

**LAWS AND POLICIES REGARDING WAR AGAINST
DRUGS: A COMPARATIVE LEGAL ANALYSIS OF
INDIA, USA, MALAYSIA AND CHINA**

**A DISSERTATION TO BE SUBMITTED IN PARTIAL
FULFILMENT OF THE REQUIREMENT FOR THE
AWARD OF DEGREE OF MASTER OF LAWS**

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CERTIFICATE

This is to certify that the dissertation titled, “Laws and Policies regarding war against drugs: A comparative legal analysis of India, USA, Malaysia and China” is the work done by SHASHWAT GARG under my guidance and supervision for the partial fulfilment of the requirement for the Degree of **Master of Laws** in School of Legal Studies Babu Banarasi Das University, Lucknow, Uttar Pradesh.

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ACKNOWLEDGMENT

I feel proud to acknowledge the able guidance, understanding and patience of esteem supervisor, PROF.SARITA SINGH, Assistant Professor in Institute of Legal Studies Babu Banarsi Das University. His mentorship is paramount in the successful completion of my work. I owe a special debt of thanks to him for his valuable discussion and kind accessibility. His encouragement and valued suggestion are greatly appreciated, for which my mere expression of thanks does not suffice.

I acknowledge with pleasure unparalleled infrastructural support that I have received from Institute of Legal Studies, Babu Banarsi Das, Uttar Pradesh. In fact this work is the outcome of outstanding support that I have received from faculty members of the college.

I find this opportunity to thank the library staff of the University

I am greatly indebted to the various writers, jurists and all others from whose writings and work I have taken help to complete this dissertation.

It would never have been possible to complete this study without an untiring support from my parents and my family for their support, encouragement, patience and love and my friends who helped me in several ways through discussion, comments and last but not the least by boosting my morale to complete this dissertation.

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ABBREVIATION

&	And
AC	Law Reports, Appeal Cases
A.D.M	Additional District Magistrate
A.G	Attorney General
AIR	All India
AIRD	All India Reporter, Delhi Series
ALJ	Allahabad Law Journal
All.E.R.	All England Law Reports
Art.	Article
CBI	Central Board of Investigation
CJI	Chief Justice of India
Cr.	Criminal
CRILJ	Criminal Law Journal of India
Cr L Rev	Criminal Law Review
CrPC	Code of Criminal Procedure
Ed.	Edition
Eds.	Editors
ER	English Reporters
Ibid	Latin short for ibidem, meaning “the same place”
IBR	Indian Bar Review
IPC	Indian Penal Code
ICJ	International Court of Justice
J	Judge

JJ	Judges
LR	Law Reports
P.	Page
pp.	Pages
SC	Supreme Court
SCC	Supreme Court Cases
SCC (Jour)	Supreme Court Cases (Journal)
SCJ	Supreme Court Journal
SCR	Supreme Court Reports
US	United States
Vol.	Volume
v.	Versus
WLR	Weekly Law Reports

CHAPTER I

INDTRODUCTORY CHAPTER

“Thou shall not admit a false rumour; put not thin hand with the wicket to be a false witness”

- Exodus 21:1 (JUB 2000)

1.1 INTRODUCTION

The internationally authorized undertaking which work in prohibiting the medication items represents a wonderful hypothetical showdown to the specialists in the legitimate field. How should the authorized savagery of the War on Drugs be accommodated with global regulation's expressed reason for finishing the "scourge of war"?¹ I should initially figure out the destruction that pulled to my advantage in the activities of worldwide medication restriction regulation before I can draw in with the thoughts of brutality, domain, penance, and mutuality that will drive my reaction to this assignment. As expressed in the prelude of the United Nations Single Convention on Narcotic Substances, 1961, the limitation on providing opiate drugs expects to "forestall [...] social and monetary mischief for humankind²." Even a superficial appraisal of the observational information gathered by associations checking the medication war uncovers a situation that opposes social logical estimation and requires a

¹ According to the Preamble to the Charter, the objective of the United Nations is to "save successive generations from the scourge of war." <http://www.un.org/en/sections/un-charter/preamble/index.html>> The Charter of the United Nations (San Francisco: 1945) [On the 3rd of May, 2021, I checked].

² United Nations Office on Drugs and Crime (UNDOC) preamble to the United Nations Single Convention on Narcotic Drugs of 1961 (United Nations, 1961), [accessed 2 May 2020].

hypothetical clarification of some kind or another. Regardless of worldwide regulation connecting drug denial's point and assurance of mankind to a more extensive post-war obligation to compassion and building worldwide harmony, the Battle on Drugs has brought about similar number of losses as all conflicts. Untold millions have died because of the medication war³, which has caused social and material demise all over the world (through mass imprisonment and rough state authorization). Drug offenses, for instance, have been connected to the detainment of the greater part of all government detainees in the United States⁴. On a worldwide scale, the US has pushed for the formation of a worldwide security device by going about as the accepted implementer of medication regulations, a job that has heightened with the eventual result of freely executing claimed drug dealers⁵. While the focal point of this proposal will be on the United States of America and its medication restriction regulations both at home and abroad, the medication war's effect will be talked about. On the job cops are supposed to kill three people consistently in Rio de Janeiro, where the whole objective of policing been "a battle against possess and medication dealers. In Colombia, we can see how, in the War on Drugs, brutality isn't simply bound to policing additionally takes steps to retain society overall. The yearly homicide rate in Colombia was one for every 1000 individuals at the level of the medication wars. Notwithstanding the dead, 300,000 Colombians were uprooted from their homes. This hardship of death

³ The term "War on Drugs" will be capitalised throughout this thesis to emphasise the thesis's general purpose of comparing the carnage caused by drug prohibition to traditional military operations.

⁴ In 2007, there were incarcerated people. Heather C. West and William J. Sabol, NCJ 224280. The Bureau of Justice Statistics' Bulletin (2008). Table 12 in the appendix: 'Number of sentenced inmates in federal prison by most serious offence' for the years 2000, 2006, and 2007.

⁵ 'Targeted Killing of Drug Lords: Traffickers as Members of Armed Opposition Groups and/or Direct Participants in Hostilities,' International Journal on Human Rights and Drug Policy, 1 (2010), 15-33; Patrick Gallahue, 'Targeted Killing of Drug Lords.

and movement is reiterated all through the Americas, as individuals, especially native populaces, lose their occupations because of yield annihilation and land seizures used to authorize drug regulations.⁶ Somewhere in the range of 2006 and 2012, 60,000 individuals were killed in China, a figure

Generally credited to the medication war's ascent. When contrasted with the 14,728 regular citizen passing in Afghanistan during a similar time-frame, a country authoritatively at war, the size of the savagery is more perceived. Proceeding to list the expense of the medication war would deplete my proposal's statement count, yet it helps my case by making sense of what the end-product of medication denial has been on individuals' genuine bodies all along⁷.

