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Scholar (P.hd), Department of Laws, Panjab University,
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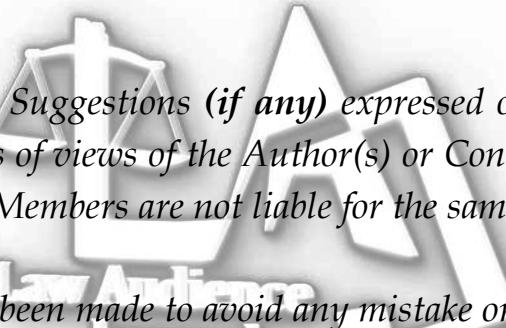
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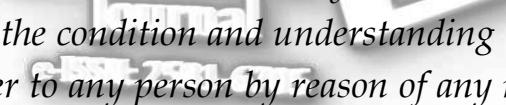
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CHAPTER 1 – INTRODUCTION:

1.1 BACKGROUND:

The Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter “NDPS Act”) was enacted to consolidate and amend the law relating to narcotic drugs and psychotropic substances, to make stringent provisions for the control and regulation of operations relating to narcotic drugs and psychotropic substances, and to provide for the forfeiture of property derived from, or used in, illicit traffic in narcotic drugs and psychotropic substances. The enactment was influenced by India’s international obligations under the United Nations Single Convention on Narcotic Drugs, 1961, the Convention on Psychotropic Substances, 1971, and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.¹ The central legislative objective was deterrence of drug trafficking and abuse through a strict penal framework.² However, the NDPS Act has come under fire over time for its punitive approach, particularly with regard to those discovered in possession of minor amounts of drugs, many of whom are addicts who require medical and psychological assistance rather than criminal prosecution.

1.2 STATEMENT OF THE PROBLEM

While the NDPS Act makes a distinction between *small quantity*, *intermediate quantity*, and *commercial quantity* offences,³ it nonetheless criminalizes even minor possession for personal consumption. For instance, Section 27 provides for punishment up to one year for consumption of certain narcotic drugs and psychotropic substances, and up to six months for others.⁴

This punitive approach has created several challenges:

- *Overcrowding of prisons with small-time users rather than large-scale traffickers.*

¹ The Narcotic Drugs and Psychotropic Substances Act, No. 61 of 1985, Statement of Objects and Reasons, Acts of Parliament, 1985 (India)

² *ibid*

³ NDPS Act, S.2(viia), S.2(xxiiia), No. 61 of 1985.

⁴ NDPS Act, S.27, No. 61 of 1985

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- *A disproportionately high undertrial population in NDPS cases.*
- *Marginalization and stigmatization of addicts who might otherwise have been rehabilitated.*
- *Weak implementation of Section 64A, which offers immunity to addicts volunteering for treatment.*

Thus, the problem arises: whether the punitive model under the NDPS Act achieves deterrence, or whether a shift towards ***rehabilitation*** for small quantity users would better serve the objectives of justice and public health.

1.3 RESEARCH QUESTIONS:

1. Does punishment under the NDPS Act for small quantity possession serve as an effective deterrent?
2. To what extent has the NDPS Act been successful in addressing the socio-economic problem of drug abuse?
3. What are the limitations of the current punitive model?
4. Can rehabilitation, treatment, and decriminalization of small quantity possessions provide a more effective alternative?
5. How do international models of decriminalization and rehabilitation inform potential reforms in India?

1.4 OBJECTIVES OF THE STUDY:

- *To analyze the penal provisions of the NDPS Act dealing with small quantity possession.*
- *To examine the socio-economic impact of the punishment model on drug users.*
- *To evaluate the effectiveness of rehabilitation provisions under the Act.*
- *To explore comparative legal models of drug regulation worldwide.*
- *To recommend reforms that balance deterrence against trafficking with compassion for addicts.*

1.5 RESEARCH METHODOLOGY:

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The NDPS Act's statutory provisions and their judicial interpretation are the main subject of this study, which uses a doctrinal methodology. In order to comprehend trends in enforcement and conviction, it also uses empirical inputs, such as crime statistics from the *National Crime Records Bureau (NCRB) and reports from the Narcotics Control Bureau (NCB)*. To look at other strategies, a comparative study of other jurisdictions is also conducted, including the US, Portugal, and the Netherlands.

