

## LEGISLATION TO DRUG CONTROL: COGNITIVE AND EMPIRICAL ANALYSIS

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### ABSTRACT

*Drug addiction is a significant issue that affects individuals' bodily and mental health, family and social relationships, and society as a total. The rising incidences of drug addiction are global concerns, with policymakers, administrators, and social activists worldwide working to address this issue. Legislation plays an essential role in controlling drug-related issues, aiming to mitigate the harmful sound effects of drug abuse on individuals and the social order. This paper presents a cognitive and empirical analysis of drug control legislation, focusing on its impact, effectiveness, and challenges. Using a multidisciplinary approach, the study examines the cognitive processes involved in drug policy decision-making and the empirical evidence supporting different legislative measures. The analysis highlights the complexities of drug control legislation, including the tension between enforcement and public health approaches, the influence of socio-cultural factors on policy outcomes, and the need for evidence-based interventions.*

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**Keywords:** *Legislation, Drug Addiction, Drug Abuse, Cognitive Analysis, Empirical Analysis, Society.*

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### Introduction

Drug obsession is not merely a problem for the bodily and mental health of individual involved. It also disrupts his/her family and social relationships. An addict is not on a loss to himself but also to society as productive individual and nation as an asset for development. The rising incidence of drug abuse in recent years has, therefore, become a serious concern of policymakers, administrators, and social activists all over the world. In this context, this paper looks at the effectiveness of current policies, the options available to change, and some of the very relevant issues that are causing a serious re-think and are likely to influence future policy. The paper discusses mainly three things related to the policies to eradicate drug and alcohol abuse:

- International Drug Controls
- In current Policies and Drug Prevention Laws in India
  - *Excise policy*
  - *Prohibition policy*
  - *Drug prevention laws*
- Legal Awareness
  - *Effectiveness of Drug Prevention Law*
  - *Family Socialization and Drug Prevention*
  - *Steps suggested by Drug Addicts*

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### International Drug Controls

Drug abuse is no longer merely a domestic problem in a particular country. It also has a transnational and international dimension. The Ministry of Welfare has, therefore, constantly shared its knowledge and experience with other countries, especially through the United Nations and SAARC forums, on various aspects of demand reduction. It also has been collaborating with United Nations International Drug Control Programmes in the areas of research, training and programme development.

The first effective attempt to control addictive drugs at an international level was at The Hague in 1912. The purpose was to control the international traffic of narcotics. The second convention at Geneva in 1925 was thought necessary to regulate the international trade in drugs and a body called the Permanent Control Board was created. Another Conference was conducted in 1931 and is recognized as Limitation Convention. Its objective was to control the making up of narcotic drugs to the world's medical and scientific needs and leave nothing for the illicit market. A fourth convention held in 1936 was associated with deterrence of crime and made "*illicit drug trafficking a crime of international character.*"

Since the conclusion of the Second World War, international oversight has fallen under the purview of United Nations and its specialized agency, World Health Organization. In 1961, a singular convention on sedative drugs was ratified in New York and took effect in 1964. This convention amalgamated all previous legislative efforts and proscribed the non-medical utilization of narcotics, while also forbidding the non-medical production of opium, coca leaf, and cannabis. It restricted the possession of these substances to medical and scientific purposes, enhanced controls over their production and export, and endeavored to improve future regulation of cannabis plants and coca bushes.

The Convention (*Psychotropic Substances*), 1971, markedly lengthened global drug control framework to include hallucinogens such as LSD and mescaline, stimulants like amphetamines, and sedative hypnotics including barbiturates. The 1972 Protocol amending the Single Convention (*Narcotic Drugs held in 1961*) emphasized necessity of providing treatment and rehabilitation services for drug abusers. The Commission (*on Narcotic Drugs*) devised a worldwide approach for controlling drug abuse comprising five-year (1982-86) plan of action encompassing all facets of drug control, abuse, trafficking, treatment, rehabilitation, and crop substitution.

