010, the Narcotics Control Bureau busted four clandestine laboratories which were illicitly manufacturing Ephedrine and Amphetamine Type Stimulants (ATS). These laboratories were being operated by the criminal groups using the infrastructure available in loss-making pharmaceutical firms. Significantly, these criminal groups utilised local support and foreign expertise for the manufacture of synthetic drugs.⁶²

As the National Nodal Agency, the NCB is tasked with coordinating the drug demand reduction effort as well. An important element of any drug control strategy is to assess the nature and extent of drug abuse in the country. There has been a perceptible change in India in recent years, in the drug environment which is to be understood for focussed drug prevention strategies. Ministry of Social Justice and Empowerment has conducted pilot surveys to ascertain the prevalence of drug abuse patterns in Punjab, Manipur and Maharashtra through National Sample Survey Organization (NSSO). NCB has supported the venture by providing necessary inputs and logistics.

India's drug trafficking scenario is determined by external and internal factors. The external factor largely flows from India's close proximity to the major opium producing regions of South West and South East Asia known as _Golden Crescent_ and _Golden Triangle_ respectively. Afghanistan is the largest illicit opium producing country in the world accounting for approximately 92 per cent of global production. This makes India prone to transit trafficking of heroin, and

⁶² Annual Report of the Narcotics Control Bureau, 2010.

vulnerable for its consumption in various forms, particularly along the trafficking routes.⁶³

Cannabis is indigenous not only to India but also to the South Asian region. It grows wild in large tracts of the country, making it a drug of choice. In some areas it is also cultivated. The drug scenario is further complicated by the emerging threat from synthetic drugs. Attempts are made to set up manufacturing bases in the country by foreign operatives in collaboration with their Indian counterparts. Vigilance of the law enforcement agencies has neutralized many of these attempts but there is a need for continued alertness since synthetic drugs are replacing plant-based drugs in many regions of the world.

Abuse of pharmaceutical products like Diazepam, Lorazepam, Buprenorphine, etc are of greater concern. Despite strict legal controls over these products, there are evidences of diversion for abuse. There is, thus, a need for striking a balance between controls without stifling legitimate trade and use.⁶⁴

The trends and patterns that dominated the drug trafficking scenario in India in 2010 can be broadly summarised as follows:

- Opium from illicit cultivation as well as diverted from licit cultivation feeds the indigenous production of low quality heroin which is trafficked within the country and to other nations like Sri Lanka and Bangladesh.
- Trafficking of heroin from South West Asia to India takes place through the India-Pakistan border for onward trafficking to Western Europe, USA and South Africa.
- Heroin trafficked from Myanmar to India is in small quantities and is mainly for local consumption in North- Eastern states.
- Trafficking of hashish from Nepal into India takes place through the porous India Nepal border for onward trafficking to Western Europe, USA and South Africa.

⁶³ Annual Report, 2010, NCB.

⁶⁴ Ibid

- Foreign nationals from Israel, West Africa, Nepal, Myanmar, Afghanistan, Iran etc. have been found to be involved in trafficking of narcotic drugs and psychotropic substances.
- Establishment of illicit ephedrine and methamphetamine labs in India with collaboration of drug operators from Iran, Australia, the Netherlands and China is a noticeable feature.
- Diversion of precursor chemicals takes place from pharmaceutical industries for illicit manufacture of Amphetamine Type Stimulants (ATS). Diversion also takes place to facilitate manufacture of low grade heroin.
- Trafficking of pharmaceutical preparations and prescription drugs, containing narcotic drugs and psychotropic substances, to the United States, the United Kingdom and neighbouring countries, especially Bangladesh and Nepal, was noticed.
- Courier and postal services are being increasingly used for trafficking of drugs.
- Trafficking of Ketamine from India, mainly to South East Asia continues to take place.