In any event, such a disaster ought to qualify itself by highlighting the accomplishment of an expressed reason, however this attestation goes past the medication war. Global regulation expressed unequivocally that it needed to make "A Drug-Free World" by disallowing the offer of medications around the world⁸. This goal underscores confidence in the law's power. Worldwide medication prohibitionists accepted that the law had the position to overwhelm the normal world. Preclusion is established on the thought that the law can be utilized to decrease lastly annul the unlawful production and utilization of opiates like cocaine, opium, and pot got from normally happening plants. Drug denial was additionally pushed as a compassionate reason, with the reason that diminishing the utilization of these plants would "guarantee mankind's wellbeing and prosperity." The thought was that the law's power would choke

⁶ Human Rights Council, Eleventh Session, A/HRC/11/2 (2008), p.13, 'Report of the Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions – Mission to Brazil.'

⁷ Steven Levitt and Mauricio Rubio, *Institutional Reforms: The Case of Colombia* (Boston: MIT Press, 2005), p.132, 'Understanding crime in Colombia and what can be done about it.'

⁸ Noam Chomsky's *Rogue States: The Rule of Force in World Events* (London: Pluto Press, 2000), p.64.

out drug supply, while the law's position would motivate a drop popular by proclaiming these substances to be defiant and in opposition to society's acknowledged standards. This idea has been completely exposed by and by. Indeed, even global legitimate specialists, like the United Nations Office on Substances and Crime (UNODC), which put vigorously in announcing restriction a triumph, have recognized the medications' diligence, assessing that between 162 million and 324 million individuals utilized unlawful medications casually in 2012. As per the United Nations, the unlawful medication exchange has become one of the most rewarding of all worldwide lawbreaker organizations, representing one fifth of worldwide criminal profit (ascending to half assuming that tax avoidance is excluded) following the annulment of denial. Notwithstanding the way that upholding the worldwide War on Drugs costs more than \$100 billion every year, this is the situation⁹. Practically speaking, all of the fruitful medication seizures or dealer captures have been of unobtrusive worth, yet they are introduced as indications of triumph on the planet local area's endless conflict by cops, cops, presidents, and UN authorities. It's a conflict seemingly forever, with the demonstration of battling itself turning into the outcome¹⁰. The obvious craziness of these regulations, as well as the reasonable obliteration of life that they have incurred, needs a more careful

⁹[http://www.lse.ac.uk/IDEAS/publications/reports/pdf/SR014/Barrett Damon.pdf](http://www.lse.ac.uk/IDEAS/publications/reports/pdf/SR014/Barrett_Damon.pdf)> [http://www.lse.ac.uk/IDEAS/publications/reports/pdf/SR014/Barrett Damon.pdf](http://www.lse.ac.uk/IDEAS/publications/reports/pdf/SR014/Barrett_Damon.pdf)> Reflections on Human Rights and International Drug Control, by Damon Barrett (London: LSE IDEAS, 2013). [On the 3rd of May, 2022, I checked].

¹⁰ "Mexico's Disappeared: The Enduring Cost of an Ignored Crisis," Human Rights Watch (February 20, 2013), <https://www.hrw.org/report/2013/02/20/mexicosdisappeared/enduring-cost-crisis-ignored>>. [retrieved 7 September 2015]; or Nick Miroff and William Booth, 'Mexico's Drug War at a Stalemate as Calderon's Presidency Ends,' Washington Post (November 27, 2012), <https://www.washingtonpost.com/world/the-americas/calderon-finishes-his-six-year-drug-war-at-stalemate/2012/11/26/82c90a94-31eb-11e2-92f0> I was able to get a hold of him on the 5th of October, 2015.

hypothetical examination. I'm endeavouring a hypothetical assessment with my theory. I accept that the absence of impression of known exact disappointments of the medication battle as showing any more noteworthy legitimate issue features the need of such a review among the two specialists and scholastics.¹¹

In the first place, in spite of the above realities, certain individuals don't completely accept that the War on Drugs is a disappointment. They see drug restriction's past, as well as the individuals who have been moved by it, as, best case scenario, lamentable casualties headed for progress. Regardless of the way that overall medication guidelines have neglected to lessen sporting utilization of unlawful substances, the medication war's officers proceed to "dream of a world liberated from drugs," contending that "the shows' prosperity [...] is clear." Any unfortunate results of endeavours to carry out preclusion are seen as affirmation of the medications' risks and consequently the requirement for restriction, as opposed to verification that the regulation is insufficient¹². Their response to the medication war's undeniable shortfalls has been to interest for more regulation: greater implementation programs, more foundations, additional

¹¹ You'll understand what I mean if you look at the UN's involvement in drug prohibition. The United Nations General Assembly Special Session on Drugs in 1998, with the slogan "A Drug-Free World – We Can Do It," is the most renowned example.

¹² The Transitional Reservations of Article 49 of the 1961 Single Convention on Narcotic Drugs expressly state that this is the primary purpose of the global drug control system. Paragraph 2 (g) of Article 49: 'At the same time as the reduction and termination of such uses, the production, manufacture, and trade in the pharmaceuticals described in paragraph 1 for any of the uses mentioned therein must be reduced and eventually abolished.' This goal was repeated in the United Nations Office of Drugs and Crime's Political Declaration and Plan of Action on International Cooperation Towards an Integrated and Balanced Strategy to Combat the World Drug Problem 2009. Look at the second paragraph: '[We] Reaffirm that the ultimate goal of demand and supply reduction initiatives, as well as long-term development plans, is to reduce and eventually eliminate greenhouse gas emissions.'

checking powers, and crueller punishments for the people who violate the law. Beyond their consideration is the chance of the law being caught in the medication war's disasters? Notwithstanding, besides the fact that prohibitionists have faith in the faultlessness of regulation, however a few pundits of general restriction see the medication battle as an "approach [that] could be enticing in principle yet is murderous and reckless by and by." This perspective perspectives disallowance as a respectable undertaking that, because of unforeseen deterrents, has brought about more regrettable repercussions than those it was planned to settle. While it perceives a trouble thoughtfully, it underscores that the issue isn't one of regulation. The disappointment of the respectable is brought about by the outside real factors of legislative issues and financial aspects. It is challenging to do the law's motivations.¹³

The two perspectives on the War on Drugs are dismissed in my postulation; I don't consider worldwide medication forbiddance in the 20th hundred years as a fundamental philanthropic undertaking requiring just expanded obligation to the law's decisions to succeed, nor as an off track execution of a harmless legitimate objective¹⁴. All things being equal, I will zero in on how the previously mentioned brutality is classified in and made by the law. Likewise, I might want to show how such brutality assists with moulding and keep up with the worldwide overall set of laws. The medication war should be perceived as an appearance of a common clash, as opposed to as a fundamental undertaking or an appalling blip on the teleological walk to worldwide harmony in global

¹³ 'Estimating Illicit Financial Flows Resulting from Drug Trafficking and Other Transnational Organized Crimes: Research Report,' UNODC (October 2011), p.20, https://www.unodc.org/documents/data-and-analysis/Studies/Illicit_financial_flows_2011_web.pdf> [On the 3rd of August, 2022, I checked].

