
ANALYSIS OF NARCOTIC LAW IN INDIA

Kesava Kumar Reddy Duttala, School of Law, Christ (deemed to be University)

ABSTRACT

This study offers a comparative overview of narcotic laws and regulations in India, the U.S., and Canada. It is based on India's constitutional directive in Article 47 and traces the development of the Narcotic Drugs and Psychotropic Substances (NDPS) Act of 1985, alongside international treaty commitments. By comparing India's mainly deterrence-focused system with the U.S.'s evolving "War on Drugs" approach and Canada's emphasis on harm reduction and public health, the paper explores the conflict between law enforcement and health strategies. Judicial decisions, such as the Tofan Singh case, are examined to illustrate the judiciary's role in protecting human rights amid strict liability laws. The conclusion advocates for a balanced, evidence-driven model that combines enforcement, medical access, and rehabilitation to create a more humane and effective narcotic policy.

Keywords: NDPS Act, Article 47, Harm Reduction, Comparative Jurisprudence, Opioid Crisis, Decriminalisation, Public Health, Narcotic Control Bureau.

Introduction

The laws about drugs and psychotropic substances in India are based on what the Constitution says and what India has agreed to do internationally. Article 47 of the Constitution says that the State should not allow people to take intoxicating substances unless it is for a reason. This is because the government wants to protect people's health. India also agreed to follow the United Nations' drug rules.

The Indian government made a law called the Narcotic Drugs and Psychotropic Substances Act, 1985, which is also called the NDPS Act. This law consolidates all the laws and establishes new rules to control narcotics. The NDPS Act says that people cannot make, have, sell, or move narcotics unless it is for scientific reasons. The law also created bodies such as the Narcotics Control Bureau and the Central Bureau of Narcotics to ensure people follow the rules. If someone breaks the law, they can go to jail for a time and even lose their property.

The National Policy on NDPS is like a plan that goes along with the NDPS Act. It talks about how to balance enforcing the law with allowing some people to grow opium poppy and use cannabis for certain reasons.¹ The plan says that many government departments, including Finance, Health, Social Justice, and Home Affairs, have a role in ensuring people follow the rules and helping people who are addicted to drugs. The National Policy on NDPS also talks about the problems of trying to stop people from using drugs versus trying to reduce the harm that drugs cause. This is especially important when it comes to people who inject drugs and are at risk of getting HIV.

The NDPS Act and the National Policy on NDPS are the foundation of India's law.² They are based on the idea that narcotics should be strictly controlled and that people who break the law should be punished. However, they also try to balance punishment with helping people who are addicted to drugs. This is what makes India's narcotic law interesting to study when compared to how other countries deal with the same issues. Narcotic law in India has its strengths, such as its ability to enforce the rules. It also has its challenges, such as finding a

¹ National Policy on Narcotic Drugs and Psychotropic Substances (NDPS)
Government of India, Ministry of Finance, *National Policy on Narcotic Drugs and Psychotropic Substances*
(published by Dept. of Revenue, New Delhi, 2012)

² National Policy on Narcotic Drugs and Psychotropic Substances (NDPS)
Government of India, Ministry of Finance, *National Policy on Narcotic Drugs and Psychotropic Substances*
(published by Dept. of Revenue, New Delhi, 2012)

balance between punishing people and helping them to get better.

Literature Review

1. Constitutional Foundations

India's narcotic law is closely linked to "Article 47 of the Constitution," which says that intoxicating substances should be prohibited except for certain reasons. Some experts think that this constitutional rule influenced the NDPS Act's approach. For example, "Kasaudhan & Shrivastava (2025)" argue that the Act takes a view rather than a practical public health approach, focusing on deterrence rather than rehabilitation.³

2. Enforcement vs. Public Health

The NDPS Act gives many agencies. NCB, CBN, Customs, and State Police. A lot of power in making a big enforcement network. However, "Tripathi & Yadav (2024)" point out that this model, which focuses heavily on enforcement, often ignores health-based interventions, leading to errors and bail denials. They stress that strict liability provisions under Sections 35 and 54 raise concerns about fairness and human rights.⁴

3. Medical Access and Controlled Substances

India is a pharmaceutical producer, but its strict narcotic laws create problems. "Parmar & Rathod (2024)" note that while India follows conventions, patients who need opioids for palliative care often face bureaucratic hurdles.⁵ This shows a paradox: India exports morphine globally. Limits domestic access.