The Narcotics Control Bureau was created as a Central Authority for the purpose of effectively preventing and combating abuse of narcotic drugs and psychotropic substances and illicit traffic therein. Being the apex coordinating authority, NCB assists other agencies involved in drug law enforcement to enhance their capabilities in combating the menace of drugs. A large number of Central and State Government agencies have been empowered to enforce the NDPS Act throughout the country. As drug law enforcement is only a part of the overall mandate of these agencies, the officers of these agencies are required to undergo training and update their knowledge with a view to develop the specialised skills required in the field of drug control strategy.⁶⁵

⁶⁵ Annual Report, 2010, NCB.

According to a National Drug Abuse Survey sponsored by the Ministry of Social Justice & Empowerment in association with United Nations Office on Drugs and Crime (UNODC) in 2001, the most common drugs of abuse in India are cannabis, opium and heroin. Even after a decade, these drugs remain the most commonly abused. The above survey of 2001 further brought out that many addicts are poly-drug users, and drug abuse was equally prevalent in rural and urban population. Regional surveys conducted subsequently also indicate an increasing trend of Injecting Drug Use (IDU) especially in North-eastern states. It is therefore, essential that the State Governments are aware of the drug related problems in their states and address them in an effective manner before they assume serious proportions.

The Ministry of Finance, as per the recommendations of the Cabinet Sub Committee on Drug Abuse Control, formed a Narcotics Committee of Secretaries to review the incidents of drug abuse, control and counter measures, drug problems in the States and the functioning of the de-addiction centres. The committee consists of the Secretaries of the Department of Revenue, Ministry of Social Justice & Empowerment, Ministry of Health & Family Welfare, Ministry of Home Affairs with DG, NCB, as the Convener⁶⁶. Multi Agency Center (MAC) meetings are conducted by the Intelligence Bureau and are attended by the nodal officers of various law enforcement agencies. The main purpose of this meeting is to exchange intelligence relating to terrorism, organised crime, including drug trafficking and narco-terrorism. NCB regularly participates in MAC meetings. Lead Intelligence Agency (LIA) meeting is organised by the Central Border Guarding Forces, deployed in the State/Region. MHA has designated SSB (Nepal border), BSF (Pakistan, Bangladesh border), Assam Rifles (Myanmar border) and Coast Guard (Coastal States) as Lead Intelligence Agencies for convening the meeting to share intelligence and discuss issues relating to terrorism, smuggling, organized crime, including drug trafficking and other security related issues. Participants of this meeting include State and Central enforcement agencies like State Police, State Excise, State Forest, IB, etc. NCB actively participates in this meeting.

⁶⁶ Ibid

The charter of the *Narcotics Control Bureau* includes implementation of the obligations under the various international conventions to which India is a signatory. NCB also renders assistance to the concerned authorities in foreign countries and concerned international organisations with a view to facilitating coordination and universal action for prevention and suppression of illicit traffic in narcotics drugs and psychotropic substances.

Drug trafficking and abuse has assumed global proportions. International cooperation is one of the most potent tools in this common fight. To achieve this objective, India has entered into agreements both bilateral and multilateral, MLATs, JWG-ct with various countries. It is also an active participant in various international forums both regional (SAARC, SDOMD) and inter-regional (CND, HONLEA, IDEC, ADEC, ADLOMICO) etc.

To enhance bilateral cooperation, NCB/Govt. of India has entered into bilateral agreements for mutual cooperation for reducing demand, and preventing illicit trafficking in narcotics drugs, psychotropic substances and precursor chemicals with 22 countries, namely Afghanistan, Bangladesh, Bulgaria, Cambodia, China, Croatia, Cyprus, Egypt, Israel, Italy, Kuwait, Laos PDR, Mauritius, Myanmar, Poland, Romania, Russia, Tajikistan, Turkey, UAE, USA and Zambia. The agreements envisage assistance in exchanging information and to identify, suppress and prevent the criminal activities of International Drugs Syndicates engaged in the illicit traffic of Narcotic Drugs and Psychotropic Substances.