¹⁴ The Alternative World Drug Report, Counting The Costs Of The War On Drugs: Executive Summary, by Steve Rolles, George Murkin, Martin Powell, Danny Kushlick, and Jane Slater (Count the Costs, 2012)

regulation. So, when the brutality of the War on Drugs is perused as 'sacrificial,' the evident inconsistency between the savagery of the War on Drugs and the helpful way of talking through which the law talks denial into being, intelligent of a more extensive compassion of post-frontier liberal global regulation, evaporates¹⁵. In the worldwide field, I propose a point of view of legitimate viciousness that stresses a capacity as regulation making/regulation saving, which attempts to tame worldwide contention through the assistance of worldwide local area through the idea of a 'sacrificial' global regulation. Since the local area for this situation claims all-inclusiveness, "conciliatory" savagery must be utilized against an incorporated nullification of the public request, and I contend that this converts into portrayals of "fizzled" mankind forced on racial inferior subjects through legitimate talk for global regulation's philanthropy¹⁶. This postulation will add to a more profound comprehension of its primary subject by offering a unique hypothetical focal point through which to see both the constant savagery of the medication war and the unevenness in its effect on different people groups all over the planet. The degree of detail I'll introduce about the development, creation, and utilization of worldwide medication regulation will be proper for my proposition's generally legalistic assumptions. My examination's hypothetical reason, then again, is to uncover and uproot the malevolent that has been uncovered in the lawful instruments that have been utilized to fabricate drug disallowance. This contention depends on the reason that to completely see the value in global medication regulation, one should be

¹⁵ 'Possessed: Drug Policy, Witchcraft, and Belief,' Desmond Manderson, *Cultural Studies* 19 (2005) 36-63, p.51.

¹⁶ 'Legalize Drugs and a Worldwide Epidemic of Addiction Will Follow,' *Guardian*, 5 September 2010 <http://www.theguardian.com/commentisfree/2010/sep/05/legalisation-drugs-antonio-maria-costa> [accessed on 9 August 2015]. Antonio Marie Costa (Head of the UNDOC), 'Legalize Drugs and a Worldwide Epidemic of Addiction Will Follow,' *Guardian*, 5 September 2010

worried for people whose lives have been broken by denial's set of experiences, as well as the individuals who have been survivors of the contention's violations. Such a hypothetical perspective plans to put forth an unequivocal defence with respect to global regulation's ceaseless magnificent hostility through the significant launch of medication denial. This is because of a large part of the writing on the War on Drugs, which has endeavoured to research the contention as though it were inconsequential to the conflict on fear¹⁷.

1.2 STATEMENT OF PROBLEM

With time, individuals who are frequently determined by retribution have sorted out the social disgrace connected with these claims, and instances of dangers of phony charges are not inconceivable. Maltreatment of medications is an interaction which is abuse of the medication in the different ways¹⁸. Also, when there is no medication item free individuals take it in another substance which is advantageously accessible in the market like the hack syrups, pain reliever, stick, colophony, paints, gas, and cleaning liquids, whitener, liquor, tobacco, hard and delicate medications are effectively being utilized by the road and working kids. In India there are not many states where illicit drug use has turned into a significant issue like Manipur, Himachal Pradesh, Punjab, Haryana, and Western Rajasthan, Punjab and Manipur are at the first spot on the list¹⁹.

¹⁷ Robert M. Kimmitt, 'International Law in the War on Narcotics,' Proceedings of the Annual Meeting of the American Society of International Law (ASIL), 84 (1990), pp. 302-307. Kimmitt argues for increased international coordination and legal power in order to attain the aim of global prohibition.

¹⁸ Philip Alston, Special Rapporteur's Report, p.13.

¹⁹ The New Jim Crow: Mass Incarceration in the Age of Colorblindness, Reprint Edition (The New Press, 2012), p.7. Michelle Alexander

As of now, chronic drug use is being viewed as serious issue since it get connected with the other significant violations which are totally not kidding and they are coordinated wrongdoings, illegal exploitation, and tax evasion. The issue we can see by the National Crime Research Bureau that in 2020 and 2021 the opiates of Rs. 20.00 and Rs 22.00 crore were seized. Utilization of medications can diminish the memory of the taker and it can likewise prompt demise. It can cause different genuine illness also like HIV/AIDS, coronary failure, disease and so on²⁰.

This paper will zero in on various part of abuse of medication like types of chronic drug use, its causes and will likewise attempt to give ideas to check this issue. Abuse of medications is shame in each country, particularly it deteriorate the state of non-industrial nations like India. There are wealth of motivations to make illicit drug use as criminal behaviour, not many of them are drug is harmful to wellbeing which can take life of individuals and making mindful youngsters about the risk of abuse of the drug is vital. India in article 47 of Constitution has given that it is the obligation of state to deny the abuse of medications²¹.

1.3 LITERATURE REVIEW

Due to nonappearance of any thought given to the issue being alluded to, there is absence of journals, books or articles from Indian authors committed to battling for the persistent medication use. In any case in countries like America, China, and Malaysia the academic world has sufficient number of articles, journals, and conversations for the same.

²⁰ Craig Reinerman and Harry G. Levine, 'Crack in the Rearview Mirror: Deconstructing Drug War Mythology,' *Social Justice* 31, 1-2 (2004) 182-19

²¹ America's Drug Laws: The New Jim Crow,' *Albany Law Review* 703 (2000), p.63. Ira Glasser

Laws and Policies Regarding War Against Drugs

In USA in the nineteenth 100 years, with emerge of morphine, cocaine and laudanum which were isolated to the component of psychoactive meds. In the US, the morphine was applied onto wound treatment and mollify torture for veterans during the nationwide conflict. The drug were unmistakably sold any place in the areas. The matter of creating morphine became prospering and it was spread out around the United States of America²².