1.6 SCOPE AND LIMITATIONS:

This study's focus is limited to comparing the effectiveness of rehabilitative and punitive approaches for small-scale drug users under the NDPS Act. With the exception of accidental cases where they impact small users, the study does not discuss problems associated with cross-border smuggling or large-scale commercial trafficking. The availability of empirical data is limited since government statistics either underreport or do not differentiate between small-scale and commercial offences.

1.7 HYPOTHESIS:

This study's main hypothesis is that a rehabilitative, health-focused strategy will benefit both people and society more than punitive measures under the NDPS Act for small-scale drug users, which are ineffectual in reducing drug consumption.

CHAPTER 2 – LEGAL FRAMEWORK OF THE NDPS ACT

2.1 OVERVIEW OF THE NDPS ACT, 1985

The *Narcotic Drugs and Psychotropic Substances Act, 1985*, was enacted to consolidate laws relating to narcotic drugs and psychotropic substances, and to combat illicit trafficking and abuse.¹ The Act replaced the earlier *Opium Act, 1857*, and the *Dangerous Drugs Act, 1930*, providing a more comprehensive legal framework aligned with India's international obligations

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under the United Nations conventions.⁵ The NDPS Act is a *special legislation*, implying that its provisions *override general criminal law provisions* wherever applicable.⁶ It distinguishes between various categories of offences, prescribes *stringent punishments*, and includes provisions for *forfeiture of property derived from drug trafficking*.⁷

2.2 CLASSIFICATION OF OFFENCES

The NDPS Act adopts a tiered classification of offences based on quantity and nature of substances:

1. **Small Quantity** – Possession of drugs below a threshold prescribed in the Act.⁸
2. **Intermediate Quantity** – Possession between small and commercial thresholds.⁹
3. **Commercial Quantity** – Possession intended for trafficking; triggers the **harshest punishments**.¹⁰

This classification is critical because **punishment and legal consequences differ sharply** between these categories. For instance, possession of small quantities generally attracts **lesser imprisonment**, whereas commercial quantities may invite **10 years to life imprisonment**.¹¹

2.3 PUNISHMENT PROVISIONS FOR SMALL QUANTITY

POSSESSION:

2.3.1 SECTION 27 – PUNISHMENT FOR CONSUMPTION:

Section 27 criminalizes the consumption of narcotic drugs or psychotropic substances.¹²

- Punishable with **imprisonment up to one year** for cannabis or opium, and **up to six months** for other substances.

⁵ *Supra*

⁶ Id.; see also United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Dec. 20, 1988, 1582 U.N.T.S. 95

⁷ NDPS Act S. 1(2) (India)

⁸ NDPS Act S. 68 (Forfeiture of property).

⁹ NDPS Act S. 2(xiv).

¹⁰ NDPS Act S. 2(viia).

¹¹ NDPS Act S. 21–22.

¹² NDPS Act S. 27

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- Fine may also be imposed, though it is usually minimal.

2.3.2 Section 21 – Punishment for Contravention of the Act

Section 21(1) prescribes punishment for **contravention of the Act**, which includes possession of small quantities.¹³

- Imprisonment may range from **six months to one year**.
- Emphasis is laid on **strict enforcement**, leaving limited discretion for courts to reduce sentences based on socio-economic or medical conditions of offenders.

2.3.3 Section 37 – Bail Provisions

*Section 37 regulates grant of bail in NDPS cases:*¹⁴

- Bail is **strictly prohibited in commercial quantity cases**.
- For small quantity possession, courts retain discretion, but historically, **judicial practice has been restrictive**, often treating addicts as potential threats to law and order.