4. Empirical and Social Dimensions

Some studies, like those by "Gupta & Gupta (2025)", show that despite laws, drug abuse continues, especially among young people and marginalized communities. They argue that the NDPS Act does not address socio-factors, including traditional uses of cannabis and opium in

³ Rahul Kasaudhan & Axita Shrivastava, *Evaluating the Effectiveness of the NDPS Act in Combating Drug Trafficking in India*, 5(4) Indian J. Legal Rev. 1021 (2025).

⁴ Neelesh Mani Tripathi & Jyoti Yadav, *Analytical Insights into the Challenges of the NDPS Act, 1985*, Int'l J. Res. & Analytical Rev. (2024).

⁵ Pragmesh Parmar & Gaurav Rathod, *Understanding the Narcotic Drugs and Psychotropic Substances Act in India: A Comprehensive Analysis*, 9(1) Advances in Clinical Toxicology 296 (2024)

Indian society. The law's complete prohibition makes practices with cultural roots illegal, causing friction between law and lived realities.⁶

5. Judicial Interpretation and Landmark Cases

Court rulings have shaped NDPS jurisprudence. The Supreme Court in "Tofan Singh v. State of Tamil Nadu" (2020) held that confessions to NDPS officers are inadmissible, weakening prosecution strategies.⁷ Similarly, High Courts have emphasized safeguards, such as mandatory videography of seizures (Calcutta HC, 2022), to prevent misuse of strict provisions. These cases show how courts try to balance enforcement with fairness.

Scheme of Study (Body of the Paper)

The laws that govern narcotics in India, the United States of America, and Canada are very different. This is because each country has its history, politics, and social issues. In India, the Constitution serves as the basis for laws governing narcotics. The constitution says the government should ensure people's health is protected. This means that the government should stop people from using drinks and drugs that are bad for their health. The Narcotic Drugs and Psychotropic Substances Act of 1985 is a law that was made to follow this rule. This law also follows rules about narcotics. The law says that people who grow, make, sell, or transport narcotics can be punished. There are some exceptions for people who need narcotics for medical reasons.

The United States has an approach. The Controlled Substances Act of 1970 is the law that governs narcotics. This law lists controlled substances. Divides them into five groups. The groups are based on how the substances are to be abused and whether they have any medical use. The Drug Enforcement Administration is responsible for ensuring this law is enforced. The United States used to have a strict approach to narcotics with a lot of emphasis on punishment. In recent years, there has been a shift towards making it easier for people to get medical help for addiction. This is because of the crisis, which has had a big impact on American society. The crisis has shown that punishing people for using narcotics is not always

⁶ Rashmi Gupta & Laxmi Gupta, Narcotic Drugs and Psychotropic Substances Act, 1985: A Legal and Empirical Analysis of Its Effectiveness in Addressing Drug Abuse and Trafficking in India, *Indian J. L. & Legal Res.* (2025)

⁷ Tofan Singh v. State of Tamil Nadu, (2020) 9 SCC 1 (India)

the solution.

Canada's approach is different again. The Controlled Drugs and Substances Act of 1996 is the law that governs narcotics. This law takes a balanced approach, focusing on public health and control. In 2018, Canada made cannabis legal, which was a change. This means that Canada is one of the countries that has made it legal for people to use cannabis for fun. The Canadian government thinks that just punishing people for using narcotics is not enough. Instead, it is trying to reduce the harm that narcotics can cause. The government is doing this by making it easier for people to get treatment and by providing places for people to use narcotics.

These different approaches show that each country has its own way of thinking about narcotics. India is focused on stopping people from using narcotics, the United States is trying to find a balance between punishment and treatment, and Canada is focused on reducing harm.

The laws and policies about narcotics in India, the United States, and Canada are very different. India's Narcotic Drugs and Psychotropic Substances Act is a law that makes it illegal to do most things with narcotics. The law says that people who are caught with narcotics can be punished, and it is up to them to prove that they are innocent. The government's policy is focused on stopping people from using narcotics and punishing those who do. This approach has been criticized for not doing enough to help people who are addicted to narcotics.

