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HUMAN RIGHTS ASPECT: DEVELOPMENT OF MARGINALIZED PEOPLE AS THE CARRIER OF NARCOTIC DRUGS

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ABSTRACT:

Drug abuse and illicit trafficking have emerged as one of the most pressing global concerns, deeply affecting social, economic, and legal structures. In India, the issue is further complicated by the increasing involvement of marginalized communities as carriers in narcotic drug trafficking. These individuals, often driven by poverty, lack of education, unemployment, and systemic discrimination, become easy targets for organized criminal networks.

This study explores the intersection between drug trafficking and human rights, focusing on how marginalized populations are drawn into illegal drug networks and the extent to which their fundamental rights are compromised. It critically examines the socio-economic, structural, and psychological factors that contribute to their involvement. Further, the research analyzes the legal framework in India, particularly the NDPS Act, and evaluates whether it adequately addresses the vulnerabilities of such individuals.

The study also highlights the need for a balanced approach that integrates strict law enforcement with human rights protection, rehabilitation, and social support systems. It argues that marginalized carriers should not merely be viewed as offenders but also as victims of structural inequalities, requiring policy reforms and inclusive development strategies.

CHAPTER I

1.1 INTRODUCTION:

Drug trafficking is a complex and transnational phenomenon that not only threatens public health but also undermines national security and social stability. India's geographical position between the Golden Crescent and Golden Triangle makes it particularly vulnerable to narcotic trafficking activities. Over time, drug trafficking has evolved into an organized criminal enterprise, exploiting socio-economically disadvantaged populations.

Marginalized individuals—belonging to economically weaker sections, socially excluded groups, and underprivileged communities—are increasingly being used as carriers or “mules” in the drug trade. Their vulnerability arises from systemic deprivation, lack of opportunities, and social exclusion. These individuals are often coerced, manipulated, or incentivized into illegal activities without fully understanding the consequences.

From a human rights perspective, this issue raises critical concerns. While the law treats these individuals as offenders, their socio-economic background suggests a need to view them through a more compassionate and reformative lens. The intersection of criminal law and human rights thus becomes crucial in addressing this issue holistically.

This research aims to analyze the dual nature of marginalized carriers—as both offenders and victims—and to evaluate the adequacy of existing legal and policy frameworks in safeguarding their rights while combating drug trafficking.

1.2 STATEMENT OF PROBLEM :

The increasing involvement of marginalized individuals in drug trafficking as carriers presents a serious socio-legal challenge. While stringent laws like the NDPS Act aim to curb drug-related offenses, they often fail to distinguish between major traffickers and vulnerable carriers who are driven by socio-economic compulsions.

The criminal justice system tends to treat all offenders uniformly, leading to harsh punishments for individuals who may themselves be victims of exploitation. This raises significant human rights concerns, including violations of dignity, equality, and access to fair legal representation. Moreover, there is a lack of adequate policy focus on addressing the root causes such as poverty, unemployment, lack of education, and systemic discrimination. The absence of rehabilitation mechanisms further aggravates the problem, pushing individuals back into cycles of crime.

Thus, the problem lies in the gap between strict legal enforcement and the need for a human rights-based approach that recognizes the vulnerabilities of marginalized carriers in narcotic drug trafficking.

1.3 AIMS AND OBJECTIVES

AIM:

To critically analyze the involvement of marginalized people as carriers in narcotic drug trafficking from a human rights perspective and evaluate the effectiveness of existing legal frameworks in India.

Objectives:

1. To analyze the socio-economic and structural factors leading to the involvement of marginalized communities in drug trafficking.
2. To study the human rights implications of treating marginalized carriers as offenders.
3. To evaluate the effectiveness of existing laws, particularly the NDPS Act, in addressing this issue.
4. To assess the role of government agencies and initiatives in preventing drug trafficking.
5. To suggest reforms for a more balanced approach combining law enforcement with human rights protection and rehabilitation.

1.3 RESEARCH QUESTIONS:

- What are the major factors that lead marginalized individuals to become carriers of narcotic drugs?
- To what extent are these individuals victims of socio-economic and structural inequalities?
- Does the current legal framework in India adequately differentiate between drug traffickers and carriers?
- Are the human rights of marginalized carriers adequately protected under existing laws?
- What role can policy reforms and social interventions play in reducing their involvement in drug trafficking?

1.4 RESEARCH METHADODOLOGY :

This research is primarily **doctrinal in nature**, relying on secondary sources of data. The study adopts a **qualitative analytical approach**, examining legal provisions, judicial interpretations, and socio-economic data to understand the issue comprehensively.

CHAPTER II

2.1 INTRODUCTION:

Criminal activities started when human beings lost their faith in God, became materialistic in nature, and due to which the establishment of the institution of criminal justice was considered a necessary evil. Drug abuse and illicit trafficking are the outcomes of these criminal activities that have kept humans in forever shackles of this vicious cycle of captivity.