2.4 Rehabilitation-Oriented Provision: Section 64A

Recognizing the need for treatment, the NDPS Act includes **Section 64A**, which provides **immunity from prosecution** for addicts who voluntarily seek treatment.¹⁵

- Applicable only to **small quantity users**.
- Courts have **rarely applied this provision proactively**, largely due to lack of awareness and institutional support.
- This indicates a **gap between legislative intent and implementation**.

2.5 Search, Seizure, and Procedural Safeguards

The NDPS Act authorizes search and seizure operations to combat illicit trafficking:

- Section 42: Powers of search without warrant under certain conditions.¹⁶

¹³ NDPS Act S.21

¹⁴ NDPS Act S. 37

¹⁵ NDPS Act S.64A

¹⁶ NDPS Act S.42

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- Section 50: Search of the person upon arrest.¹⁷
- Section 52: Seizure of property and recording of inventory.¹⁸

While these provisions empower law enforcement, **misuse has been reported**, particularly against small users, where procedural safeguards are sometimes ignored.¹⁹

2.6 Critique of Punitive Framework:

Several scholars and judicial pronouncements have criticized the NDPS Act for:

1. **Over-criminalization of addicts**, particularly for small quantities.²⁰
2. **Disproportionate sentencing**, where minor users receive penalties similar to traffickers in certain cases.
3. **Under-utilization of Section 64A**, leading to missed opportunities for rehabilitation.
4. **Human rights concerns**, including overcrowding of prisons and prolonged undertrial detention.

2.7 CONCLUSION:

The legal framework of the NDPS Act demonstrates strong **punitive orientation**, with limited but significant provisions for rehabilitation. While small quantity users are theoretically distinguishable from commercial traffickers, in practice, the harsh enforcement culture, restrictive bail jurisprudence, and weak implementation of rehabilitation measures create a **disconnect between law and social reality**. This necessitates a **rethinking of the NDPS Act** to prioritize **rehabilitation and reformative justice** for small quantity drug users.

CHAPTER 3 – JUDICIAL INTERPRETATION

3.1 OVERVIEW

¹⁷ NDPS Act S.50

¹⁸ NDPS Act S.52

¹⁹ K. Thiruvengadam, *NDPS Law in India: Enforcement and Judicial Trends* 45–47 (2018).

²⁰ K. S. Narayana, *Criminalizing Addiction: A Socio-Legal Perspective*, 23 J. Indian L. & Soc'y 67 (2019).

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Judicial interpretation of the NDPS Act has played a crucial role in shaping its application, especially regarding **small quantity users**. Courts have balanced the Act's **punitive objectives** with constitutional protections, including the **right to life and personal liberty** (Article 21).²¹

3.2 KEY ISSUES ADDRESSED BY COURTS:

1. Distinction Between Traffickers and Addicts:

- In *State of Punjab vs. Baldev Singh*,²² the Punjab & Haryana High Court emphasized distinguishing commercial traffickers from small quantity users to ensure proportional punishment.

2. Bail in NDPS Cases:

- Section 37 has been interpreted strictly, limiting bail for commercial quantities but allowing discretion for small quantities.²³
- *Tofan Singh v. State of Tamil Nadu*²⁴ clarified that **denial of bail must consider medical and social conditions of addicts**, especially first-time offenders.

3. Presumption of Guilt:

- The NDPS Act includes presumptions, e.g., possession implying knowledge or intent to traffic.²⁵
- Courts have stressed **fair trial safeguards**, noting that presumption cannot override constitutional protections.²⁶

4. Section 64A – Rehabilitation Immunity:

- Courts have observed that Section 64A is underutilized, and addicts seeking treatment voluntarily should be **deemed immune from prosecution**.²⁷

²¹ Constitution of India, Article 21.