In June 1987, an international conference at the ministerial level adopted a Political Declaration in which world leaders pledged to undertake wide-ranging global tasks against drug abuse and illicit trafficking of drugs. Subsequently, in 1988, the UN Conference of the Plenipotentiaries in Vienna endorsed the new UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (*Narcotic Control Bureau Bulletin, Vol.2, April-June 1989*). This Convention represents a comprehensive, effective, and operational international legal framework specifically targeting illicit drug activities. It complements and strengthens the measures outlined in guidelines in the conventions on 1961 and 1971 respectively.

India has not only been a signatory of all international treaties and conventions pertaining to narcotic drugs in the past but has also rapidly acceded to most recent international treaties of 1961, 1971, 1972, etc., as mentioned earlier in this text. At this juncture, it is prudent to provide an overview of the prevailing laws concerning narcotics control in India.

### Current Policies and Drug Prevention Laws in India

Geographically, India is situated between the "Golden Crescent" countries on the west, including Pakistan, Afghanistan, and Iran, and the "Golden Triangle" on the east, comprising Myanmar, Thailand, and Laos. These regions are the world's primary sources of illicit opiates. To the north, India shares borders with Nepal, is significant source of cannabis. This strategic location has led to India increasingly facing problems of illicit trafficking of drugs since 1980 because drugs from these areas being smuggled into the country for distribution in the illicit market.

To address this issue effectively, the Indian government repealed the outdated Opium Act and Dangerous Drugs Act. In 1985, it enacted "*Narcotic Drugs and Psychotropic Substances Act*" (*NDPS Act*), which imposes strict penalties, including death sentence in definite cases of repetitive offenses, and forfeiture of property. The NDPS Act empowers both the Government's agencies to enforce its provisions. Furthermore, the act aligns with the guidelines and plans made in conventions held in 1961 and 1988 respectively. Proposed amendments to NDPS Act aim to rationalize the penal provisions further.

Apart from NDPS Act, Indian government passed the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988. The act allows for the confinement of individuals to

prevent them from engaging in illicit drug-related activities. The Narcotics Control Bureau, under the Ministry of Finance, plays a critical role in enforcing NDPS Act. It operates through field units located in Mumbai, New Delhi, Kolkata, Chennai, Varanasi, Jodhpur, Ahmedabad, Jammu, Chandigarh, Imphal, and Thiruvananthapuram. The bureau not only enforces the provisions mentioned in NDPS Act but also coordinates required efforts of all states, central enforcement agencies, and foreign and international organizations involved in combating drug trafficking.

The policies and laws on narcotics control in India are very much related to each other and one cannot project a comprehensive picture of one without referring to the other. It would appear to be appropriate to start by dealing first with the current national policies on narcotics control in India, which are enshrined in our laws on the subject. The policies and laws on narcotics control in India as follows:

**Excise Policy:** In 1790, the excise system was initiated under British rule, marking the beginning of a significant era. This system led to the introduction of central distillery system in 1862, representing a pivotal development. In 1871, Government mandated the sale of licenses for liquor shops, a move that shaped the landscape of alcohol distribution. Subsequently, in 1879, licenses for distillation were granted for each operational distillery, further solidifying the regulatory framework. Since at least 1892, if not earlier, the overarching principle of maximizing revenue while minimizing consumption has been embraced. This principle formed the foundation of the excise policy outlined by the Government of India in Resolution No.50001-Excise, issued on September 7, 1905. The government pursued this policy through two primary methods: first, by imposing high taxes on liquor to discourage illicit distillation, and second, by having cap on number of shops for liquor shops to reduce the persuasion to consume alcohol. The government viewed this policy as highly successful, as it effectively balanced revenue generation with the promotion of responsible drinking.