Drug abuse and illicit trafficking have been a menace to human society from time immemorial. The after-effects of drug abuse and addiction have left millions of families, children, and adolescents in a state of utter psychological, physical as well as social issues. The false notion spread by certain social media pages, peers, drug subcultures, different people, on how certain hardcore drugs don't harm but instead help in improving cognitive functioning, improve certain physical activities, etc, badly influences vulnerable teenagers and adults and this, in turn, makes them fall prey to drug abuse.

Drug trafficking or any other illicit trafficking is a trans-national, multi-dimensional issue that poses a thorny challenge to law enforcement agencies, as drug abuse is internally linked with other kinds of crime, such as, organized crimes, prostitution, kidnapping, money laundering, and other crimes. Every country has its laws and ways of controlling and stopping this forever revolving criminal activity, by working with different specialized agencies, different international governmental bodies, signing international treaties, etc.

2.2 Drug Abuse and Trafficking: An Historical Analysis

Indian drug trafficking and abuse are closely related to the geographical location of the Indian subcontinent. Opium use was known to have existed almost 6000 years, used by Sumerians and then passed on to Babylonians and then to Persians¹. Alcohol's earliest usage based on evidence was found in an Egyptian papyrus that contained the description of a brewery². Opium was introduced in India in late 900 CE, through the Arab merchants and this led to the cultivation of opium on the country's western coast. The problem of drug abuse in India mostly started in the colonial British era. During the early 1800s, the British East India Company used to export opium from different regions of India, precisely Bengal, Benaras to China. As to fight this drug problem in China, it banned the export of opium and as a result, the infamous opium

¹ Rishi, Dev Dass, Drug abuse and illicit trafficking a critical analysis of the law and enforcement in India, shodhganga, (September. 07.), <http://shodhganga.inflibnet.ac.in:8080/jspui/handle/10603/68322>.

² *Ibid*

wars took place³.

Later in 1878, the British government established laws like the *Opium Act of 1857*, which was to regulate the cultivation and manufacturing of opium in India, then the *Opium Act of 1878* was established that controlled opium use on a domestic basis. In 1920, possession of 10 grams of opium was considered illegal banning opium partially by the then Indian government. The then government also enacted different acts like the *Dangerous Drugs Act of 1930* and other legislation, but the truth was it only banned these substances on a partial basis, and many illegal drug and other trafficking still happened in different Indian borders.

India according to different reports is considered to be a major hub for the illegal trading of narcotics⁴. This is because India is considered to be a transit hub and is betwixt the *Golden Crescent* (Iran-Afghanistan-Pakistan) in the west and the *Golden Triangle* (South-East Asia) in the east. Different psychotropic substances are produced in India domestically as well as in other parts of the world and are mostly trafficked through the Indian Territory⁵.

2.3 DEFINITION OF DRUG:

- i. As per the World Health Organization definition “A **drug** is some element or result or goods created that is destined to be used to alter or investigate physiological systems or cure unhealthy states for the benefit of the receiver.”⁶
- ii. The Drugs and Cosmetics Act of 1940 defines “All medicines for internal or external use of human beings or animals and all substances intended to be used for or in the diagnosis, treatment, mitigation or prevention of any disease or disorder in human beings or animals, including preparations applied on the human body for the purpose of repelling insects like mosquitoes”

2.4 TYPES OF DRUGS:

- **OPIUM** – It is a plant that grows in many countries around the world with a moderate climate. Raw Opium is a non-homogeneous material, sticky, tar-like and dark brown when it is fresh, and becomes brittle and hard as it ages. Opium contains a class of

³ Prमित Bhattacharya, Drug laws in India, ipleaders, <https://blog.ipleaders.in/drug-laws-india/>.

⁴ <https://www.firstpost.com/india/international-day-against-drug-abuse-and-illicit-trafficking-india-among-major-hubs-for-illegal-trading-of-narcotics-6880841.html>

⁵ Annual Report 2002, Narcotics Control Bureau, Ministry of Home Affairs, Government of India, (<http://narcoticsindia.nic.in/ANNUAL%20REPORT%202002%20PDF.pdf>).

⁶ https://www.who.int/health-topics/drugs-psychoactive#tab=tab_1

naturally occurring alkaloids known as opiates which includes Morphine, Thebaine, Codeine, Papaverine, Noscapine and Oripavine. Heroin is synthesized from Opium.

- **Medical Opium:** The Opium that undergoes the necessary process to adapt for medical use as per the requirements of the central government.
- **Morphine:** This is a refined version of opium formed by mixing opium gum with Lime water and a few organic solvents.
- **Heroin:** This is also known as Brown Sugar, Mexican Mud, Smack, Crap, Horse, Junk and Big H etc. It is made when morphine is further refined by treating it with acetylene anhydride (AC20).
- **Codeine:** Another derivative of opium which is usually found in cough syrups.
- **Poppy straw** – The husk left after the extraction of opium from the pods. It consists of small quantities of morphine, which is used as a drug.

Trafficking trend – Trafficking of Opium mainly takes place in Punjab, Rajasthan, M.P., Bihar, Jharkhand, Manipur and Gujarat.