²² State of Punjab v. Baldev Singh, (1999) 3 SCC 250 (P&H HC))

²³ NDPS Act S.37

²⁴ Tofan Singh v. State of Tamil Nadu, (2020) 9 SCC 1

²⁵ NDPS Act S. 35

²⁶ E. Micheal Raj v. Narcotic Control Bureau, (2008) 5 SCC 161

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3.3 Judicial Trends:

- Courts generally **favor rehabilitative measures** for small quantity users but remain cautious due to fear of abuse of provisions.
- Judicial interventions emphasize **proportionality, due process, and constitutional safeguards** while upholding the law's strict intent against traffickers.²⁸

3.4 Critique:

- Despite judicial leniency in some cases, most small quantity users still face **long under trial detention**.
- Limited awareness and implementation of Section 64A reduce the law's effectiveness in rehabilitation.²⁹
- The gap between legislative intent (rehabilitation) and judicial application remains significant.

3.5 CONCLUSION:

The judicial interpretation of the NDPS Act reflects a **cautious balancing act**: enforcing strict punishment for traffickers while showing leniency and promoting rehabilitation for small quantity users. However, consistent application of Section 64A and proportional sentencing remains an **unrealized goal**, underscoring the need for **systematic reform**.

CHAPTER 4 – SOCIO-ECONOMIC DIMENSIONS OF DRUG USE IN INDIA

4.1 INTRODUCTION:

²⁷ NDPS Act §64A; see also S. Mukherjee, *Rehabilitation vs Punishment in NDPS Cases*, 12 Indian J. Crim. L. 101 (2020)

²⁸ K. Thiruvengadam, *NDPS Law in India: Enforcement and Judicial Trends* 67–70 (2018).

²⁹ National Human Rights Commission, *Report on Undertrial Prisoners in NDPS Cases* (2021)

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Drug abuse in India is not only a legal issue but also a **socio-economic concern**. Small quantity users, who are often addicts, come disproportionately from **marginalized, low-income, and high-risk communities**, where social and economic factors contribute to substance dependence.³⁰ This chapter examines the social and economic realities that influence drug use, enforcement, and rehabilitation challenges.

4.2 REGIONAL TRENDS AND CASE STUDY: PUNJAB:

- Punjab reports the **highest per capita drug abuse** in India.³¹
- Factors contributing to substance use include:
 - **Unemployment and economic stagnation**, particularly among youth.
 - **Peer pressure and social environment**, including normalization of certain substances.
 - Easy availability due to proximity to international borders.³²
- NCRB data shows that **a majority of NDPS arrests in Punjab involve small quantity possession**, with many offenders being young males aged 18–30.³³

4.3 SOCIO-ECONOMIC IMPACT:

1. Overrepresentation in Prisons:

- Small quantity users form a significant proportion of undertrial prisoners in NDPS cases.³⁴
- Overcrowding and prolonged detention lead to adverse **mental health outcomes**.

2. Loss of Employment and Education Opportunities:

- Convictions, even for small quantities, result in **stigma and exclusion** from job markets and educational institutions.

³⁰ K. S. Narayana, *Criminalizing Addiction: A Socio-Legal Perspective*, 23 J. Indian L. & Soc'y 67 (2019)

³¹ National Crime Records Bureau, *Crime in India 2022*, Ministry of Home Affairs, India, 2023

³² Punjab Police, *Report on Narcotics Abuse in Punjab*, 2022

³³ NCRB, *Prison Statistics 2022*, Ministry of Home Affairs, India

³⁴ National Human Rights Commission, *Report on Undertrial Prisoners in NDPS Cases* (2021)

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3. **Family and Community Strain:**

- Families bear the social, emotional, and financial burden of incarceration and addiction.³⁵

4.4 ACCESS TO REHABILITATION

- Section 64A theoretically allows addicts to seek treatment without fear of prosecution.³⁶
- Reality: **limited availability of de-addiction centers**, uneven distribution across states, and lack of trained personnel restrict access.
- Many small users remain trapped in the **cycle of criminalization and relapse**, rather than receiving proper treatment.³⁷

4.5 ECONOMIC COST OF PUNITIVE APPROACH:

- **Prison Costs:** Incarcerating small quantity users strains state budgets unnecessarily.
- **Productivity Loss:** Young adults in the workforce spend years in detention rather than contributing economically.
- **Opportunity Costs:** Funds spent on prosecution and imprisonment could be redirected to rehabilitation and preventive measures.