In 1985, the manager endorsed the fundamental guideline to disallow the substance fixation after the crook was broken out in San Francisco. Until 1914, there were simply specialists, drug trained professionals or who had clinical grant were authentic for cocaine selling. The Supreme Court upset the specialists to take the sedatives medication since this was a propensity shaping treatment. The narcotic substances were officially reduced²³.

Sedative Drug and Psychotropic Substance Act²⁴ India is engaged with the three United Nations drug shows - Single Convention on Narcotic Drugs (Convention)²⁵, the Convention on Psychotropic Substances (show) ²⁶and the Convention against unlawful traffic in Narcotic Drugs and Psychotropic Substances (Convention)²⁷.

Local guideline to give effect on these arrangements was introduced potentially in 1980's the place where the 'polish time period' for revoking non-clinical usage of Maryjane and opium under the 1961 Convention slipped by. Rehearsing its powers to make guideline for the country for executing any game plan, understanding or show or decision made at worldwide gathering, "the

²² Unequal Under Law: Race and Law in the War on Drugs, by Dorine Marie Provine (Chicago: University of Chicago Press, 2007).

²³ Cocaine, Race, and Equal Protection,' Stanford Law Review 47, 6 (1995), 1284-1355.

²⁴ 1985

²⁵ 1961

²⁶ 1971

²⁷ 1988

Indian Parliament passed the Narcotic Drugs and Psychotropic Substances Act (NDPS Act)²⁸, missing a ton of conversation. The NDPS Act came into force on 14 November 1985, displacing the Opium Acts and the Dangerous Drugs Act. The Drugs and Cosmetics Act²⁹ in any case continue to apply.

It is genuinely but rather startling for note that not a single article has been dedicated to the issue by any Indian analyst, and thusly, we ought to draw allowances from new specialists generally, and read them with the ongoing guidelines and authentic principles as it exists in India. Along these lines, in spite of the way that the recently referenced articles are especially drafted and battle

1.4 SCOPE OF THE STUDY

The Research would not be limited to the Indian legal system rather, it would refer to the approach of the legal systems that have already dealt or are debating over this issue, like New Zealand, England, Australia and Ireland and would be making a study of the same in the Indian Society and legal system by importing the principles and legal theories that can sustain in Indian legally under the Constitution.

1.5 OBJECTIVE OF THE STUDY

The aim of the study was to find out the drug problems in India and outside and also to see whether there is proper laws and policy exist for the drug abusers.

Within this broad theme research has various objectives:

- To critically analyse the present criminal justice system
- To study the rights of the accused, and the principle of Fair trial.

²⁸ 1985

²⁹ 1945

- To recommend some suggestions and in the end conclusion⁰ that would be beneficial for the society at large and would prevent the misuse of drugs.

1.6 RESEARCH QUESTIONS

- 1) Do accused of Drug abuse stand at peril due to their names being public?
- 2) Does the absence of Accused Anonymity in Drug abuse causes neglect to Right to Reputation and Right to Fair Trial?
- 3) Can there be balance between the Society's Right to Know, Freedom of Speech and Expression, and the Accused Right to Fair Trial and Right to Reputation?

1.7 HYPOTHESIS

The hypothesis of the present work, is that the existing laws of India as well as USA, Malaysia and China, are not adequate to manage and handle the effect of War on Drugs, as their identification of victim and idea of Paternalism is now outdated with the growing jurisprudence of reformation and a New legislation is required that overrules the obsolete idea of State as a victim and promotes identification and rehabilitation of individuals as real victims.

1.8 METHODOLOGY

The present research had been doctrinal in nature and would be using a comparative approach towards the issue, holding comparative studies between the laws of different countries in contrast to the Indian scenario.

1.9 CHAPTERS

Chapter 1 – the first chapter shall act as the introduction to the issue and would be introducing the research issue, hypothesis, the objective and the topic in general. It would act as the base on which the other chapters are to be drawn.

Chapter 2-the second chapter would be a study of the historical development of war against drugs in different countries, that is USA, Malaysia, China. It would aim to draw out the underlying principles and argument in favour and against defendant, reasons for its existence and denial. It would be discussing the background how the drug emerged in the society.

Chapter 3 – the third chapter would be discussing the international conventions which are related to drug abuse at international level. And the chapter would be discussing about the foreign policies about the drug abuse.

Chapter 4 – the fourth chapter would be going into the rights of the accused as in the Indian Jurisdiction and would be trying to find out the concepts which are being followed in India through its legislation and case laws. It would look into the principles of the trial of the drug addicts and would make an analysis of the same and would try to understand if the concept of drug abuse with the legal principles and other ways.

Chapter 5- the final chapter would be making a conclusion by summarising the discussion above, and would be making a set of recommendation that would be the result of doctrinal research with bonafide intent to help in improving the ever growing criminal justice system of India.

CHAPTER II
HISTORICAL DEVELOPMENT OF WAR
AGAINST DRUGS: INDIA, USA,
MALAYSIA AND CHINA

2.1 CHAPTER INTRODUCTION

During the 1970s and 1980s, the US government started the "Battle on Drugs." Later on, state law made committees that started presenting new regulation requiring drug abusers to confront compulsory least sentences and diminishing court circumspection in sentence issuance. For the vast majority drug offenses, compulsory sentences brought about high detainment rates and inconsistent ramifications for minorities. Following quite a while of imprisonment under the new regulation, numerous people, legislators, and judges became disappointed with the reformatory principles and suggested for the change. Many suggested for change, referring to the monetary impact of expanded imprisonment on state financial plans, while others contended against the loopholes idea of obligatory least sentences for peaceful offenses, regardless others looked to uncover the standards' unforgiving impacts on minorities and different guilty parties. Some of the state authorities changed the drug law to remove the penalties which were harsh and was not appropriate. Be that as it may, most change allies neglected to refer to the divergent effect of regulation on ethnic minorities as a justification behind change. A few states' medication regulations have since been changed to eliminate a portion of the earlier obligatory punishments and

re-establish legal prudence. A few legislatures, in any case, have would not do as such.³⁰

What we in all actuality should be aware of the War on Drugs is that it prompted the entry of draconian sentencing regulations for drug offenses in certain states. Compulsory minimum sentences for a scope of offenses, life sentences for certain wrongdoers, and an overall decrease in legal authority were among these approaches³¹. This rules and regulations have excessively influenced minorities, especially blacks. We likewise realize that various states have deserted the brutal strategies authorized during the War on Drugs for legal tact and a decrease in the utilization of jail time for drug offenses. What we don't know is the reason such countless states have changed their correctional approaches, how state law making bodies had the option to do as such without passing regulation, and how they had the option to do as such without depending on case.³²

Numerous administration authorities suggested that the changes were made because of public commotion about unforgiving condemning practices and their social and financial outcomes. Nonetheless, no genuine endeavour has been made in the political theory writing to investigate the political conditions that prompted changes in the serious approaches of the War on Drugs. The recognition is for taking an intense line against wrongdoing and tending to racial variations in condemning outcomes. The ensuing pattern away from correctional measures and toward change gives off an impression of being at chances with the writing's assumptions regarding the reason

³⁰ The New Jim Crow: Mass Incarceration in the Age of Colorblindness, Reprint Edition (The New Press, 2012), p.7. Michelle Alexander

³¹ Craig Reinerman and Harry G. Levine, 'Crack in the Rearview Mirror: Deconstructing Drug War Mythology,' *Social Justice* 31, 1-2 (2004) 182-199.