- **HEROIN** – Heroin is also known as di-acetyl morphine, is an opioid made from morphine, after processing it with Acetic Anhydride. It comes out in a variety of colours ranging from white, o white and brown to grey. Colour also depend on the impurities added as it passes through a number of hands due to successive levels of adulteration. The South West Asian origin Heroin (white and brownish mostly) that enters India through the Indo-Pak border has a higher level of purity.

❖ Trafficking trends – Major trafficking of Heroin in India takes place through Indo-Pakistan border mainly in the states of Punjab and Jammu & Kashmir. From these states Heroin is trafficked into other states.

- **CANNABIS** – Cannabis is a genus of flowering plants in the family Cannabaceae. The Cannabis, produced from the Cannabis sativa plant, is used in three forms: herbal Cannabis, the dried leaves and flowering tops. Cannabis is also known as ‘Ganja,’ or ‘Weed’. Cannabis resin, the pressed secretions of the plant, known as ‘Hashish’ or ‘Charas;’ and Cannabis oil, a mixture resulting from distillation or extraction of active ingredients of the plant.

❖ Trafficking trends – Trafficking from the North-East India to eastern states is mainly by surface transport. Trafficking in substantial quantities takes place across India – Nepal border and in the states of Andhra Pradesh, Odisha, Uttar

Pradesh, West Bengal and Tripura. The main transit routes for Ganja are through Assam, West Bengal, Bihar, Uttar Pradesh, Nagaland and Chhattisgarh.

- **HASHISH** – Hashish, or Charas, is a drug made from cannabis. Hashish is cannabis resin. Generally, Hashish is extracted from the plants by rubbing the flowering tops of the plant between the palms of the hand or on rubber sheets.
 - ❖ Trafficking trends – Charas/Hashish is derived from the illicit cannabis cultivation by the drug traffickers especially in the districts of South Kashmir and Kullu in Himachal Pradesh. There is a trend of trafficking of Charas from Kashmir to Maharashtra, Rajasthan, Goa & Gujarat. Charas is also trafficked from Nepal to India.
- **COCAINE** – Cocaine is a powerful addictive stimulant drug made from the leaves of the coca plant native to South America. It is known as a street drug, it looks like a fine, white, crystal powder. The primary markets are North America and Europe. In India, cultivation of coca plant is not done. However, Cocaine is mainly smuggled in by West African drug trackers.
 - ❖ Trafficking trends – Smuggling of cocaine is mostly being done by African nationals based in India. Instances of Cocaine being smuggled from Argentina, Brazil and South America have also come to notice. Seizures of Cocaine in India have been made mostly at the airports. The trafficking of small quantities of Cocaine is usually done through parcels hidden in common household articles like food items, utensils, cosmetics, books, and clothing.
- **ACETIC ANHYDRIDE** – One of the largest producers of Acetic Anhydride for legitimate usage is India. It is widely used by the pharmaceutical and textile industries in India as well as being used for the illicit manufacture of Heroin.⁷

CHAPTER III

3.1 DEVELOPMENT OF MARGINALIZED PEOPLE AS THE CARRIER OF NARCOTIC DRUGS.

The marginalized people involvement is increased in the carrier of narcotic drugs because of various causes. These all causes leads to the development of the illegal drug trafficking in various countries. Some of the factors or causes for the development of marginalized people become the carrier of narcotics drugs are:

⁷ <https://blog.ipleaders.in/indian-laws-relating-to-drugs-and-poisons>

3.2.SOCIO ECONOMIC FACTORS :

3.2.1.Poverty and Economic Hardship:

- **Desperation for Income:** Individuals facing severe economic hardship may see drug trafficking as a viable means of earning money. The immediate financial gains from carrying drugs can seem more attractive compared to low-paying, unstable, or no job prospects.
- **Lack of Economic Mobility:** Persistent poverty can trap individuals in cycles of economic instability, making illegal activities appear as the only feasible means of improving their situation.

3.2.2. Limited Access to Education and Training

- **Educational Disparities:** Marginalized communities often experience lower levels of educational attainment. Limited access to quality education can restrict employment opportunities and make individuals more vulnerable to recruitment into illegal activities.
- **Skills Gap:** Without access to vocational training or higher education, individuals may lack the skills required for stable employment, thus turning to drug trafficking as a substitute.

3.2.3 High Unemployment Rates

- **Economic Exclusion:** High unemployment rates in marginalized communities can lead to feelings of disenfranchisement and hopelessness. In such environments, illegal work may be seen as a more accessible way to earn a living.
- **Underemployment:** Even those who are employed may find themselves in low-wage, insecure jobs that don't provide sufficient income or benefits, pushing them towards supplementary illegal income sources.

3.2.4. Economic Inequality

- **Wealth Disparities:** Economic inequality often means that marginalized individuals live in poorer neighborhoods with fewer resources and opportunities. This economic gap can drive some individuals to participate in drug trafficking as a means of achieving financial stability or status.
- **Resource Scarcity:** Limited access to financial resources and support systems can lead individuals to seek out alternative, often illegal, means of economic survival.