4.6 CONCLUSION:

Socio-economic analysis demonstrates that **drug addiction is largely a health and social problem**, exacerbated by unemployment, peer influence, and poverty. Criminalizing small quantity users under the NDPS Act often **punishes victims rather than addressing root causes**, highlighting the urgent need for a **rehabilitative and reformative approach**.

CHAPTER 5 – PUNISHMENT VS. REHABILITATION DEBATE

5.1 INTRODUCTION

³⁵ S. Mukherjee, *Rehabilitation vs Punishment in NDPS Cases*, 12 Indian J. Crim. L. 101 (2020)

³⁶ NDPS Act §64A, No. 61 of 1985 (India)

³⁷ K. Thiruvengadam, *NDPS Law in India: Enforcement and Judicial Trends* 89–92 (2018)

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The NDPS Act emphasizes **punitive measures** to deter drug abuse and trafficking.³⁸ However, research and judicial trends indicate that **punishment alone is insufficient** to address the complex socio-economic and health-related dimensions of drug addiction.³⁹ This chapter critically examines the **debate between punishment and rehabilitation** for small quantity drug users.

5.2 EFFECTIVENESS OF PUNITIVE MEASURES:

- **Deterrence Questioned:** Evidence shows that incarceration of small quantity users does not significantly reduce drug consumption or trafficking.⁴⁰
- **Overcrowded Prisons:** Punitive enforcement disproportionately targets addicts rather than traffickers, leading to **undertrial congestion** and increased state expenditure.⁴¹
- **Stigma and Recidivism:** Punishment often reinforces social stigma, making rehabilitation post-release difficult and increasing chances of relapse.⁴²

5.3 REHABILITATION-ORIENTED APPROACH:

- **Section 64A:** Offers immunity from prosecution for addicts seeking treatment, signaling the law's intent to **prioritize rehabilitation over punishment**.⁴³
- **Medical and Psychological Interventions:** Addiction is recognized as a **chronic disease**; counseling, therapy, and medication-assisted treatment are more effective than imprisonment.⁴⁴
- **Community-Based Programs:** Programs such as outpatient de-addiction centers, peer support groups, and vocational training have proven successful internationally in reducing relapse rates.⁴⁵

³⁸ NDPS Act S. 21–22, No. 61 of 1985 (India).

³⁹ K. S. Narayana, *Criminalizing Addiction: A Socio-Legal Perspective*, 23 J. Indian L. & Soc'y 67 (2019)

⁴⁰ *ibid*

⁴¹ National Human Rights Commission, *Report on Undertrial Prisoners in NDPS Cases* (2021)

⁴² S. Mukherjee, *Rehabilitation vs Punishment in NDPS Cases*, 12 Indian J. Crim. L. 101 (2020)

⁴³ NDPS Act S.64A

⁴⁴ World Health Organization, *Management of Substance Abuse: A Global Perspective*, 2020

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5.4 COMPARATIVE INSIGHTS:

1. Portugal:

- Decriminalized all drugs in 2001; small users are referred to **treatment panels** instead of courts.⁴⁶
- Resulted in reduced drug-related deaths and lower HIV transmission rates.⁴⁷

2. Netherlands:

- Harm-reduction strategies, including regulated access to cannabis, reduced criminalization of users.⁴⁸

3. United States:

- “War on Drugs” highlighted the **ineffectiveness of punitive-only approaches**, prompting states like Oregon to **decriminalize small amounts and emphasize treatment**.⁴⁹

These examples indicate that rehabilitation-focused policies yield better public health and social outcomes than purely punitive measures.