The NCB/Govt. of India has signed *MoU* on narcotic drugs-related matters with Bhutan, Indonesia, Iran, Oman, USA and Vietnam. India has so far signed agreements on *MLATs* (Mutual Legal Assistance Treaty) with 30 countries, namely, Australia, Bahrain, Belarus, Bosnia & Herzegovina, Bulgaria, Canada, Egypt, France, Iran, Kazakhstan, Kuwait, Mauritius, Mexico, Myanmar, Mongolia, Russia, Singapore, Spain, South Africa, South Korea, Switzerland, Tajikistan, Thailand, Turkey, Ukraine, Uzbekistan, UAE, UK, USA and Vietnam.

These have been signed with the following objectives:

- taking evidence or statements from persons,

- effecting service of judicial documents,
- executing searches and seizures,
- examining objects and sites,
- providing information and evidentiary items,
- providing originals or certified copies of the relevant documents and records, including bank, financial, corporate, and business records,
- identifying or tracing proceeds, property, instrumentalities or other things for evidentiary purposes.

India has Joint Working Groups (JWG-ct) on counter terrorism with 27 countries, namely Egypt, Canada, Germany, UK, USA, France, European Union (Regional Group), China, Israel, Kazakhstan, Russia, Croatia, Uzbekistan, Thailand, Turkey, Singapore, Australia, Tajikistan, BIMSTEC (Regional group), Mauritius, Indonesia, Myanmar, Poland, Japan, Cambodia, Pakistan and Italy. JWG meetings are organised by Counter-Terrorism Cell (CTC), MEA. NCB represents India on matters related to drug offences in these JWG meetings. Drug liaison officers Constant interaction between NCB and the Drug Liaison Officers of foreign countries namely UK, USA, France, Canada, Germany and Australia posted in the region is maintained for sharing intelligence, joint operations/ investigation and Controlled Deliveries.

India is signatory to the SAARC (South Asian Association for Regional Cooperation) Convention on Narcotic Drugs and Psychotropic Substances, 1993. NCB is the focal point for all meetings held by SAARC secretariat on SDOMD (SAARC Drug Offences Monitoring Desk). Such meetings are held regularly on an annual basis with an objective to analyse drug trafficking trends, methods of concealment, modus operandi, activities of drug syndicates, exchange of information on the best practices in eradicating drug abuse, drug trafficking and money laundering.

The officers of NCB participated in the following international meetings/ conferences on drug related matters:

1. The 15th Asia-Pacific operational Drug enforcement conference (ADEC) was organised by National Police Agency (NPA), Japan, from February 2-5, 2010 at Tokyo which covered the following:

- a). discussion and analysis of current drug situation in the Asia-Pacific region and sharing information on effective drug law enforcement measures.
- b). law enforcement against the drug trafficking and international cooperation.
- c). counter-measures against trans-national drug crime syndicates (West African, Asian).

2. Drug Enforcement Administration (DEA), Govt of USA organised Regional international Drug enforcement conference (IDEC) in Romania, from Feb 9-10, 2010, to deliberate on:

- a). Drug trafficking and Money Laundering,
- b). Diversion of essential and precursor chemicals,
- c). Develop regional and global initiatives on the command and control aspects of major international drug trafficking.

3. The 53rd Session of commission on Narcotics Drugs (cND) was held at Vienna, Austria, from March 8-12, 2010. DG NCB was on the panel for Asian Group on Thematic Debate on regional and inter-regional cooperation. DG, NCB made an intervention on Synthesis of Ephedrine from Propriophenone and Monomethylamine.

4. International Narcotics Control Board (INCB), Vienna organized informal consultation - Reporting on Narcotics Drugs and Psychotropic substances on 11th

March, 2010, at Vienna, Austria. The following was the agenda:

- Statistical reports on narcotic drugs and psychotropic substances,
- Estimates of requirements for narcotic drugs and assessment of annual medical and scientific requirements for psychotropic substances.