3.2.5. Neighborhood Dynamics

- **High Crime Rates:** Marginalized areas often experience higher crime rates, including drug-related activities. Being in such an environment can normalize drug trafficking and create networks that perpetuate involvement in these activities.
- **Social Networks:** People in economically disadvantaged neighborhoods may be more likely to have social networks involved in drug trafficking, increasing the likelihood of their own involvement.

3.2.6. Lack of Social Services and Support Systems

- **Inadequate Social Safety Nets:** Limited access to social services such as mental health care, addiction treatment, and welfare programs can leave individuals without necessary support. This absence of support may drive them towards illegal activities as a means of coping or surviving.
- **Fragmented Community Services:** In marginalized communities, social services might be underfunded or poorly distributed, reducing their effectiveness in addressing the needs of individuals who are vulnerable to drug trafficking

3.2.7. Economic Exploitation

- **Targeting by Traffickers:** Drug trafficking organizations often exploit marginalized individuals who are economically vulnerable. They may offer them financial incentives or coercive tactics to involve them in drug-related activities.
- **Lack of Legal Protections:** Marginalized individuals may be less aware of their rights or less able to seek legal recourse, making them more susceptible to exploitation by traffickers.

3.3. SOCIAL AND STRUCTURAL FACTORS :

3.3.1 Systemic Discrimination

- **Racial and Ethnic Discrimination:** Marginalized groups, including racial and ethnic minorities, often face systemic discrimination that limits their access to quality education, employment, and other opportunities. This systemic bias can trap individuals in cycles of poverty and marginalization, making illegal activities like drug trafficking more appealing as an alternative to limited legitimate opportunities.
- **Gender Discrimination:** Women, particularly those from marginalized backgrounds,

may face additional barriers in the workforce and educational systems, pushing some towards illegal activities as a means of economic survival.

3.3.2. Community Disorganization

- **Social Instability:** Communities that are already experiencing high levels of crime, violence, and instability can become breeding grounds for drug trafficking. The lack of social cohesion and community support can make individuals more susceptible to being drawn into the drug trade.
- **Weak Social Networks:** In communities where social networks are fragmented or weakened, individuals may have less access to support systems and protective social structures, increasing their vulnerability to involvement in illegal activities.

3.3.3. Criminal Networks and Exploitation

- **Exploitation by Traffickers:** Drug trafficking organizations often prey on marginalized individuals who may be more vulnerable or desperate. These organizations may exploit their economic vulnerability, coercing or enticing them into trafficking roles with promises of quick financial gains.
- **Gang Involvement:** In some cases, criminal gangs recruit marginalized individuals, often from disadvantaged neighborhoods, to carry or distribute drugs. The lure of money and the need for protection can make this recruitment particularly effective.

3.3.4. Limited Access to Legal and Social Protections

- **Inadequate Legal Representation:** Marginalized individuals might have limited access to legal resources or advocacy, making them more vulnerable to exploitation by traffickers and less likely to be able to challenge unfair treatment within the legal system.
- **Insufficient Social Services:** Inadequate social services, such as mental health support, addiction treatment, and family counseling, can leave individuals without the necessary support to cope with challenges and avoid involvement in illegal activities.

3.4. Psychological and Social Dynamics factors

3.4.1. Psychological Factors

- **Trauma and Stress:** Marginalized individuals may experience high levels of trauma and chronic stress due to poverty, violence, discrimination, and instability. Such

experiences can lead to psychological distress and make the drug trade appear as an escape or coping mechanism.

- **Mental Health Issues:** Depression, anxiety, and other mental health conditions can be exacerbated by marginalization. When mental health needs are unmet due to lack of access to care, individuals may turn to drug trafficking as a way to cope with their emotional pain or instability.
- **Low Self-Esteem and Identity Issues:** Marginalization can lead to low self-esteem and a negative self-image. Involvement in drug trafficking may be perceived as a way to gain respect, validation, or a sense of identity, particularly when traditional avenues for self-worth are inaccessible.
- **Adolescence and Risk-Taking:** Adolescents and young adults, particularly those in marginalized communities, may be more prone to risk-taking behaviors due to developmental factors and peer influences. This period of psychosocial development can make involvement in drug trafficking more likely.
- **Perceptions of Opportunity:** Marginalized individuals may perceive drug trafficking as one of the few available opportunities for advancement or financial gain, particularly when other pathways to success are obstructed.

3.4.2. Coping Mechanisms

- **Escape from Reality:** For some marginalized individuals, drug trafficking offers an escape from harsh realities and systemic barriers. The financial gains and lifestyle associated with drug trafficking may provide temporary relief from the stress and challenges of their daily lives.
- **Survival Strategies:** When faced with limited resources and opportunities, involvement in drug trafficking can be seen as a pragmatic choice for survival and providing for oneself or one's family. This can be especially true when other means of economic support are unavailable or inaccessible.

3.4.3. Socialization and Family Influence

- **Family Dynamics:** Family instability, including issues like domestic violence, substance abuse, or neglect, can contribute to an individual's vulnerability to drug trafficking. Family members involved in illegal activities may also influence or pressure individuals into drug trafficking.