5.5 CRITICAL CHALLENGES:

- **Implementation Gaps:** Even with Section 64A, awareness among addicts, law enforcement, and courts remains limited.⁵⁰
- **Resource Constraints:** Limited funding, infrastructure, and trained personnel restrict rehabilitation programs’ reach.⁵¹
- **Socio-Cultural Barriers:** Stigma, family resistance, and lack of social support hinder successful reintegration.⁵²

⁴⁵ *ibid*

⁴⁶ Hughes, Caitlin & Stevens, Alex, *What Can We Learn from the Portuguese Decriminalization of Illicit Drugs?*, 50 Br. J. Criminology 999 (2010)

⁴⁷ *ibid*

⁴⁸ European Monitoring Centre for Drugs and Drug Addiction, *Netherlands Country Overview*, 2021

⁴⁹ Drug Policy Alliance, *Decriminalization of Marijuana in U.S. States*, 2022

⁵⁰ NDPS Act S. 64A

⁵¹ K. Thiruvengadam, *NDPS Law in India: Enforcement and Judicial Trends* 89–92 (2018).

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5.6 CONCLUSION:

The evidence strongly favors a **rehabilitative approach for small quantity users**, focusing on health, counseling, and social reintegration, while maintaining strict punishment for traffickers and commercial offences. The NDPS Act's current punitive orientation for minor users often **criminalizes addiction instead of curing it**, highlighting the need for legislative reform and enhanced judicial and administrative implementation of rehabilitation measures.

CHAPTER 6 – COMPARATIVE PERSPECTIVES:

6.1 INTRODUCTION:

Several countries have adopted **rehabilitation-oriented or decriminalization models** for small quantity drug users, providing insights for India. This chapter examines selected international experiences and their applicability to the NDPS Act.⁵³

6.2 PORTUGAL: DECRIMINALIZATION MODEL:

- **Policy:** In 2001, Portugal **decriminalized all drugs**. Possession of small amounts for personal use is treated as an **administrative offence**, not criminal.⁵⁴
- **Implementation:** Users are referred to **Commissions for the Dissuasion of Drug Addiction**, comprising medical, legal, and social work professionals.⁵⁵
- **Outcomes:**
 - Significant **reduction in drug-related deaths** and **HIV infection rates**.⁵⁶
 - Lower incarceration rates for minor drug offences.

⁵² S. Mukherjee, *supra* note 5

⁵³ Hughes, Caitlin & Stevens, Alex, *What Can We Learn from the Portuguese Decriminalization of Illicit Drugs?*, 50 Br. J. Criminology 999 (2010)

⁵⁴ *ibid*

⁵⁵ *ibid*

⁵⁶ *ibid*

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- **Lesson for India:** Decriminalization paired with rehabilitation **reduces criminalization of addicts**, improves public health, and reduces prison overcrowding.

6.3 NETHERLANDS: HARM REDUCTION:

- **Policy:** The Netherlands adopts a **harm-reduction approach** rather than criminalizing cannabis users.
- **Implementation:**
 - Regulated access to soft drugs through “coffee shops.”
 - Strong focus on **preventive education and treatment programs** for users of hard drugs.⁵⁷
- **Outcomes:**
 - Reduced exposure of young users to the criminal justice system.
 - Greater access to medical and psychological support.
- **Lesson for India:** Focus on **risk reduction and education** can complement rehabilitative strategies under NDPS for small quantity users.

6.4 UNITED STATES: LESSONS FROM THE WAR ON DRUGS:

- **Policy History:** Strict punitive measures during the 1980s–2000s (“War on Drugs”) failed to curb drug abuse.⁵⁸
- **Recent Reforms:** States like Oregon and California have **decriminalized small quantities of marijuana** and emphasized **treatment over incarceration**.⁵⁹
- **Outcome:** Reduced prison population for minor offences, better allocation of resources for rehabilitation.
- **Lesson for India:** Punitive-only models **do not reduce drug consumption** and divert resources from effective treatment programs.