5. Colombo Plan Drug Advisory Programme (CPDAP), Colombo, Sri Lanka, in collaboration with Central Narcotics Bureau (CNB) Singapore organised Regional training on Drug law enforcement officers in Singapore from May 17-21, 2010 to:

- impart training on drug law enforcement, legislation, precursor control, antimoney laundering and financial investigation.
- introduce _good drug-law enforcement & rehabilitation models_ of Singapore on a holistic and integrated approach encompassing preventive drug education, rigorous enforcement, treatment, rehabilitation and aftercare.
- share information and discuss the methods to strengthen cooperation in the fight against illicit drug in the region.

6. The first Coordination Committee meeting between India and Royal Government of Bhutan (RGoB) was held in Thimphu from June 1-3, 2010. This was pursuant to the MOU on Drug Demand Reduction and Prevention of Illicit trafficking in Narcotic drugs and Psychotropic substances and Precursor Chemicals.

7. Third SAARC Drug Offences Monitoring Desk (SDOMD) and Eighth _SAARC Conference on cooperation in police matters_ was held at Islamabad on June 23-24, 2010, to:

- analyse seizures, trafficking trends, methods of concealment, modus operandi and activities of drug syndicates,
- exchange information on the best practices in eradicating drug abuse, drug trafficking and money laundering.

8. UNODC organised the Paris Pact initiative- expert Round table on central

Asia meeting at the Central Asian Regional Information and Coordination Centre (CARICC) in Almaty, Kazakhstan, on July 14-15, 2010, to review:

- Situation on opium trafficking through Central Asia with a view to identifying knowledge gaps,
- Areas of further development and action with particular emphasis on cross border cooperation,
- Identification of ways of strengthening judicial cooperation in the region.

9. Drug Enforcement Administration, Department of Justice, Government of USA, in conjunction with DEA Special Operation Division, organised intelligence

integration Management and collaboration (iiMc) programme in two phases. The first phase was held in New York, USA from August 9-14, 2010 and the second phase in Kabul, Afghanistan, from August 15-17, 2010. This was to assist NCB in the acquisition and analysis of information relating to a specific area of concentration (AOC) concerning the development of source intelligence collection, management and analysis to support complex intercept planning.

10. The Office of the Narcotics Control Board (ONCB), Thailand with support of the Colombo Plan Drug Advisory Programme, organised the 7th international training course on Precursor chemical control for Asian Narcotics law enforcement officers from August 16-22, 2010, in Bangkok to provide knowledge on precursor chemical control, including investigation techniques and methods to conduct the precursor chemical operations to Asian narcotics law enforcement officers.

11. The United Nations Office on Drugs and Crime (UNODC), based on the Paris Pact Initiatives, organised expert Round table on Afghanistan and neighbouring countries from October 7-8, 2010, at Vienna, Austria, with an aim to:

- develop a New Afghan National Drug Control Strategy, taking stock of Afghanistan's counter narcotics strategy in relation to its neighbouring borders.

- enhance border management cooperation among Afghanistan, Iran and Pakistan-Green Paper, Triangular Initiative.
- review border management activities among Central Asian and Caspian Sea states, Violet Paper , The Caspian Sea and Turkmen Border Initiative.
- update on the Paris Pact operation targeting the smuggling of precursor chemicals in and around Afghanistan, Red paper, targeting Precursors.
- assess the drug abuse situation in Afghanistan and neighbouring countries and to identify common challenges and priority actions, Indigo Paper, Preventive and treating opiates addiction and HIV/AIDS epidemics.

12. The 20th Annual Anti-Drug liaison officials Meeting for international cooperation (ADloMico), was held at seoul, south Korea, from october 4-6, 2010 to:

- share experiences and facilitate exchange of information on drug crimes,
- establish personal contacts amongst drug law enforcement agencies.
- enhance cooperation at the international level in preventing drug syndicates from exploiting and operational loopholes across different nations,
- focus on trafficking of drugs,new trends in the region, money laundering,advance drug profiling technologies,investigation techniques, sharing of best practices and enforcement strategies.