In the United States, the laws about narcotics are complex. The federal government has one set of laws. Each state has its own laws. The Controlled Substances Act is federal law, but some states have enacted more lenient laws. The federal government still thinks that cannabis is a drug, even though some states have made it legal. The opioid crisis has made the government think about changing its approach to narcotics. The government is trying to make it easier for people to get help for addiction, and it is also trying to reduce the number of people who are prescribed opioids.

Canada's approach to narcotics is focused on regulation and reducing harm. The government made cannabis legal in 2018. It has also made it easier for people to get addiction treatment. The government thinks that punishing people for using narcotics is not the solution and that it is better to try to reduce the harm that narcotics can cause. Countries have noticed Canada's approach, and it is seen as a model for how to deal with narcotics progressively.

These different approaches show that each country has its own way of thinking about narcotics. India is focused on controlling, the United States is trying to find a balance between punishment and treatment, and Canada is focused on reducing harm. Each approach reflects the country's values, including what it considers important for health and safety.

A critical part of regulating narcotics is finding a balance between enforcing laws and helping health. This balance is different in India, the US, and Canada. In India, enforcing laws is a focus. Multiple agencies like the Narcotics Control Bureau, Central Bureau of Narcotics, Customs, and State Police work together to stop people from trafficking and using narcotics. India has penalties and mainly focuses on stopping narcotics from being brought into the country. Even though India produces narcotics like opium and cannabis, it's hard for people to get opioids for medical use. This is because of the rules and fears that they might be misused. As a result, many people end up in prison. Not many focus on treating or reducing harm.

The US has a history of the "War on Drugs," which led to a lot of people from marginalized communities being put in prison. The focus was on preventing people from being arrested and given sentences. This affected minorities a lot. Lately, however, there has been a shift towards supporting public health responses to the crisis. Some states have made it easier for people to get treatment, exchange needles, and get medicine to reverse overdoses. Even though the federal government still has rules on cannabis, some states have made it legal. This shows a change towards focusing on health. Enforcing laws still plays a big role and often conflicts with helping public health.

Canada is different. It focuses on reducing harm through its laws. The government has set up places where people can safely inject drugs, exchange needles, and get substitution therapies. Enforcement still. It is not as important as helping people's health. The goal is to reduce deaths, HIV transmission, and social problems. Canada's policies show that they understand that simply punishing people is not enough and that supporting health is crucial.

The different approaches in these countries show a philosophical difference. India focuses on enforcing laws to curb narcotics; the US is trying to balance enforcement with helping people; and Canada prioritizes people's health. These differences affect not only policies but also how people think and the experiences of drug users.

Judicial interpretation plays a role in shaping narcotics law. It provides safeguards against

misuse, protects rights, and clarifies procedural standards. In India, courts have emphasized fairness and safeguards. The Supreme Court ruled that confessions made to narcotics officers are not valid unless corroborated by evidence. The Calcutta High Court directed that seizures must be videotaped to prevent misconduct. These judicial measures reflect an approach to balancing enforcement with safeguards.

In the US, judicial interpretation often revolves around the tension between authority and state autonomy. Landmark rulings have affirmed the government's authority to enforce drug laws even in states that have legalized cannabis. Courts have also recognized states' rights to regulate within their jurisdictions.

Canada's judiciary has been proactive in affirming harm reduction initiatives and safeguarding rights. The Supreme Court upheld the constitutionality of injection sites, emphasizing the importance of public health and evidence-based policies. Courts have generally supported the view that drug policies should respect rights and prioritize health over punishment. The judicial landscape across these countries reflects their legal principles. India focuses on safeguarding the US's federal authority, and Canada on supporting harm reduction. Judicial interpretation significantly influences the scope, implementation, and evolution of narcotics law.

Comparative Analysis

India, the USA, and Canada have different ways of dealing with narcotic regulation:

The way India handles this issue is still about stopping people from using these drugs. India wants to stop people from selling and using drugs, and it also wants to uphold what it thinks is morally right. Even though India has made commitments to countries, it still mostly focuses on punishing people who break the rules. India does not do much to help people who are addicted to these drugs. The USA has historically been very strict about drugs, putting people in jail for using or selling them. Lately, the USA has started to change its approach. Now it is trying to help people who are addicted to drugs rather than just punishing them.

