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PHARMACEUTICAL JURISPRUDENCE

UNIT 3

TOPIC :

- **Narcotic Drugs and Psychotropic substances Act-1985 and Rules**
: Objectives, Definitions, Authorities and Officers, Constitution and Functions of narcotic & Psychotropic Consultative Committee, National Fund for Controlling the Drug Abuse, Prohibition, Control and Regulation, opium poppy cultivation and production of poppy straw, manufacture, sale and export of opium, Offences and Penalties

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Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 and Rules

The Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 is a central law enacted by the Government of India to control and regulate the operations relating to narcotic drugs and psychotropic substances. It came into force on 14th November 1985 and applies to all parts of India, including ships and aircraft registered in India.

This Act consolidates and amends previous laws relating to narcotic drugs, ensuring stringent control, prevention of misuse, and lawful medical use of these substances.

Objectives of the NDPS Act, 1985

The major objectives of the Act are:

1. To control and regulate the manufacture, possession, sale, transport, and use of narcotic drugs and psychotropic substances.
2. To prevent misuse and illegal trafficking of these substances.
3. To ensure availability of narcotic and psychotropic substances for medical and scientific purposes only.
4. To establish authorities and committees for administration and coordination of drug control activities.
5. To provide severe punishment for offences related to illegal drug activities.
6. To fulfill India's international obligations under UN conventions on narcotic and psychotropic substances.
7. To promote public awareness and rehabilitation of drug addicts through government programs and funds.

Important Definitions

Term	Definition
Narcotic Drug	Any substance which induces sleep or dulls the senses and includes opium, coca leaf, cannabis (hemp), and all manufactured drugs like morphine, codeine, and heroin.
Psychotropic Substance	Any natural or synthetic substance that affects mental activity, behavior, or perception (e.g., LSD, amphetamines, barbiturates, diazepam, etc.).
Coca Leaf	Leaf of the coca plant from which cocaine can be extracted.
Cannabis (Hemp)	Includes charas (resin), ganja (flowering tops), and any mixture thereof.
Opium	Dried latex obtained from the capsules of the opium poppy plant (<i>Papaver somniferum</i>).
Poppy Straw	All parts of the opium poppy plant (except seeds) after harvesting.
Controlled Substance	Any chemical or material used for the manufacture of narcotic drugs or psychotropic substances (e.g., acetic anhydride).

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Authorities and Officers under the NDPS Act, 1985

1. Central Government Authorities

The Central Government has the supreme authority under the NDPS Act to:

- Frame policies related to the control and regulation of narcotic drugs and psychotropic substances.
- Constitute various boards, committees, and organizations to assist in the administration of the Act.
- Coordinate activities between central and state agencies for effective enforcement.

2. Narcotics Control Bureau (NCB)

- Established in 1986 under the Ministry of Home Affairs.
- It acts as the chief law enforcement and coordinating agency for matters related to drug trafficking and abuse.
- Functions:
 - Enforce the NDPS Act, 1985.
 - Coordinate actions between central and state agencies (Customs, Police, CBI, etc.).
 - Collect, analyze, and disseminate intelligence related to drug trafficking.

3. Narcotics Commissioner of India

- Appointed under the Central Board of Indirect Taxes and Customs (CBIC), Ministry of Finance.
- Head of the Central Bureau of Narcotics (CBN), located in Gwalior.
- Functions:
 - Control and supervise the cultivation of opium poppy.
 - Issue licenses for opium cultivation, manufacture, and export.
 - Regulate the trade of opium and opium-derived alkaloids (e.g., morphine, codeine).

4. Directorate of Revenue Intelligence (DRI)

- Works under the Central Board of Indirect Taxes and Customs (CBIC).
- Responsible for:
 - Investigating cases involving smuggling of narcotic and psychotropic substances.

5. Central Bureau of Investigation (CBI)

- The Special Crime Branch of the CBI deals with cases involving organized narcotics crime.
- Assists in inter-state and international coordination for drug law enforcement.

6. State Government Authorities

- The State Governments also have powers under the NDPS Act to:
 - Appoint officers for enforcement (State Police, Excise Officers, etc.).
 - Regulate and supervise the possession, sale, and use of narcotic drugs within the state.
 - Establish treatment and rehabilitation centers for drug addicts.