³² America's Drug Laws: The New Jim Crow,' *Albany Law Review* 703 (2000), p.63. Ira Glasser

why states areas of strength for embrace discipline arrangements.³³ This suggests the conversation starter of why lawmakers took a chance with their re-appointment by repudiating arrangements that had recently been strategically and freely satisfactory. In my exposition, I centre around Michigan and New York, two expresses that executed a portion of the harshest sentencing practises during the War on Drugs and have since virtually completely reversed those laws.

Numerous administration authorities guaranteed that the progressions were carried out in response to public clamour about serious condemning and its social and monetary impacts. Notwithstanding, in the political theory writing, no genuine endeavour has been made to examine the political conditions that prompted alterations in the brutal arrangements of the War on Drugs. The honour is for taking a firm position against wrongdoing yet additionally tending to racial disparities in condemning results. The accompanying shift away from reformatory measures and toward change seems to oppose the writing's assumptions for why states support unforgiving medication discipline regulations.³⁴

2.2 WHY ARE DRUG SENTENCING LAWS GETTING TOUGHER?

The ascent of the corrective idea of medication condemning regulation has been credited to various elements in the political theory writing. Among these incorporate the intensity of ideological groups, wrongdoing examples, and race. While these elements assume a part throughout the entire existence of medication discipline regulation, they are not really the main variables. This study will show which of these attributes are the most significant, as well as how different perspectives, as cash, are considerably more significant than those assessed in before studies.

³³ *Unequal Under Law: Race and Law in the War on Drugs*, by Dorine Marie Provine (Chicago: University of Chicago Press, 2007).

³⁴ 'Cocaine, Race, and Equal Protection,' *Stanford Law Review* 47, 6 (1995), 1284-1355

Leftists acknowledged from the beginning in the War on Drugs that they would lose votes on the off chance that they didn't acknowledge reformatory medication condemning strategies. Following that, Democrats started to acknowledge, yet additionally to push for, regulation that was on their own plans. To put it another way, the Democratic Party started to involve the Republican Party's hard on-wrongdoing manner of speaking as a mission issue³⁵.

The two gatherings dashed to "out-intense" each other until the Democrats decided to make this an issue. This prompted the fast spread of the unforgiving condemning arrangements of the War on Drugs, as well as the gatherings' obvious failure to dismiss the corrective regulations and push for change. The gatherings merged on an extreme on-wrongdoing position to help the War on Drugs' heightening, as indicated by this exploration. Besides, I've seen that expresses that have altered their cruel condemning regulations did as such because of bipartisan collaboration.³⁶ This is in

³⁵ 'The Numbers in Black and White: Ethnic Differences in Drug Policing and Prosecution in England and Wales,' Niamh Eastwood, Michael Shiner, and Daniel Bear are among the cast members. The year of the release is 2013. According to the data, Black people are substantially more likely to be charged and punished for the same drug offence in the United Kingdom, with 56 percent of White people discovered in possession of cocaine receiving cautions and 44 percent facing charges. However, when Black people were found in possession of cocaine, only 22% were issued warnings, while 78% were prosecuted with the offence. In terms of punishment, this disparity persists, with Black people being imprisoned at approximately six times the rate of White persons for drug offences.

³⁶ 'More Black People are Imprisoned in England and Wales than in the United States,' Guardian, 11 October 2010: Randeep Ramesh. 'More Black People are in Prison in England and Wales than in the United States,' Guardian, 11 October 2010: "In the United Kingdom, the proportion of black people in jail was roughly seven times their population share, whereas in the United States, the proportion of black people in prison is four times their population share." <http://www.theguardian.com/society/2010/oct/11/black-prisonpopulation-increase-england> [on the twenty-first of October, 2015] Equality and Human Rights Commission, *How Fair is Britain: Equality, Human Rights, and Good Relations in 2010* (EHRC, 2010), p.172; Equality and Human Rights Commission, *How Fair is Britain: Equality, Human Rights, and Good*

all probability because of the way that any endeavour to change brutal criminal regulations for additional tolerant ones will without a doubt be disliked with the general individuals.

Wrongdoing designs, as indicated by the writing, will affect wrongdoing strategy. As per this hypothesis, if wrongdoing, capture, and detainment rates develop, criminal regulation will turn out to be more serious. This is on the grounds that proof of expanded wrongdoing will stimulate public nervousness and fuel the possibility that harder guideline is required. Nonetheless, with the War on Drugs and related condemning guidelines, this isn't true. The War on Drugs has created an oddity because of the manner in which the regulations have been applied as well as the outcomes. At first, the War on Narcotics made new classes of wrongdoing by condemning already lawful exercises like the utilization, ownership, and deal or conveyance of specific substances. Because of the captures and convictions for ways of behaving that were already lawful yet are currently denied, crime percentages have increased emphatically. This conveyed the feeling that wrongdoing had gone crazy and required to have been managed.³⁷

There was no expansion in crime percentages as the War on Drugs progressed, and truth be told, most sorts of wrongdoing fell. Defenders of the War on Drugs, then again, keep on accepting that medication use, wrongdoing, and the requirement for vigorous regulation to direct and rebuff that culpability are on the ascent. This is done through publicizing data about drug captures, seizures, and detainment rates. This is, be that as it may, owing generally to the actual arrangements. These measurements

Relations in 2010 (EHRC, 2010), p.172 Equality and Human Rights Commission, How Fair is Britain: Equality, Human Rights, and Good Relations i2010 (EHRC, 2010), p.172. "The number of Black people imprisoned in the United Kingdom is increasing."

³⁷ 'The Numbers in Black and White: Ethnic Differences in Drug Policing and Prosecution in England and Wales,' Niamh Eastwood, Michael Shiner, and Daniel Bear are among the cast members. The year of the release is 2013.

are utilized to show that the medication war is "working." They do, notwithstanding, conceal the way that the War on Drugs no affects drug-related wrongdoing. All things being equal, it has become more productive to be engaged with the medication exchange, and medication use and related violations have flourished. Because of this exploration, I verified that whether states changed their brutal medication discipline regulations insignificantly affected wrongdoing designs.