- **Community Role Models:** In environments where drug trafficking is common, individuals may look up to those involved in the trade as role models or sources of success. The success or perceived success of individuals in drug trafficking can serve as a powerful motivator for others to get involved
- **Stigmatization:** Marginalized individuals often face stigma and discrimination, which can exacerbate feelings of isolation and hopelessness. Drug trafficking can be a way to rebel against societal norms or to assert control over one's life in the face of widespread marginalization.
- **Cultural Factors:** Cultural attitudes and values within marginalized communities can shape perceptions of drug trafficking. In some cultures, there may be a lack of stigma associated with drug-related activities, making it a more accepted or expected path.

CHAPTER IV

4.1. RIGHTS OF MARGINALIZED PEOPLE AS THE CARRIER OF NARCOTIC DRUGS IN HUMAN RIGHTS ASPECT

4.1.1. Right to Dignity and Respect

- **Protection from Exploitation:** Marginalized individuals should be protected from exploitation and coercion by drug trafficking organizations. Their autonomy and personal dignity must be respected, and they should not be subjected to threats or manipulation.
- **Respectful Treatment:** Regardless of their involvement in drug trafficking, individuals should be treated with dignity and respect in all contexts, including interactions with law enforcement and within the criminal justice system.

4.1.2. Right to Fair Treatment and Non-Discrimination

- **Equal Protection Under the Law:** They should receive fair and equal treatment under the law. This includes protection from discrimination based on race, ethnicity, socioeconomic status, gender, or any other characteristic.
- **Fair Trial Rights:** They are entitled to a fair trial, which includes access to legal representation, the presumption of innocence until proven guilty, and protection against arbitrary detention and wrongful conviction.

4.1.3. Right to Health and Well-Being

- **Access to Healthcare:** Marginalized individuals should have access to healthcare services, including mental health and addiction treatment. This right is essential for addressing physical and psychological health needs and for supporting their recovery and well-being.
- **Safe Working Conditions:** If involved in drug trafficking, they should be protected from inhumane or dangerous conditions. The right to safety and health should be upheld in all environments, including those associated with illegal activities.

4.1.4 Right to Economic and Social Support

- **Economic Opportunities:** They should have access to legitimate economic opportunities and social services. This includes fair employment, job training, and economic support to address the underlying conditions that may lead to involvement in drug trafficking.
- **Social Protection:** Access to social services such as housing, food security, and family support is crucial for individuals to escape cycles of poverty and marginalization.

4.1.5 Right to Protection from Inhumane Treatment

- **Protection from Violence:** They should be protected from violence and abuse, whether from drug trafficking organizations, law enforcement, or other individuals. This includes protection from physical harm and psychological abuse.
- **Humane Conditions in Detention:** If detained, they should be held in humane conditions that respect their rights, including access to adequate nutrition, medical care, and protection from abuse.

4.1.6 Right to Education and Personal Development

- **Educational Access:** They should have access to education and vocational training opportunities. Education is a key factor in breaking the cycle of marginalization and providing alternatives to drug trafficking.
- **Personal Development:** Support for personal development and rehabilitation, including counseling and life skills training, is important for helping individuals reintegrate into society and pursue lawful livelihoods.

4.1.7 Right to Privacy

- Confidentiality: They have the right to privacy and confidentiality, particularly regarding sensitive information about their involvement in drug trafficking and their personal circumstances. This right is important for protecting them from stigma and discrimination.

CHAPTER V

5.1 Laws Relating to Drug Abuse and Illicit Trafficking in India

5.1.1. Article 47, Indian Constitution

This article states that It is the duty of the state to:

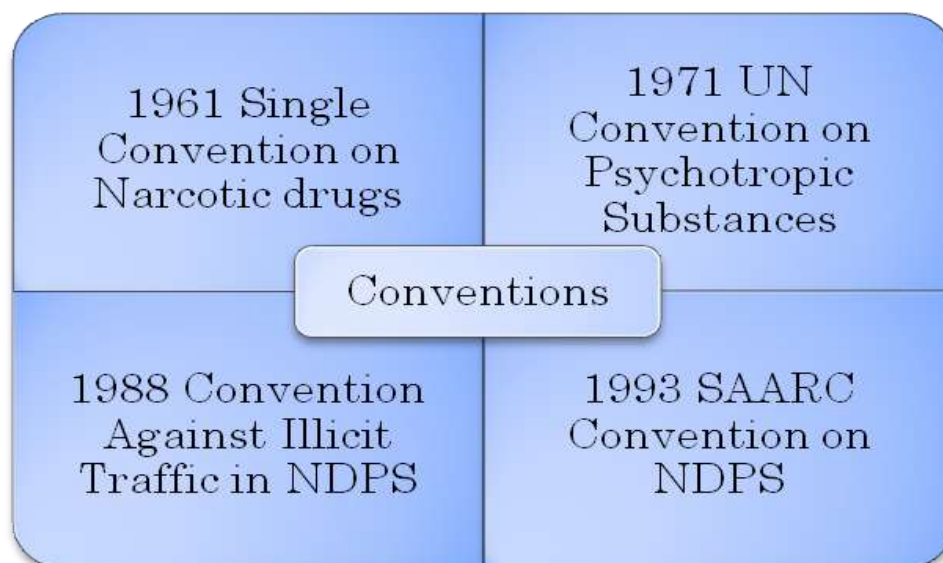
Raise the level of nutrition and standards of living of people;