7. Narcotics and Psychotropic Substances Consultative Committee

- A Central Advisory Committee constituted by the Central Government.
- Composition:
 - Experts in law, medicine, pharmacy, and enforcement agencies.
 - Representatives from central and state governments.
- Functions:
 - Advise the government on matters related to narcotic drugs and psychotropic substances.
 - Suggest amendments to laws, rules, and policies.

8. Other Officers Empowered Under the Act

The Central and State Governments may empower:

- Excise officers
- Customs officers
- Revenue officers
- Police officers (not below the rank of Sub-Inspector)
- Officers of paramilitary forces

These officers are authorized to:

- Search, seize, and arrest individuals involved in narcotic offences.
- Investigate and file cases under the NDPS Act.
- Destroy seized narcotic substances as per prescribed rules.

National Fund for Controlling Drug Abuse (NFCDA)

The National Fund for Controlling Drug Abuse (NFCDA) was established under Section 7A of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985.

It was created to provide financial assistance for activities related to the control of drug abuse, rehabilitation of addicts, and enforcement of the NDPS Act.

The fund serves as an important financial mechanism to support government efforts in preventing and combating drug addiction, illicit trafficking, and misuse of narcotic and psychotropic substances.

Objectives of the Fund

The main objectives of the National Fund for Controlling Drug Abuse are:

- To provide financial support for programs aimed at drug abuse prevention and control.
- To promote treatment, rehabilitation, and social reintegration of drug addicts.
- To assist in the training of enforcement officers and staff for effective implementation of the NDPS Act.
- To fund research, awareness, and educational programs on drug abuse.
- To support international cooperation and coordination in matters related to narcotic control.

Sources of the Fund

The fund is financed from various sources as per Rule 67-A of the NDPS Rules, 1985, including:

1. Grants made by the Central Government.
2. Contributions or donations from individuals, institutions, or organizations.
3. Proceeds of the sale of confiscated narcotic drugs, psychotropic substances, and properties seized under the Act.
4. Income from investments or other assets of the fund.
5. Any other source approved by the Central Government.

Administration of the Fund

- The Central Government administers the fund.
- It may appoint a Fund Managing Committee for proper management and disbursement.
- The Ministry of Finance (Department of Revenue) and Ministry of Social Justice and Empowerment are the main coordinating ministries.
- The Narcotics Control Bureau (NCB) plays a major role in identifying and recommending projects for funding.

Utilization of the Fund

The fund is utilized for activities such as:

1. Education and Awareness Programs

- Organizing seminars, campaigns, and workshops to educate people about the harmful effects of drug abuse.
- Promoting anti-drug messages through media, schools, and colleges.

2. Treatment and Rehabilitation

- Establishing and supporting de-addiction and rehabilitation centers.
- Providing training to healthcare professionals and social workers involved in addiction treatment.

3. Supply Control Measures

- Funding equipment, vehicles, and training programs for law enforcement agencies (NCB, Police, Customs, etc.).
- Supporting the development of data collection and surveillance systems on drug trafficking.

4. Research and Training

- Encouraging scientific research on addiction, withdrawal, and prevention strategies.
- Conducting training programs for officers involved in drug law enforcement and social rehabilitation.

5. International Cooperation

- Supporting collaboration with international organizations such as the UNODC (United Nations Office on Drugs and Crime) and WHO for global drug control efforts.

Prohibition, Control and Regulation

Prohibition under the Act

The Act prohibits the following activities except for medical or scientific purposes and only under a valid license or authorization:

1. Cultivation of coca plant, opium poppy, or cannabis plant.
2. Production, manufacture, possession, sale, purchase, transport, or consumption of narcotic drugs or psychotropic substances.
3. Import and export of these substances into or from India.
4. Use of premises or conveyance for committing offences under the Act.
5. Financing illicit traffic or harbouring offenders involved in drug trafficking.

➔ In simple terms

No person is allowed to deal with narcotic or psychotropic substances unless permitted by the Central or State Government.

Control Measures under the NDPS Act

The Act provides extensive control mechanisms to regulate the legitimate use and prevent misuse of narcotic and psychotropic substances.

(a) Central Government Powers

- Regulate cultivation, production, and manufacture of narcotic drugs.
- Control import, export, and transshipment of such substances.
- Specify maximum quantities of possession for personal use.
- Issue licenses or permits for medical and scientific use.
- Frame rules for storage, transport, and distribution.
- Maintain records, returns, and inspections by authorized officers.