Customary ideas with respect to race and criminal approach, then again, don't appropriate to the arrangements of the War on Drugs. Lawmakers seemed, by all accounts, to be condemning medication utilization some time before the War on Drugs was laid out, in an evident endeavour to control explicit minority networks. Many individuals expressed that the 1970s and later many years' condemning methods were critical in diminishing racial incongruities in sentence results. Strategies like required least sentences, for instance, were made to guarantee that prisoners who carried out similar wrongdoings got a similar sentence³⁸. This was planned to decrease racial imbalances by removing judges' attentiveness, which could be one-sided against minorities. Also, noticeable African Americans have communicated help for the brutal condemning measures, accepting that they will assist with lessening drug use and wrongdoing in their networks.³⁹ Lamentably, the

³⁸ 'Drugs and Drug Control in Brazil,' by Jamie Amparo Alvez and Dina Alvez. Professor Anita Kalunta-Crumpton, ed., *Pan-African Issues in Drugs and Drug Control: An International Perspective* (Ashgate: 2015), pp.248-292.

³⁹ 'More Black People are Imprisoned in England and Wales than in the United States,' *Guardian*, 11 October 2010: Randeep Ramesh. 'More Black People are in Prison in England and Wales than in the United States,' *Guardian*, 11 October 2010: "In the United Kingdom, the proportion of black people in jail was roughly seven times their population share, whereas in the United States, the proportion of black people in prison is four times their population share." <http://www.theguardian.com/society/2010/oct/11/black-prisonpopulation-increase-england> [on the twenty-first of October, 2015] Equality and Human Rights Commission, *How Fair is Britain: Equality, Human Rights, and Good Relations in 2010* (EHRC, 2010), p.172; Equality

reformatory methodologies have brought about a developing divergence among white and minority lawbreakers' disciplines⁴⁰. By a wide margin, dark hoodlums have been the most oppressed because of the arrangements. Unfair treatment has likewise been applied to Latino guilty parties. In spite of this supposedly startling outcome, change advocates don't refer to it as proof of the change exertion's prosperity. Notwithstanding the way that diminishing differences was one of the justification for the regulations' entry in any case, administrators don't recommend that dark hoodlums have endured treacheries because of the guidelines.

I add to past research in this work by introducing proof that fills in the holes in ebb and flow speculations. While current political theory writing portrays individual factors that might impact wrongdoing regulation, I offer a more exhaustive image of the intricacies in the connection of these elements, which variables arise as significant causal variables, and how the variables cooperate to cause change, or absence of progress, in drug condemning regulation. In my viewpoint, the ongoing writing overlooks the absolute most significant component deciding medication discipline strategy: cash. Regardless of the way that a large part of the current material focuses on the development of the War on Drugs preceding increasing imprisonment rates and monetary worries in numerous purviews, it overlooks financial plans and spending⁴¹.

Then again, I accept that the monetary strain welcomed on by expanded imprisonment rates has turned into the essential driver of condemning strategy change in the War on

and Human Rights Commission, *How Fair is Britain: Equality, Human Rights, and Good Relations in 2010* (EHRC, 2010), p.172; Equality and Human Rights Commission, *How Fair is Britain: Equality, Human Rights, and Good Relations in 2010* (EHRC, 2010), p.172. "The number of Black people imprisoned in the United Kingdom is increasing."

⁴⁰ 'Drugs and Drug Control in Brazil,' by Jamie Amparo Alvez and Dina Alvez. Professor Anita Kalunta-Crumpton, ed., *Pan-African Issues in Drugs and Drug Control: An International Perspective* (Ashgate: 2015), pp.248-292

⁴¹ "Law, Race, and Violence," *Griffith Law Review* 18 2 (2009), p.232. Denise Ferreira da Silva.

Drugs. Thus, the elements that added to the War on Drugs' acceleration have been neglected for monetary contentions. Administrators focus on the monetary issues brought about by the strategies over practically any remaining worries, including the discriminatory awkward nature that racial minorities face because of the approaches.⁴²

My discoveries on the de-heightening of the War on Drugs are much huge, as they show the significance of cash in criminal regulation, as well as officials' obvious readiness to ignore, or in any event minimize, the extreme shameful acts that racial minorities face because of condemning strategies. Customarily, the focal point of wrongdoing regulation has been on open wellbeing and criminal discipline. Ethical quality and wellbeing have generally outweighed everything else above good and bad. This standard language, then again, is deserted during the de-heightening of the War on Drugs. As opposed to these vital American convictions, the public's stress over cash and the state's capacity to help other arrangement regions that are critical to the general population is presently being engaged. Moreover, there is next to zero respect for the public's advantage in equity, and consideration is coordinated away from the unbalanced impacts of ethnic minorities. At the point when administrators see a need to alter regulation in a manner that could be politically hazardous, they evidently go to the public's number one instrument: cash.

2.2 HISTORY OF THE WAR ON DRUGS

2.2.1 USA

The United States has a long history of endeavouring to control lastly condemn drug creation, transportation, ownership, and use. A significant number of the medications that are presently unlawful were initially legal and were utilized for an assortment of purposes, including relief from discomfort, clinical treatment, and tranquilizer. Specialists recommended heroin, cocaine, morphine, and Maryjane, which were all likewise sold in supermarkets and through mail request. Drugs were broadly utilized

⁴² My Cocaine Museum, Michael Taussig (Chicago: University of Chicago Press, 2004).

all through society, and dependence was normal. A few friends were dismissed and criticized, prominently dark and Chinese addicts. A considerable lot of them, be that as it may, were from the centre and privileged societies, with the larger part being ladies. This gathering saw enslavement as need might have arisen to be treated by a specialist, instead of a criminal offense⁴³.

The public's impression of medication use was starting to move. By 1903, the American Pharmaceutical Association had recommended that cocaine and opium be directed rather than precluded. As per one suggestion, the medications ought to just be accessible with a solution⁴⁴. The object was to hold individuals back from becoming dependent on drugs, yet junkies were to be treated by a specialist⁴⁵. The Pure Food and Drug Act⁴⁶ made it fundamental to proclaim opiate parts on the names of any prescriptions sold over state lines. While drug guideline seems to have started as a clinical work to battle enslavement, there was additionally an enemy of bad habit crusade at that point, which included drinking, betting, prostitution, and medication use. The battle against psychological warfare included drug change.