Canada is very different from both India and the USA. Canada focuses on helping people who are addicted to drugs rather than punishing them. Canada has even made some drugs legal as long as people responsibly use them.

When it comes to cannabis, the rules are different in each country. In the USA, cannabis is still

illegal at the federal level, but some states have made it legal for people to use it for fun. This has created significant confusion because the federal government and the states do not agree on the rules. India is very strict about cannabis, only allowing it to be used in traditional ways. Canada, on the other hand, has made cannabis fully legal as long as people follow the rules about how to use it.

The USA is currently dealing with a problem with opioids, which are a type of narcotic drug. Many people in the USA are addicted to opioids. It is causing significant harm. The USA is trying to address this problem by making it easier for people to get help if they are addicted to opioids. Canada is also trying to help people who are addicted to opioids by providing them with safe places to use the drugs and by giving them access to medicines that can help them stop using opioids. India, on the other hand, is a big producer of opioids, but it does not make it easy for people in India to get access to these drugs if they need them for medical reasons.⁸.

The courts in each country also play a role in how narcotic regulation works. In India, the courts are trying to make sure that people's rights⁹ They are protected even if they are accused of breaking the rules about drugs. In the USA, the courts are trying to balance the need to enforce the rules with the need to protect people's rights. In Canada, the courts are supporting the government's efforts to help people who are addicted to drugs rather than just punishing them.

The way each country regulates its affairs has a significant impact on the people who live there. In India, many people are put in jail for drug offenses, which can be very harmful to them and their communities. In the USA the strict rules about drugs have led to many people being put in jail people from minority communities. Canada's approach, on the other hand, has led to fewer people being put in jail for drug offenses and better health outcomes for people who are addicted to drugs¹⁰.

Looking ahead, each country has its challenges when it comes to narcotic regulation. India needs to find a balance between stopping people from using illegal drugs and helping people who are addicted to these drugs. The USA needs to address the conflict between federal and state rules. Canada needs to keep an eye on how its approach is working and ensure it is not

⁸ *Gonzales v. Raich*, 545 U.S. 1 (2005) (affirming federal authority over cannabis despite state legalization)

⁹ Controlled Substances Act, 21 U.S.C. §§ 801–971 (1970).

¹⁰ *Canada (Attorney General) v. PHS Community Services Society (Insite Case)*, [2011] 3 S.C.R. 134 (Can.)

causing any unintended problems.

One thing that could be helpful is for each country to learn from the others. India could learn from Canada's approach to helping people who are addicted to drugs. The USA could learn from India's rules about drugs and from Canada's approach to helping people who are addicted to drugs. Canada could learn from India's experience with controlling the flow of drugs.

In the end, the best approach to regulation is balanced and nuanced. It should combine the strengths of each country's approach while ensuring the protection of people's rights and health. This is the way to create a system that is both effective and humane.

Emerging Challenges & Recommendations

Each country has its unique challenges when it comes to refining its narcotic laws and policies:

For India, the main challenge is finding a balance between stopping people from using drugs and helping people who are addicted to these drugs. India needs to make sure that people who need these drugs for medical reasons can get access to them. India can learn from Canada's approach to helping people who are addicted to drugs, such as setting up safe places for people to use drugs and expanding community-based treatment programs.

In the USA, the conflict between federal and state rules is causing significant confusion. The USA needs to address the crisis by adopting a comprehensive approach that includes stricter regulation of prescription practices, expanded treatment options, and increased harm-reduction services. The USA also needs to invest in public health infrastructure and reduce the stigma around drug dependence.

Canada's challenge is to monitor the long-term effects of its regulatory approach and ensure its rules adapt to emerging issues. Canada needs to keep investing in harm-reduction infrastructure, public education, and community engagement to sustain its progress and prevent harm.

By learning from one another, these countries can create a system for regulating narcotics. India can adopt Canada's approach to helping people who are addicted to drugs and integrate it into its own strict rules. The USA's debates on decriminalization and medical access can provide a blueprint for reforming India's policies. Canada can learn from India's experience

with controlling the flow of drugs.