- Primary duty is improvement in public health facilities, etc;
- Control and prohibit any intoxicating, illicit drugs which are harmful to health ⁸

5.1.2 Narcotics Drugs and Psychotropic Substances (NDPS) Act, 1985

The NDPS act is considered to be the prime legislation of the Indian subcontinent which regulates Narcotics Drugs and Psychotropic Substances. The NDPS act replaced the other old acts, i.e., the *Opium Acts, 1857 and 1878*, and the *Dangerous Drugs Act of 1930*, and came into force on 14 November 1985. This act is in consideration of the international treaties of which India is part of, more specifically the Convention on Narcotic Drugs, 1961, Convention on Psychotropic Substances, 1971, Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, Transnational Crime Convention, 2000. Keeping these conventions, international, domestic setup, and criminal activities in focus, India further amended the NDPS act in 1989, 2001, and 2014.

⁸ The Indian Constitution, A.47.



The Narcotic Drugs and Psychotropic Substance Act 1985, deeply explains three kinds of narcotic drugs, such as cannabis and its derivatives, opium and its derivatives, and cocaine and its derivatives. Some of the features of the act are:

1. Establishment of specialized courts
2. Cognizance of any offense
3. Procedural safeguards, i.e., extensive reports in case of arrest/seizure report, proper punchanama, etc.
4. As per the NDPS act, **both consumption⁹ and possession of the drug** is an offense and it also considers drug-based crimes heinous and a culprit can also be sentenced to death, as the punishment/penalty depends on the number of drugs the offender possesses.
5. This particular act also lays down the **procedure for arresting a person** if he/she is convicted under the said act¹⁰.
6. Central and State governments possess authority as per the act to frame rules based on drug abuse. According to **Sections 9 and 76**, the Central government possesses the authority of making rules relating to substance abuse, and **u/s 10 and 78** the respective State government possesses the authority of making rules.

During the first amendment of the act in 1989, harsh punishments were introduced, i.e., the death penalty in certain cases, 10 years of mandatory minimum imprisonment. During the second amendment of the said act in 2001, penalties and penal provisions were imposed based on the number of drugs the person carries. Three different categories of the quantity of drugs

⁹ The Narcotic Drugs and Psychotropic Substances Act, S.27 (1985).

¹⁰ The Narcotic Drugs and Psychotropic Substances Act, S.41, 42, 43, 50 (1985)

were introduced in the said act- small¹¹, commercial¹², intermediate. In 2014 the NDPS act objective was widened as it prohibited illicit use of narcotics and other substances. The death penalty was made discretionary for repeated offenses.

SECTION 27:

Punishment for the **consumption of any narcotic drug** or psychotropic substance, as mentioned in Section 27 of NDPS Act as-

- Rigorous imprisonment for a term which may be extended to one year, or a fine which may be extended to twenty thousand rupees or with both if the contravention involves small quantity if the substance consumed is cocaine, morphine, diacetylmorphine, or any other drug as has been specified by the central government.
- If the substance consumed is other than those mentioned above then with imprisonment which may be extended to six months, or with fine which may be extended to ten thousand rupees, or with both.

SECTION 27A:

Punishment for financing **illicit trafficking and harbouring offenders**, as mentioned in Section 27A of NDPS Act as-

- Rigorous imprisonment for a minimum term of ten years and which may be extended to twenty years with a minimum fine of one lakh rupees which can be extended to two lakh rupees.
- And if the reasons that have been recorded by the court, fine can exceed two lakh rupees.

5.1.3 Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988

This act was introduced supplementary to the above-mentioned NDPS act. This act covered the grounds on detention, powers of an absconding person, etc. This is also the second core legislation after the NDPS act.

¹¹ The Narcotic Drugs and Psychotropic Substances Act, S.2 (xxiia), (1985).

¹² Ibid

Illicit trafficking of narcotic drugs and psychotropic substances is a serious threat to the health and welfare of the people and even for those who are engaged in activities of such illicit traffic. This has a dangerous and harmful effect on the national economy. This is the act formulated 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.¹³

5.2 Governing Agencies for Drug-Related issues in India

1. The Narcotics Control Division
2. The Central Bureau of Narcotics (CBN)
3. The Narcotic Control Bureau (NCB)
4. Other Agencies like the Directorate of Revenue Intelligence, Central Bureau of Investigation, Customs Commission, Border Security Force.