By 1914, the fight on opiates had taken on a more genuine tone. Officials started to relate more prominent criminal way of behaving to rising medication use and habit. The central government drove the charge to make drug utilize unlawful, with states following followed with their own regulation. Agent Francis Burton Harrison, a Democrat from New York, has acquainted regulation with safeguard specialists' capacity to endorse drugs as a feature of clinical treatment, yet to rebuff people who use or have narcotics without a solution. At this point, the overall population had

⁴³ Law, Race, and Violence," *Griffith Law Review* 18 2 (2009), p.232. Denise Ferreira da Silva

⁴⁴ *My Cocaine Museum*, Michael Taussig (Chicago: University of Chicago Press, 2004).

⁴⁵ See Washington Office on Latin America (2013), p.4, 'Peace, Drug Policy, and an Inclusive Society: Eleven Ways Colombian and FARC Negotiators Can Reform Drug Policy and Build a Lasting Peace.'

⁴⁶ 1906

acknowledged the way that illicit drug use was an issue and that medication control was required.⁴⁷

Southern Democrats, then again, were against the bill, expecting that it would permit the national government to usurp state police powers conceded by the Constitution. Therefore, the national government's ability to control opiates was dependent on its capacity to burden, with the Treasury Department responsible for authorization. This brought about the Harrison Narcotics Act⁴⁸. The Act expected producers and wholesalers of drugs to enrol with the national government, hold records of their exercises, and pay a buy or deals charge. Those looking for prescriptions needed to get them from an endorsed specialist them for restorative reasons. It was not made criminal by the law to utilize.⁴⁹

Before long, the Supreme Court started to decide for the Treasury Department, permitting it to keep completing the Harrison Act's arrangements. The Supreme Court controlled in *Webb v. US*⁵⁰ that a specialist who sold a huge number of remedies for fifty pennies each was not honestly rehearsing medication, and subsequently maintained his capture under the Harrison Act. In *United States v. Behrman*⁵¹, the Supreme Court held that the Harrison Act just approved medicines for drugs that were required over a specialist's training, and that a remedy that was not required for the treatment of a condition other than enslavement was invalid. Therefore, the Court concurred that overseeing medications to junkies was illegal.

⁴⁷ The United States and International Drug Control, 1909-1997, by David R. Bewley-Taylor (New York: Continuum, 2001), p.43.

⁴⁸ 1914

⁴⁹ Drug Use and Cultural Contexts 'Beyond the West': Tradition, Change, and Post-Colonialism (eds. Ross Coomber and Nigel South) (London: Free Association Books, 2005).

⁵⁰ 1918

⁵¹ 1941

These Supreme Court decisions began and upheld the prohibitionist part of the Treasury Department's execution of the Harrison Act. Legislators and the overall population upheld the Treasury Department's extreme position, guaranteeing that the arrangement would stay set up. In spite of the Supreme Court's shift in perspective, the Treasury Department's way to deal with Uniform Narcotic Drug Act⁵², opening the way for the intensification of what became known as the War on Drugs.

The national government laid out the Federal Bureau of Narcotics in the Treasury Department in 1930. It would supplant the Bureau of Prohibition's Narcotics Division as the primary free medication control organization. The first "drug autocrat" was conceived when President Hoover named Harry Anslinger as magistrate of the Federal Bureau of Narcotics' Prohibition Unit (FBN).¹⁸ While various states had passed drug-related regulation, the formation of these government associations to screen the Battle on Drugs' spread set up for states to take action accordingly with their own medication related rules. At last, the national government would give money to help states in joining and growing the Battle on Drugs⁵³.

In 1951, Congress passed regulation requiring a two-year least sentence for first-time ownership convictions, five to a decade for second-time ownership convictions, and ten to twenty years for third-time ownership convictions, which were all supported by Democrat Hale Boggs. The Narcotic Control Act⁵⁴, passed by Congress in 1956, expanded the required least sentences for the second and third offenses from five to twenty years and ten to forty years, individually. Grown-ups who give heroin to a minor could now confront capital punishment. The compulsory least discipline would characterize the War on Drugs.

⁵² 1932

⁵³ Journal of Law and Society, 43, 3 (September 2016), pp. 393-415, Toby Seddon, "Inventing Drugs: A Genealogy of a Regulatory Concept."

⁵⁴ 1956

During this time, specialists made progress toward regarding illicit drug use as a clinical issue instead of a criminal one. The Narcotic Addict Rehabilitation Act⁵⁵ permitted the Public Health Service to give treatment instalments to fiends. The Drug Abuse Act⁵⁶ extended subsidizing for drug restoration. President Richard Nixon laid out the Special Action Office for Drug Abuse Prevention⁵⁷ to manage drug treatment and counteraction programs. The National Institute on Drug Abuse (NIDA) was laid out in 1973 as the public authority's medication strategy making body. The significant treatment procedures at the time were a perspective on enslavement as a mental and social issue, an endeavour to give transient treatment, momentary methadone detoxification, and long haul methadone detoxification, among others.

President Richard Nixon was in the front of the battle for the War on Drugs and Addiction to be pronounced. Drugs turned into a public issue for President Nixon, who outlined them as a public safety danger. He contended for harder regulations that treat drugs as a criminal as opposed to a clinical issue, expanded financing for reformatory regulations, and the foundation of a huge government administration to do the War on Drugs. The Republicans' hug of the rule of peace and law subject during the 1968 mission cultivated and powered this development. Riots emitted the nation over, as did an expansion in road wrongdoing, going after the public's trepidation and the public authority's ability to connect opiates to wrongdoing. The political and social environment was ideally suited for extreme on-wrongdoing techniques, and President Nixon exploited it to speed up the War on Narcotics, claiming that opiates and wrongdoing addressed a danger to the wellbeing and security of millions of Americans.⁵⁸

⁵⁵ 1966

⁵⁶ 1970

⁵⁷ 1971

⁵⁸ 'Challenging "evil": Continuity and Change in the Drug Prohibition Regime,' *International Politics*, 51, 4 (2014), pp.525-542, p.526. Christopher Hobson,

The extreme arrangement statements were quickly classified by Congress, which passed bipartisan regulation. The Comprehensive Drug Abuse Prevention and Regulation Act⁵⁹ moved drug control purview from the tax collection power to the highway trade authority, giving Congress fundamentally greater adaptability in managing the subject. This bill gave policing power by permitting them to get and utilize "no-thump" warrants, which permitted them to enter and look through homes and structures without providing notice of their position or motivation, and it likewise extended the medication battle to incorporate an unfamiliar medication battle to battle drug supply from different nations. Subsequently, drug-war spending expanded, as did the government drug-control administration's size. Nixon laid out the Office of Drug Abuse Law Enforcement, however after it was chastised for its energetic authorization strategies in 1973, he merged government drug implementation with the Drug Enforcement Administration (DEA).⁶⁰