- **Prohibition Policy:** The prohibition movement can be said to have started in India after the mid-nineteenth century. Distilling was practised long before the arrival of the Europeans. India's political contacts with the Western world made her familiar with the Western techniques of distillation, which she gradually mastered. Though brewing was first attempted in India in 1825, but it became flourishing only in 1870. It was after the mid-nineteenth century that the Prohibition movement could be said to have taken a definite form in India. This was the result of several factors: Firstly, the British government had a clear cut excise policy and liquor addiction became a resource of income for first time under British rule. Secondly, liquor consumption was more widespread in British India than either in Muslim or Hindu India. Liquor was a daily necessity for an average Briton and this had its demonstration effect on Indians. Thirdly, many Britons openly protested against the spread of intemperance in India. Fourthly, the Indian masses were interested in prohibition because their leaders (*Gokhale, Tilak, Gandhi, Rajaji, Nehru etc.*) supported it. Fifthly, even the Britons at home supported the prohibition movement in India. Sixthly, Indian prohibitionists drew inspiration from foreign prohibitionists, particularly those in America. The year 1907-08 is also a turning in the history of anti-drink agitation. In 1930, Gandhi presented 11 points before the Viceroy as conditions for ending civil disobedience movement. The first point was total prohibition. When the Congress established Ministries in the provinces in 1937, it tried to implement this idea. The Congress Working Committee instructed ministries to attain complete prohibition in their respective provinces in span of three years. As result, there was a significant push for prohibition in country before 1947. After India became independent, it was generally believed that the popular leadership forming the government would implement its long-cherished dream. This belief was confirmed when the Constitution Assembly framed the Constitution in 1949. On March 31, 1956, the Lok Sabha passed a resolution affirming the prohibition to be regarded as an integral part of the Second Five-year Plan. In 1954, the Prohibition Enquiry Committee was set up under the chairmanship of Shri Shriman Narayan. The report brought out many difficulties which the state Governments had to face in enforcing prohibition (*RPEC, 1954*). The Central Prohibition Committee recommended a national policy on prohibition in 1977, under which total prohibition was to be introduced in a phased manner in four years ending in March 1982.
- **Drug Prevention Laws:** The Narcotic Drugs and Psychotropic Substances Act (NDPS) of 1985 was enacted to address the need for a comprehensive drug-related law, recognized by both Parliament and Central Government. Before the Act, narcotic drugs were regulated through central enactments such as the Opium Act of 1857, Opium Act of 1878, and Dangerous Drugs Act of 1930. Additionally, several state laws existed, particularly concerning cannabis. The Opium Act of 1857 targeted to comprehensive strategies for cultivation of poppy and

manufacturing of opium. It provided guidelines for opium cultivation and its manufacture, including regulations on cultivation limits and licensing, with penalties for violations. In contrast, the Opium Act of 1878 aimed purchase, sale, possession, import/export and transport of opium, prescribing punishments for infringements, including imprisonment and fines. Both Opium Acts operated concurrently, reinforcing regulatory measures related to opium cultivation and possession. The early 20th century saw an increasing awareness of the dangers of drug use. This international concern led to the Opium Convention in 1925 at Geneva, which India implemented through Dangerous Drugs Act of 1930. This Act centralized control over operations related to unsafe drugs, imposed penalties for offenses, representing a shift in approach from the revenue-focused Opium Acts to a more socially conscious perspective. After independence in 1947, management and control of narcotic drugs came under preview of Central government. The Opium and Revenue Laws (*Extension of Application*) Act of 1950 extended the three central enactments mentioned earlier to the entire country. Furthermore, India signed various international conventions, including conventions of 1961 and 1971 and protocols of 1972. These obligations led to the passage of the NDPS Act of 1985, which aimed to deter drug-related crimes through stringent provisions. It prohibited the use of drugs of narcotic nature and psychotropic substances except for medicinal and scientific purposes, with penalties ranging from imprisonment to fines. Subsequent measures, such as the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act of 1988, empowered both Governments to detain individuals involved in trafficking of prohibited drug and substances. Amendments of NDPS Act (in 1989) aimed to target assets and profits generated from illicit drug trafficking, but procedural issues have hindered their effectiveness.

### Legal Awareness

A Survey has been conducted for a study of abuse of alcohol and drug in 1999 at three places, namely, Chandigarh, Rohtak and Faridabad in the Indian state of Haryana for a comparative study of youth particularly of students, the general population and industrial workers. In this section, three main things may be inferred from this study:

- Legal awareness about the laws related to drugs among respondent
- Role of family and role of regulation enforcement agencies on alcohol and drug prevention.
- Suggestions given by the respondents to eliminate alcohol and drug abuse.