The major reason of illicit drug trafficking is the geographical location of India, making our country as the transit country since a long time resulting in the smuggling of drugs into the country as well as out of the country, leading to the problem of drug control in India. In order to fight the problem of smuggling and trafficking, India has developed various policies and strategies i.e., Enforcing and surveying the import, export points and land borders, trying to improve the coordination between the various drug law enforcement agencies, intercepting and preventing the movement along the known drug routes, international co-operation to facilitate coordination and universal action, strengthening the intelligence apparatus for improving the analysis, collection, collation and dissemination of operational intelligence.

The concern of Supreme Court regarding drug trafficking can be described through the case of **Durand Didier vs Chief Secretary, Union Territory, 1989 AIR 1966, 1989 SCR (3)1025**¹⁴, where the court stated that – “ With deep concern, we may point out that the organised activities of the underworld and the clandestine smuggling of narcotic drugs and psychotropic substances into this country and illegal trafficking in such drugs and substances have led to drug addiction among a sizable section of the public, particularly adolescents and students of both sexes and the menace has assumed serious and alarming proportions in the recent years. Therefore, in order to effectively control and eradicate this proliferating and booming devastating menace, causing deleterious effects and deadly impact on the society as

¹³ <https://blog.iplayers.in/drug-possession-policies-and-standards-you-must-know/>

¹⁴ <https://indiankanoon.org/doc/1054146/>

a whole, the Parliament in its wisdom, has made effective provisions by introducing this Act 81 of 1985 specifying mandatory minimum imprisonment and fine.”

CHAPTER VI

6.1 GOVERNMENTAL INITIATIVES DONE TO REDUCE ILLICIT TRAFFICING

6.1.1Nasha Mukht Bharat:

In June 2020 the Social Justice Department of the Government of India launched “Nasha Mukht Bharat: Annual Action Plan (2020-2021)”, for most affected districts relating to Drug abuse and Illicit Trafficking. The action plan has different components¹⁵:

- Conducting awareness generation programs;
- Focus on higher educational institutes and schools for awareness relating to drug abuse;
- Identification of dependent population and emphasizing on community outreach by increasing community participation and public cooperation;
- Focus on major treatment facilities in hospital settings by supporting different government hospitals for opening de-addiction centers in addition to existing government-supported centers;
- Capacity-building programs for service providers.

6.1.2. National Consultative Committee on De-addiction and Rehabilitation (NCCDR)

This committee was constituted in July 2008 under the chairpersonship of the Minister of Social Justice and Empowerment. This Committee plays an advisory role and advises the government of India on different issues based on drug abuse, demand reduction of drugs, building awareness relating to drugs and their abuse, etc¹⁶.

National Toll-Free Drug De-addiction Helpline

A toll-free 24×7 helpline number was set up on 7th January 2015. The focus was on helping the victims of drug abuse, and society at large.

Number: 1800-11-0031

¹⁵ Nasha mukht bharat: annual action plan (2020-21) for 272 most affected districts e-launched on international day against drug abuse and illicit trafficking today, PIB india, (August. 11, 2021, 9:00 PM), <https://pib.gov.in/PressReleasePage.aspx?PRID=163457>

¹⁶ Annual Report, 2020-21, Department of Social Justice and Empowerment, Ministry of Social justice and Empowerment, Government of India, (August. 11, 2021, 9:23 PM), http://socialjustice.nic.in/writereaddata/UploadFile/ANNUAL_REPORT_2021_ENG.pdf.

6.1.3. State-Level Coordinating Agency (SLCA)

The responsibilities and roles of these SCLAs are mostly to give technical support to the respective state governments, help state governments in preparation, coordination, and proper implementation of the Annual Action Plan¹⁷.

6.1.4. Counternarcotics Working Group (CNWG)

This was an initiative taken in February 2020 by the then United States President Donald Trump and between Indian Prime Minister, Narendra Modi to tackle narcotics production and trafficking in a bilateral agreement. The CNWG initiative is considered to be a demonstrative commitment shared by both the leaders in combating the threat that illicit drug abuse and trafficking poses to both the nation.

- National Drug Dependence Treatment Centre (NDDTC), AIIMS, Delhi has initiated various e-help relating to substance abuse.
- Ministry of Health and Family Welfare, Government of India have also initiated an m-cessation program which targets in terminating the use of tobacco.

CHAPTER VII

7.1 ANSWERS TO THE RESEARCH QUESTIONS:

1. What are the major factors that lead marginalized individuals to become carriers of narcotic drugs?

The involvement of marginalized individuals as carriers of narcotic drugs is influenced by a combination of socio-economic, structural, and psychological factors.

- **Poverty and economic hardship** play a dominant role. Individuals facing extreme financial distress often perceive drug trafficking as a quick and viable source of income. The absence of stable employment opportunities further pushes them towards illegal means of survival.
- **Lack of education and skills** limits access to lawful employment. Marginalized communities frequently suffer from inadequate educational infrastructure, leading to a skills gap that restricts upward mobility.
- **Unemployment and economic inequality** contribute significantly. High levels of unemployment and underemployment create a sense of frustration and exclusion, making illegal activities appear attractive.

¹⁷ ibid

Additionally, **social and structural factors**, such as systemic discrimination, weak community support systems, and exposure to high-crime environments, normalize involvement in drug-related activities. Criminal networks often exploit these vulnerabilities by offering financial incentives or coercing individuals into acting as carriers.