⁵⁷ European Monitoring Centre for Drugs and Drug Addiction, *Netherlands Country Overview*, 2021

⁵⁸ Drug Policy Alliance, *War on Drugs in the United States*, 2022

⁵⁹ *ibid*

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6.5 IMPLICATIONS FOR INDIA:

- NDPS Act can incorporate **lessons from Portugal, Netherlands, and the U.S.** by:
 1. **Decriminalizing small quantity possession** and focusing on treatment.
 2. **Strengthening rehabilitation infrastructure** (Section 64A implementation).
 3. **Allocating resources** for community-based prevention and counseling programs.
 4. **Reducing reliance on imprisonment** for addicts, freeing courts and prisons to focus on traffickers.
- International experience confirms that **rehabilitative and health-focused measures** produce better social and public health outcomes than strict criminalization for minor users.⁶⁰

6.6 CONCLUSION:

Comparative analysis demonstrates that **proactive rehabilitation policies** combined with **strategic decriminalization** are more effective than purely punitive measures. India can adapt these strategies to its socio-legal context, ensuring the NDPS Act meets both **public safety and public health objectives**.

CHAPTER 7 – FINDINGS & RECOMMENDATIONS

7.1 FINDINGS

Based on the preceding chapters, the study identifies the following key findings:

1. Punitive Approach Is Ineffective for Small Quantity Users:

- The NDPS Act's focus on imprisonment for minor possession **does not deter drug abuse**.⁶¹
- Overcrowding of prisons and high undertrial populations indicate **misallocation of resources**.⁶²

⁶⁰ K. Thiruvengadam, *NDPS Law in India: Enforcement and Judicial Trends* 91–94 (2018)

⁶¹ K. S. Narayana, *Criminalizing Addiction: A Socio-Legal Perspective*, 23 J. Indian L. & Soc'y 67 (2019)

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2. Rehabilitation Provisions Underutilized:

- Section 64A, which provides immunity for addicts seeking treatment, remains **poorly implemented.**⁶³
- Limited awareness among law enforcement and judiciary reduces its effectiveness.

3. Socio-Economic Vulnerabilities Drive Drug Use:

- High prevalence among youth, unemployed, and marginalized communities shows addiction is **a social and health issue** rather than purely a criminal act.⁶⁴

4. International Evidence Supports Rehabilitation:

- Models from Portugal, Netherlands, and certain U.S. states demonstrate that **rehabilitation, decriminalization, and harm-reduction** strategies produce better social and public health outcomes.⁶⁵

5. Judicial Trends Favor Reformatory Justice:

- Courts increasingly recognize **addiction as a health problem** and stress proportionality in sentencing, though implementation gaps remain.⁶⁶

7.2 RECOMMENDATIONS:

1. Decriminalization of Small Quantity Possession:

- Amend the NDPS Act to treat **possession of small quantities for personal use** as a non-criminal offence, diverting users to **rehabilitation programs.**⁶⁷

2. Strengthening Section 64A:

⁶² National Human Rights Commission, *Report on Undertrial Prisoners in NDPS Cases* (2021)

⁶³ NDPS Act S. 64A, No. 61 of 1985 (India).

⁶⁴ S. Mukherjee, *Rehabilitation vs Punishment in NDPS Cases*, 12 Indian J. Crim. L. 101 (2020)

⁶⁵ Hughes, Caitlin & Stevens, Alex, *What Can We Learn from the Portuguese Decriminalization of Illicit Drugs?*, 50 Br. J. Criminology 999 (2010)

⁶⁶ Tofan Singh v. State of Tamil Nadu, (2020) 9 SCC 1

⁶⁷ NDPS Act S.2(xxiii), S. 64A (proposed amendment for decriminalization)

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- Create clear procedural guidelines for **granting immunity** to addicts who volunteer for treatment.
- Train police and judicial officers to **actively implement** this provision.

3. Expand Rehabilitation Infrastructure

- Increase the number of **government and NGO-run de-addiction centers**.
- Integrate **psychological counseling, vocational training, and community support** for better reintegration.

4. Judicial and Administrative Reforms

- Specialized NDPS courts with **social workers, psychologists, and counselors** to assist judges in deciding between punishment and rehabilitation.
- Ensure **timely trials** for small quantity cases to reduce undertrial detention.

5. Public Awareness and Prevention Programs

- Conduct **state-wide campaigns** to reduce stigma, educate youth, and encourage voluntary treatment.
- Promote **community-based harm reduction programs** similar to international models.