There is a widespread belief that many people are not well-informed about the various types of laws that exist. Even if they are aware of these laws, they often do not know their names or have only a vague understanding of them. However, a study found that more than 10 percent of respondents were unaware of the various drug prevention laws. Interestingly, in the Chandigarh region, awareness was significantly higher compared to Faridabad and Rohtak. The most well-known law among respondents, at 20.46 percent, was the Excise Act. Awareness of other laws, such as the Opium Act, was limited to only 13.86 percent. Only 9.6 percent of drug addicts were aware of the Narcotics Act, and 6.26 percent were aware of the Dangerous Drugs Act. The NDPS Act was known to only 7.8 percent of the respondents. Overall, the study suggests that legal awareness about drug-related laws among respondents is quite limited. This lack of legal awareness may be one major hindrance in the prevention of drug abuse (Table 1).

**Table 1: Awareness of Drug Prevention Laws To Respondents \* (Multiple Response)**

Drug Prevention Laws	Chandigarh	Faridabad	Rohtak	Total
Excise Act	150 (30)	27 (5.4)	130 (26)	307 (20.46)
Opium Act	121 (24.2)	16 (3.2)	71 (14.2)	208 (13.86)
Narcotics Act	82 (16.4)	14 (2.8)	48 (9.6)	144 (9.6)
Dangerous Drug Act	63 (12.6)	-	31 (6.2)	94 (6.26)
NDPS Act	21 (4.2)	-	18 (3.6)	39 (7.8)

- **Effectiveness of Drug Prevention Laws:** From the national viewpoint, drug abuse is a culture-specific problem. Despite the commonality of factors for the consumption of dependence-producing drugs across national borders, the manner in and the extent to which the problem affects the people in a country depends largely on their innate strength or otherwise to resist and to withstand. Fortunately for us, the life of an Indian is still woven around the family, the community, and the religion and these institutions strongly abhor addictive behaviour as a form

of social deviance. However, in a country with wide variations in socio-cultural and economic conditions, the government alone cannot succeed in curbing a malady that hides more than what it reveals without the active involvement of the people themselves.

When asked about the effectiveness of drug prevention laws, 41.6 percent of respondents outrightly denied their effectiveness. Only 16.06 percent stated that drug prevention laws are effective, while 42.33 percent partially accepted that these laws are effective only to some extent (Table-2).

**Table 2: Effectiveness of Drug Prevention Laws**

Effectiveness of Drug Prevention Laws	Chandigarh	Faridabad	Rohtak	Total
Not Effective	160 (32)	221 (44.2)	243 (48.6)	624 (41.6)
Effective To Some Extent Only	279 (55.8)	219 (3.8)	137 (24)	635 (42.33)
Effective To a Great Extent	61 (12.2)	60 (12)	120 (27.4)	241 (16.06)
<b>Total</b>	500 (100)	500 (100)	500 (100)	1500 (100)

- Family Socialization and Drug Prevention:** Experiences have shown that the demand for drugs can be curbed effectively only in a social climate of abstinence among the people, to be created by propagating a lifestyle that rejects the use of dependence-producing substances. By and large, abstinence is still deeply rooted in our culture and is strongly supported by the family, the community and the religion.

In controlling the menace of drug addiction, family socialization plays an important role. Lack of family control might push a family member toward drug addiction. Given this, we asked our respondents to ascertain whether they have control of their parents on them. As many as 46.2 percent of drug addicts believed that they did have control of their parents, but still, 53.8 percent of drug addicts reported that they did not have control of their parents. There may be several explanations why despite control 46.2 percent still move for drug addiction (Table 3).

**Table 3: Parental Control on Drug Addicts**

Parental Control	Chandigarh	Faridabad	Rohtak	Total
Yes	222 (44.4)	218 (43.6)	253 (50.6)	693 (46.2)
No	278 (55.6)	282 (56.4)	247 (49.4)	807 (53.8)
<b>Total</b>	500 (100)	500 (100)	500 (100)	1500 (100)

Furthermore, respondents were asked whether they get any help from family members in drug prevention, and almost half of the respondents (50.93 percent) agreed that they received help from family members, whereas (49.06 percent) denied that they did not receive any help from family in drug prevention (Table-4).