Finally, **psychological factors**, including trauma, stress, low self-esteem, and peer influence, also play a crucial role. For many, drug trafficking becomes a coping mechanism or a perceived pathway to social recognition and economic stability.

2. To what extent are these individuals victims of socio-economic and structural inequalities?

Marginalized individuals involved in drug trafficking are, to a significant extent, **victims of systemic inequalities**.

Socio-economic deprivation such as poverty, lack of education, and limited access to resources creates conditions where individuals have minimal choices for survival. Structural inequalities, including caste-based discrimination, gender disparities, and regional imbalances, further marginalize these groups.

Moreover, the **absence of adequate social welfare systems**, such as access to healthcare, mental health support, and employment opportunities, exacerbates their vulnerability. These individuals are often targeted by drug trafficking networks precisely because of their disadvantaged position in society.

In many cases, their involvement is not entirely voluntary but influenced by **coercion, manipulation, or economic desperation**. This indicates that they function not merely as offenders but also as **victims of exploitation** within a larger criminal framework.

Thus, their role in drug trafficking must be understood within the broader context of inequality, rather than viewed solely through a criminal lens.

3. Does the current legal framework in India adequately differentiate between drug traffickers and carriers?

The current legal framework in India, particularly the **NDPS Act, 1985**, does make certain distinctions based on the **quantity of drugs** involved (small, intermediate, and commercial quantities). However, it does not sufficiently differentiate between **major traffickers and marginalized carriers**.

The law primarily focuses on the **nature and quantity of the substance**, rather than the socio-economic background or level of involvement of the accused. As a result, individuals acting

as carriers or “mules” may face severe punishments similar to those imposed on organized traffickers.

Although procedural safeguards and judicial discretion exist, in practice, **strict liability and harsh penalties** often lead to disproportionate punishment for marginalized individuals. The law lacks explicit provisions recognizing the **coercion or exploitation** faced by carriers.

Therefore, while the legal framework is strong in combating drug trafficking, it falls short in addressing the **nuanced roles and vulnerabilities** of different actors within the drug trade.

4. Are the human rights of marginalized carriers adequately protected under existing laws?

The protection of human rights of marginalized carriers under existing laws is **limited and often inadequate in practice**.

While constitutional guarantees such as the **right to equality, dignity, and fair trial** exist, their implementation is inconsistent. Marginalized individuals frequently face challenges such as:

- Lack of access to competent legal representation
- Prolonged pre-trial detention
- Social stigma and discrimination
- Inhumane conditions in detention

Furthermore, the strict provisions of the NDPS Act, including stringent bail conditions and severe punishments, can lead to **violations of proportionality and fairness**, especially for first-time or minor offenders.

There is also insufficient emphasis on **rehabilitation and reintegration**, which are essential components of a human rights-based approach. Although certain government initiatives exist, their reach and effectiveness remain limited.

Hence, while legal provisions formally recognize human rights, their **practical enforcement remains weak**, particularly for marginalized groups.

5. What role can policy reforms and social interventions play in reducing their involvement in drug trafficking?

Policy reforms and social interventions can play a **transformative role** in addressing the root causes of involvement of marginalized individuals in drug trafficking.

Firstly, **economic empowerment programs**, such as skill development, employment generation, and financial inclusion, can provide viable alternatives to illegal activities.

Secondly, **education and awareness initiatives** can help individuals understand the risks and consequences of drug trafficking, while also equipping them with better opportunities for growth.

Thirdly, **strengthening social welfare systems**, including access to healthcare, mental health services, and rehabilitation programs, can address underlying vulnerabilities such as trauma and addiction.

Legal reforms are also essential. Introducing provisions that:

- Recognize **coercion and exploitation**,
- Differentiate between **carriers and major traffickers**, and
- Promote **rehabilitative justice** can create a more balanced legal framework.

Additionally, **community-based interventions** and increased participation of civil society organizations can help in early identification and prevention.

Finally, a **human rights-oriented approach**, combining strict enforcement with compassion and rehabilitation, is crucial to breaking the cycle of marginalization and criminalization.

Conclusion

Even with different legislation, international treaties signed, and different measures in domestic space regarding controlling and eradicating this said crime of drug abuse and illicit trafficking, it is evident that most of the countries have come up with different tactics to fight the said crime. India also has been active concerning drug-related matters, even though India has different legislations, still, it is not adequate enough to completely eradicate this crime. what India needs is a different outlook on tackling drug abuse and should learn from other countries on tackling the said crime with a strategic and legal basis by providing adequate training to the Police regarding the said crime and having certain awareness programs through social media or other media to aware the citizens of the nation about these types of abuse and illicit activities.

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- https://bnwjournal.com/2021/10/11/drug-abuse-and-illicit-trafficking-a-critical-analysis-of-the-law-and-enforcement-in-india/#_ftn12

BAREACTS:

- The Constitution of India
- Narcotic Drugs and Psychotropic Substances Act, 1985