(b) State Government Powers

- Control and regulate possession, sale, purchase, consumption, and inter-state transport within the state.
- Grant licenses for retail sale of narcotic drugs under medical prescription.
- Establish rehabilitation and de-addiction centers for addicts.

Manufacture of Opium

(a) Licensing and Authorization

- Manufacture of opium or its derivatives is allowed only in government factories or under license granted by the Central Government.
- The license specifies:
 - Type of product to be manufactured (raw opium, extract, alkaloid).
 - Quantity to be produced.
 - Manufacturing site and duration of validity.

(b) Process of Manufacture

- Raw opium obtained from licensed cultivators is sent to Government Opium Factories.
- It is processed to obtain medical-grade opium and pharmaceutical alkaloids such as:
 - Morphine
 - Codeine
 - Thebaine
 - Noscapine
 - Papaverine
- These are used in the manufacture of pain-relieving and antitussive drugs.

(c) Supervision and Record Keeping

- Every stage of manufacture is recorded, weighed, and verified.
- Strict accounting prevents diversion of opium for illegal use.
- Periodic inspection is conducted by CBN officials.

Sale of Opium

(a) Legal Sale

- Only the Central Government or its authorized agents can sell opium or its derivatives.
- Sale is permitted only for medical, scientific, or export purposes.
- Domestic sale to manufacturers of pharmaceutical preparations is allowed under special license.

(b) Retail Sale

- Retail sale of opium-containing medicines (e.g., morphine tablets, codeine syrups) is allowed only under medical prescription by:
 - Licensed pharmacists, and
 - Registered medical practitioners (RMPs).
- The sale and use must comply with the Drugs and Cosmetics Rules and NDPS Rules.

(c) Prohibition of Illegal Sale

- Unlicensed possession or sale of opium is strictly prohibited.
- Unauthorized sale, trade, or storage is punishable under Section 17 of the NDPS Act.

Export of Opium

(a) Central Government Control

- Export and import of opium and opium derivatives are regulated by the Central Government.
- Exports are permitted only for legitimate medical and scientific purposes and under international obligations (as per the Single Convention on Narcotic Drugs, 1961).

(b) Licensing for Export

- Export requires a special export authorization issued by the Narcotics Commissioner.
- Exporters must declare:
 - Quantity and purity of opium.
 - Country of destination.
 - End-use certificate (proof that it will be used for legitimate purposes).

(c) International Monitoring

- India reports all opium export data to the International Narcotics Control Board (INCB).
- Export is allowed only to countries approved by the United Nations and the Government of India.

(d) Export Factories

- The two Government Opium and Alkaloid Factories process and prepare export-quality medical opium and alkaloid salts (mainly morphine base, codeine phosphate, etc.) for export.

Poppy Straw

- According to Section 2(xviii) of the NDPS Act,
- “Poppy straw means all parts (except the seeds) of the opium poppy after harvesting, whether in their original form or in any crushed, powdered, or granulated form.”

Production and Use

- After the opium latex is extracted, the dried capsules and stalks are called poppy straw.
- It contains residual alkaloids such as morphine and codeine.
- Poppy straw is used in some countries to produce concentrate of poppy straw (CPS), an alternative raw material for extracting opium alkaloids.

Regulation

- Only licensed factories can process poppy straw for alkaloid extraction.
- Unauthorized possession, transport, or sale of poppy straw is punishable under the NDPS Act.
- Every transfer must be recorded and reported to the Narcotics Commissioner.

Offences and Penalties

Type of Offence	Punishment
Small quantity possession	Rigorous imprisonment up to 1 year or fine up to ₹10,000 or both.
More than small but less than commercial quantity	Imprisonment up to 10 years and fine up to ₹1 lakh.
Commercial quantity	Rigorous imprisonment 10–20 years and fine ₹1–2 lakhs (may extend further).
Illegal cultivation of opium poppy, cannabis, or coca plants	Rigorous imprisonment up to 10 years and fine up to ₹1 lakh.
Manufacture, sale, transport, or import/export without license	Rigorous imprisonment up to 20 years and fine up to ₹2 lakhs.
Repeat offenders	May face death penalty in extreme cases (as per amendment).
Consumption of drugs	Imprisonment up to 1 year or fine up to ₹20,000 or both.