**Table 4: Help Rendered By Family to the Drug Addicts**

Help Rendered by Family	Chandigarh	Faridabad	Rohtak	Total
Yes	202 (40.4)	199 (39.8)	363 (72.6)	764 (50.93)
No	298 (59.6)	301 (60.2)	137 (27.4)	736 (49.06)
<b>Total</b>	500 (100)	500 (100)	500 (100)	1500 (100)

What role should family play for drug addicts was the question asked to the drug addicts. The majority of the respondents were optimistic as they gave their answer: family should provide a lot of affection (18.86 percent), should help and guide (18.66 percent), and keep missing from bad company (16.46 percent). There were 22.06 percent of total respondents who opined the limited role of family. The family can only take the drug addicts to the counselling centre or the hospital. Conversely, 23.93 percent were very pessimistic; therefore, they denied the role of family at any stage of drug prevention (Table 5).

**Table 5: Expectations from Family Viewed By Respondents for Drug Addicts**

Expectation From Family	Chandigarh	Faridabad	Rohtak	Total
Should Give a Lot Of Affection	101(20.2)	80(16)	102(20.4)	283(18.86)
Should Help And Guide	130(26)	62(12.4)	88(17.6)	280(18.66)
Should Try To Check The Bad Company Of Friends	100(20)	85(17)	62(12.4)	247(16.46)
They Can Only Take To Hospital	60(12)	93(18.6)	178(35.6)	331(22.06)
They Can Not Do Anything	109(21.8)	180(36)	70(14)	359(23.93)
<b>Total</b>	500(100)	500(100)	500(100)	1500(100)

- **Steps Suggested by Drug Addicts:** It's widely acknowledged that no social problem can be completely solved or eradicated solely through legal measures. A comprehensive approach is necessary to address and overcome such issues. When dealing with a complex problem like drug addiction, the insights and suggestions of addicts can be particularly valuable, as they have firsthand experience and understand the nuances of the problem.

In response to our question about steps to control drug abuse, 23.73 percent of addicts suggested banning the supply of drugs. Another 14.4 percent recommended severe punishment for offenders, while 9.46 percent felt that stricter laws against drug abuse are necessary. 16.2 percent believed that an aggressive campaign and creating social awareness of harmfulness of drug abuse are key. Rehabilitation services were also deemed crucial, with 24.66 percent and 14.4 percent emphasizing the need for more de-addiction and counseling centers, respectively.

Some respondents, 10.6 percent, suggested that society should boycott drug addicts. Recognizing role of family, 10.73 percent focused on family control to overcome the problem. A smaller percentage (2.7 percent) emphasized the role of the addicts' willpower in overcoming the problem. Additionally, 12.2 percent highlighted weight of strict vigilance and surveillance of hostels to address abuse of drug among students (Table 6 and Table 7).

**Table 6: Steps Suggested By Respondents for Drug Addicts \*(Multiple Response)**

Suggested Steps	Chandigarh	Faridabad	Rohtak	Total
More De-Addiction Centre Should Be Opened	102(20.4)	68(13.6)	200(40)	370(25.66)
More Strict Laws For Drug Addicts	43(8.6)	29(5.8)	70(14)	142(9.46)
Supply Of Drugs Should Be Banned	152(30.4)	76(15.2)	128(25.6)	356(23.73)
Counselling Centres Should Be Opened	66(13.2)	29(5.8)	121(24.2)	216(14.4)
Strict Control Of Parents	70(14)	37(7.4)	54(10.8)	161(10.73)
Self Control	32(6.4)	15(6)	41(8.2)	88(5.86)
Limited Pocket Money Should Be Given To Students	71(14.2)	36(7.2)	42(8.4)	149(9.93)
More Aggressive Campaign Of Drug Abuse	123(24.6)	31(6.2)	89(17.8)	243(16.2)
Hostels Should Be Under Surveillance	679(13.4)	29(5.8)	87(17.4)	183(12.2)
Punishment Should Be Hard	91(18.2)	32(6.4)	93(18.6)	216(14.4)
Total Boycott By Society	51(10.2)	37(7.4)	71(14.2)	159(10.6)