13. The India-Pakistan bi-annual meeting between the officers of Pakistan Rangers and Border Security Force (BSF) along with representatives of their respective departments including Narcotics Control Bureau was held at Lahore, Pakistan from October 26-30, 2010.

14. The United Nations Office on Drugs and Crime (UNODC), organised the 45th Session of the sub-commission on illicit Drug traffic and related matters in Middle east from November 8-12, 2010, at Damascus, syria, to focus on:

- the ongoing threat from illicit opium production and trafficking in Afghanistan.
- the challenges of effective border management.

- controlling precursor chemicals, addressing the growing challenge of unregulated alternatives, and trafficking in, production and consumption of amphetamine-type stimulants in the near and Middle East.

15. The United Nations Office on Drugs and Crime (UNODC), based on the Paris Pact Initiatives, organised the expert Working Group on Precursors at Paris, France, on November 8-9, 2010, to focus on:

- Trafficking in acetic anhydride and other chemicals used in manufacture of heroin, towards Afghanistan,
- International initiatives to counter diversion & smuggling of chemicals to Afghanistan,
- implementation of current control measures in international trade in precursors,
- Improvement of the use of PEN System,
- addressing the problem of diversion from domestic distribution channels,
- Marking of technical and operational aspects of precursor.

16. The United Nations Office on Drugs and Crime (UNODC), based on the Paris Pact Initiatives, organised Paris Pact Policy consultative Group Meeting at Vienna, Austria on November 22-23, 2010, to deliberate on recommendations made by the following:

- Expert Round Table on Central Asia held in Almaty, in July 2010,
- Expert Round Table on Afghanistan and neighbouring countries, held in Vienna in October 2010,
- Expert Working Group on Precursors held in Paris in November 2010,
- Current status of operational priorities related to Afghanistan and neighbouring countries and the third phase of the Paris Pact.

17. The Colombo Plan Drug Advisory Programme (CPDAP), Colombo, in collaboration with Turkish International Academy against Drug & Organised Crimes

(TADOC), organised the Regional training for Drug law enforcement trainers in Ankara, turkey from November 22 to December 3, 2010, with an aim to:

- equip the participants with knowledge, skill and attitudes.
- enable the participants to design and deliver effective and efficient learning sessions.

18. The 6th Indo-Russia Joint Working Group Meeting on counter- terrorism was held at Moscow on November 23, 2010. A wide range of topics including trafficking of narcotics drugs and psychotropic substances and its implication for security were discussed.

19. The United Nations Office on Drugs and Crime (UNODC) organised thirty-fourth (34th) Meeting of Heads of National Drug law enforcement Agencies

(HONLEA), Asia and the Pacific at Bangkok, Thailand from November 30 to

December 3, 2010. The following wide ranging policy and operational issues were discussed:

- Major regional drug trafficking trends and counter measures.
- Plan of Action on international cooperation towards an integrated and balanced strategy to counter the World Drug Problem,
- Illicit drug trafficking - emerging trend across the region and measures to counter the manufacture of ATS in the region.

20. Regional international Drug enforcement conference (IDEC) was held at

Tashkent, Uzbekistan from November 30 to December 1, 2010. This meeting was organised by the DEA, US Department of Justice. The main objective of the regional IDEC was to bring together high-level drug law enforcement officials of various countries for institutionalising cooperation and reinforcing the commitments to fight drug trafficking on an international level.

21. The Republic of Indonesia organised a Workshop on Formulation of standard

operating Procedures (SOP) on the safe Disposal of evidence Related to Narcotics, Precursors and other chemicals at Jakarta, Indonesia from December 8-10, 2010.⁶⁷

The United Nations Office on Drugs and Crime made its theme of campaign in 2010 " think health-not drugs" and it aimed , through this campaign, to inform the public, particularly young people about the harmful effects that drugs under international control can have on their health. NCB in order to sensitize the masses

especially students, regarding the evils of drug abuse, organizes various demand reduction activities in liaison with NGOs and State Governments, as also in association with various State Anti-Narcotics Task Forces.

⁶⁷ Annual Report,2010, NCB.