In conclusion, a balanced approach that combines the strengths of each country's model can lead to effective and humane narcotic laws. This approach should emphasize evidence-based policies, protect rights, and integrate public health principles to address the evolving challenges of narcotic regulation.

Findings

This research reveals a significant philosophical and structural divergence in how India, the United States, and Canada regulate narcotics. India's legal system, based on the Narcotic Drugs and Psychotropic Substances (NDPS) Act of 1985, is deeply rooted in Article 47 of the Constitution, which mandates prohibiting intoxicating substances unless for medical use. This results in a primarily deterrent approach emphasizing strict enforcement, mandatory minimum sentences, and a 'strict liability' regime that often shifts the burden of proof to the accused. Conversely, the United States is in transition, moving from its historically punitive 'War on Drugs' model toward a balance of enforcement and public health, driven by the devastating opioid crisis. Canada is on the most progressive end, adopting a harm-reduction approach, as seen in the 2018 legalization of recreational cannabis and supervised consumption sites.

The study also points out a 'paradox of access' in India. Despite being a leading producer and exporter of pharmaceutical-grade morphine, India's stringent regulations often create bureaucratic barriers for palliative care patients to access essential pain medications. Additionally, India's uniform prohibition stance conflicts with socio-cultural practices, such as traditional and ritualistic use of cannabis and opium, which the NDPS Act criminalizes broadly. Judicial decisions, like *Tofan Singh v. State of Tamil Nadu*, offer safeguards—such as excluding confessions to narcotic officers and requiring seizure videography—to prevent misuse of powers.

Overall, the comparative analysis suggests that punitive models alone are inadequate for addressing drug dependency. While India is effective in supply-side enforcement through agencies like the Narcotics Control Bureau (NCB), it lacks sufficient demand-reduction and rehabilitation systems. The US experience shows that over-reliance on incarceration disproportionately affects marginalized groups, whereas Canada's approach treats drug use as a health issue, improving social and medical outcomes. These findings imply that India needs

to strike a better balance between its constitutional prohibition mandate and the modern needs for medical access, rehabilitation, and harm reduction to develop a more effective and humane drug policy.

Suggestions and Conclusion

- Policy Reform

India needs to reform its narcotic policies by shifting from a strictly punitive approach to one that emphasizes public health and human rights. A key proposal is to adopt Harm Reduction Strategies inspired by Canada, such as establishing community treatment centres and safe injection sites to lower HIV transmission and social harms linked to drug use. Additionally, India must address the Medical Access Paradox: despite being a major producer of morphine, bureaucratic barriers hinder palliative care patients from obtaining necessary pain relief. Simplifying licensing and procurement processes for medical opioids is vital to uphold patients' right to healthcare.

Another important step is the Decriminalization of Personal Possession. Echoing trends in the US and Canada, India could differentiate between "small quantities" for personal use and "large quantities" for trafficking. Redirecting efforts from imprisoning drug users to offering mandatory rehabilitation would ease burdens on the prison system and allow agencies like the Narcotics Control Bureau to focus on international trafficking. Moreover, India should consider the Socio-Cultural Context of drug use, recognizing that substances like cannabis have historical and ritualistic significance. Future amendments to the NDPS Act should be based on research into traditional use rather than blanket prohibition.

In conclusion, narcotic regulation in India, the US, and Canada reflects differing philosophies about the state's role in public health. India's current stance, rooted in Article 47 of the Constitution, emphasizes deterrence and moral prohibition. Although the NDPS Act of 1985 provides legal control, its enforcement often favours punishment over rehabilitation, raising human rights issues and neglecting those with addiction.

Comparative insights show that while the US is moving towards a more balanced, treatment-focused approach, Canada leads with harm reduction and regulation over criminalization. India must learn from these models to improve its policies. Judicial rulings have played a key role in

this shift, safeguarding rights and ensuring procedural fairness. A humane and effective narcotic strategy should not aim for complete eradication through force. Still, it must balance strict enforcement against traffickers with compassionate, evidence-based treatment for people with an addiction. By incorporating public health principles into its legal framework, India can develop a system that truly aligns with its constitutional commitment to protect citizens' health and well-being.

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