**Table 7: Measures Suggested By Drug Addicts for Controlling the Problem of Drug Abuse \*(Multiple Responses)**

Measures For Drug Prevention	Chandigarh	Faridabad	Rohtak	Total
All The Inlets Of The Drug Supply Should Be Seriously Checked	207(41.2)	206(47)	252(50.4)	705(47)
Self Control	102(20.4)	88(17.6)	91(18.2)	291(18.73)
Good Family Atmosphere	102(14.2)	96(19.2)	128(25.6)	326(21.73)
Police Patrolling	131(26.2)	88(17.6)	171(34.2)	390(26)
Total Boycott Of Drug Addicts	110(22)	199(39.8)	129(25.8)	438(29.2)

## Conclusion

The worsening global drug abuse situation has prompted the international community, including individual countries like India, to escalate their efforts against drug abuse, illicit cultivation, production, trafficking, and peddling of drugs (*UNSDRI: 1984; WHO: 1984; NISD: 1985; WHO: 1997*).

Legislation plays a crucial role at both international and national levels in preventing and addressing substance misuse. The effectiveness of legislation has significant implications for the scale and nature of the problem, as well as for approaches to management and the success of treatment programs. While there is substantial agreement on the approach to narcotics, there is considerable variation in approaches to alcohol and, to a lesser extent, cannabis, reflecting different cultural attitudes towards these substances (*Imlah: 1989:18*).

Many of our narcotics laws are outdated and need to be revised in view of latest developments pertaining to drug abuse control. The Government of India recognized the urgent need to update and

improve existing central enactments and to introduce new provisions consistent with changing conditions to strengthen our laws and align national control with international regulations. As a result, existing legislation has been or is being revised to empower enforcement agencies further, prioritize demand reduction programs, intensify drug abuse prevention efforts, and enhance rehabilitation and reintegration programs for former addicts.

Nonetheless, *Drug Abuse* is a social phenomenon and though international Treaties can render considerable help national preventive laws are also doing so. However, our study reveals that only 9.6 percent of drug addicts were aware of the Narcotics Act, and 6.26 percent were aware of the Dangerous Drugs Act. Therefore, there is a need to make aware people of drug abuse. Moreover, this study also exhibits clearly that only 16.06 percent of subjects mentioned that drug prevention laws are effective, whereas 42.33 percent partially accepted that drug prevention laws are effective only to some extent. But the ultimate and most effective remedy lies with the society itself, which alone can create an appropriate environment and healthy atmosphere in which there are no inducements and no compulsive constraints for a person to resort to drug abuse.

### Steps Suggested by Drug Addicts

The battle against drug abuse must be waged both at the state and family levels, with special attention given to protecting women, children, and other vulnerable groups. Community support is essential for providing this protection. At the community level, there is crucial requirement of awareness programme on drug abuse prevention and provide techniques for individuals to overcome addiction (**Agrawal: 1995**).

Therefore, community-based initiatives should be implemented for drug abuse prevention and control. **Prashant (1993)** conducted a study on drug abuse to assess the effectiveness of such programs. According to the study, 16.2 percent of respondents believed that the most effective approach to controlling drug abuse is through an aggressive campaign and by raising social awareness about its negative impacts. Additionally, rehabilitation services play a central role in controlling and eliminating drug abuse. Some respondents (10.6 percent) suggested that society should boycott drug addicts.

There is a need to focus more on the strategies of the Ministry of Social Justice and Empowerment to control drug abuse:

- Building awareness among people about ill effects of alcohol and drug abuse.
- Dealing with addicts by comprehensive way of counselling, treatment, follow-up and social reintegration of cured drug addicts.
- To provide rehabilitation training to volunteers to build up volunteer cadre of drug abuse control operations.

Besides the above strategies, the Indian Narcotic Act should be implemented strictly. The persons involved in this illegal business must be punished. International efforts are also required to restrain the smuggling of drugs. It may be finally viewed that towards evolving a systematic understanding of problem of drug abuse or towards chalking out a viable social intervention programme, socio-cultural factors need to be given more attention.

To sum up, we may view that every drug addict is a product of our society. He needs love and affection. Hence, it is accountability of every person in society as a parent, peer, teacher, and citizen etc. to consider the problem that has made him a drug addict, sympathetically. They should be encouraged to keep pace with the mainstream of society and also take part in nation-building.

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