6. Monitoring and Evaluation

- Establish **independent bodies** to monitor implementation of rehabilitative policies and evaluate outcomes.

7.3 CONCLUSION:

The findings indicate that the NDPS Act's punitive approach for small quantity users fails to achieve its intended objectives. A rehabilitation-oriented framework, strengthened by legal, administrative, and social interventions, can ensure:

- Protection of public health.
- Reduction of undertrial populations and prison overcrowding.

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- Social reintegration of addicts.
- Targeted enforcement against traffickers.

A balanced, reformatory approach is therefore essential to make the NDPS Act effective in contemporary India.

CHAPTER 8 – CONCLUSION:

8.1 SUMMARY OF THE STUDY:

This research paper critically examined the NDPS Act, 1985, focusing on small quantity drug users. The study analyzed:

1. **Legal Framework** – highlighting the Act's punitive orientation, distinctions between small, intermediate, and commercial quantities, and underutilization of rehabilitation provisions under Section 64A.⁶⁸
2. **Judicial Interpretation** – emphasizing proportionality, bail considerations, and cautious recognition of addiction as a health issue.⁶⁹
3. **Socio-Economic Dimensions** – illustrating that addiction is largely influenced by poverty, unemployment, peer pressure, and regional factors, especially in Punjab.⁷⁰
4. **Punishment vs Rehabilitation Debate** – showing that punitive measures fail to deter drug use and often exacerbate social stigma, while rehabilitation has proven effective domestically and internationally.⁷¹
5. **Comparative Perspectives** – lessons from Portugal, Netherlands, and the U.S. indicate that **decriminalization, harm reduction, and treatment-based approaches** yield superior outcomes.⁷²

⁶⁸ NDPS Act S.21–22, 64A, No. 61 of 1985 (India)

⁶⁹ Tofan Singh v. State of Tamil Nadu, (2020) 9 SCC 1

⁷⁰ National Crime Records Bureau, *Crime in India 2022*, Ministry of Home Affairs, India, 2023

⁷¹ S. Mukherjee, *Rehabilitation vs Punishment in NDPS Cases*, 12 Indian J. Crim. L. 101 (2020)

⁷² Hughes, Caitlin & Stevens, Alex, *What Can We Learn from the Portuguese Decriminalization of Illicit Drugs?*, 50 Br. J. Criminology 999 (2010)

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6. Findings and Recommendations – proposing reforms such as decriminalization of small quantities, strengthening Section 64A, expanding rehabilitation infrastructure, and judicial-administrative reforms.⁷³

8.2 KEY INSIGHTS:

- Punitive Approach Fails Addicts:** Small quantity users are criminalized rather than rehabilitated.
- Rehabilitation Is More Effective:** International and domestic evidence favors treatment, counseling, and social reintegration.
- Section 64A Remains Underused:** Lack of awareness and administrative support limits its impact.
- Socio-Economic Factors Are Crucial:** Addiction cannot be addressed purely through legal sanctions; social and economic interventions are necessary.

8.3 POLICY IMPLICATIONS:

The study underscores that reform is urgently needed. The NDPS Act should:

- Prioritize rehabilitation over punishment** for small quantity users.
- Ensure effective implementation of Section 64A** and related health-oriented provisions.
- Integrate social, economic, and medical interventions** alongside legal enforcement.
- Focus law enforcement on traffickers and commercial offences**, while diverting addicts to treatment.

8.4 FINAL REMARKS:

The NDPS Act's current framework inadequately addresses the **complex nature of drug addiction** in India. Criminalizing small quantity users often punishes **victims rather than perpetrators**, overburdens prisons, and perpetuates social stigma. A **balanced approach**,

⁷³ K. Thiruvengadam, *NDPS Law in India: Enforcement and Judicial Trends* 91–94 (2018)

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combining strict action against traffickers with **rehabilitation-focused** strategies for addicts, aligns with **constitutional principles**, international best practices, and public health objectives. Reforming the NDPS Act in line with these recommendations is not only **socially and legally imperative** but also essential for **sustainable and effective drug control policy** in India.