Under President Nixon and the DEA, the War on Drugs was well in progress and in full power. Following Nixon's advancement of a huge organization, enormous spending, and public trepidation over the War on Drugs, resulting organizations couldn't roll out critical improvements.⁶¹ Presidents Ford and Carter made no endeavour to change or converse President Nixon's strategies, nor did they stress the medication battle as a significant approach issue. Regardless of the way that neither Ford nor Carter involved solid manner of speaking on the side of the War on Drugs,

⁵⁹ 1970

⁶⁰ See, for example, S. K. Chatterjee, *Legal Aspects of International Drug Control* (Martinus Nijhoff, The Hague, 1981); Neil Boister, *The Suppression of Illicit Drugs through International Law* (PhD thesis, University of Nottingham, 1998); Neil Boister, *Penal Aspects of the UN Drug Conventions* (Kluwer Law International, 2001).

⁶¹ *The Gentlemen's Club: International Control of Drugs and Alcohol*, by Kjetil Bruun, Lynn Parr, and Ingemar Rexed (Chicago: University of Chicago Press, 1975), p.13.

each endeavour to change the regulations was met with antagonism. Thus, Presidents Reagan and Bush were prepared to proceed with the Cold War's heightening.

President Ronald Reagan addressed a social affair clamouring for the War on Drugs to be increased much more. Cocaine use had expanded to where it was currently viewed as a more serious danger than weed or heroin. During the 1980s, break had additionally been a worry. Nancy Reagan's "Simply Say No" crusade drew the consideration of guardians' gatherings and schools. During President Ronald Reagan's most memorable year in office, he conveyed the entire government knowledge organization, including the CIA, to do the War on Drugs, and he started to utilize the US military to police the War on Drugs at the boundary.

President Clinton didn't really accept that that significant change of the Battle on Drugs' strategies was politically achievable, and the medication war's spending plan developed considerably bigger under his administration. While President Clinton kept away from the brutal manner of speaking of his ancestors, he was restricted in his capacity to de-raise the War on Drugs in any significant manner by dug in arrangements and general assessment, which answered the War on Drugs' hard on wrongdoing way of talking and was unwelcoming to any approach mellowing. President Clinton made huge slices to the staff of the Office of National Drug Control Policy and endeavoured to combine the DEA and the FBI, however these endeavours, similar to every one of those before them, were met with gigantic resistance and yielded minimal genuine change. Clinton had the option to accomplish humble changes with the National Drug Control Strategy, which upheld for a shift to treatment and wellbeing administrations, as well as an expansion in treatment subsidizing, and the Crime Control Act⁶², which supported for detainee treatment and financing for treatment options in contrast to jail.

⁶² 1994

The central government's endeavours to control drugs have quite often concurred with endeavours to direct minority populaces. Bigot and nativist perspectives filled the counter bad habit campaign. There was worry in the last part of the 1800s and mid 1900s about migration and populaces that were considered as a danger to America's profound quality and economy. Outsider medication use has been associated with the opportunities for bias against blacks, Mexicans, and Chinese to spread across American culture.

Guidelines to control and later rebuff the utilization and ownership of opium were passed as the Chinese populace in California extended in size and power. In the last part of the 1800s, San Francisco passed regulation denying the utilization of opium, and eleven other western states before long followed after accordingly. It was imagined that Chinese workers were at fault for the ascent in high schooler compulsion in the United States.

The central government's endeavours to control the Mexican populace in the Southwest, and progressively the nation over, have matched its endeavours to manage cannabis guideline and criminalization regulation. During the 1920s, Mexican migration escalated public feeling of dread toward cannabis in the South and West. Mexican workers, similar to Chinese outsiders in California and the West, were related with viciousness and an absence of ethics. At first invited as workers, the Great Depression of the 1930s left Mexican work old, and Mexicans were connected with wrongdoing and pot. Pot, as indicated by press reports, is a sexual energizer that urges Mexicans to carry out wrongdoings at a higher rate than everyone. Not long after this time span, the central government passed the Marijuana Tax Act⁶³.

The national government's capacity to take advantage of a connection between unlawful opiates and related guiltiness among minorities and outsiders plays had an

⁶³ The Suppression of Illicit DThe United States and International Drug Control, 1909-1997, by David R. Bewley-Taylor (New York: Continuum, 2001), p.43.

essential impact in the War on Drugs' heightening and, in spite of its undeniable downfalls, its toughness. The public authority keeps on imparting nervousness in people in general about dark break junkies, Latino cannabis smokers, opium producing in Afghanistan, and medication cartels in Mexico, Columbia, and other South American nations⁶⁴.

The medication war's acceleration came about in unforgiving condemning systems for a long time. Many states, then again, at last felt the heaviness of the strategies and their results. States have experienced colossal monetary expenses because of detaining a steadily expanding number of peaceful medication wrongdoers because of administered least sentences for some offenses and life sentences for other people. Racial minorities, strikingly African Americans, were lopsidedly impacted by drug-war arrangements. In comparative situations, minority wrongdoers got longer sentences on normal than their white partners. While this was valid the nation over, the medication war's de-heightening didn't cause to notice it. The organization additionally understood that the medication war's brutal measures had neglected to create the impacts that were apparently the objective of the conflict on drugs from the beginning. States imprisoned low-level clients instead of the medication masters who were intended to be kept by the methodology, and crime percentages didn't decline.

Many states started to de-raise their medication war measures because of these worries. De-heightening took many structures, including the cancellation of compulsory least terms for various wrongdoings, the advancement of medication courts to divert specific hoodlums into treatment, and the acknowledgment of different options in contrast to detainment for low-level, peaceful guilty parties. It was a risky political choice for officials to change from the War on Drugs' hard on-wrongdoing approaches to the more liberal regulations looked for and established

⁶⁴ Drug Use and Cultural Contexts 'Beyond the West': Tradition, Change, and Post-Colonialism (eds. Ross Coomber and Nigel South) (London: Free Association Books, 2005).

during the de-heightening. Its prosperity can be ascribed to a great extent to a progression of conditions that concurred to permit legislators to neglect corrective measures for a more liberal, treatment-arranged approach. The principal factor was the monetary difficulty brought about by the expansion in detainment rates because of the arrangements of the War on Drugs. The second was an unexpected organization that made strategy change conceivable in this politically charged environment. The third point was the effect on minorities, which, notwithstanding its seriousness and clearness, was seldom featured as a justification behind amending the rebuffing arrangements⁶⁵.

The United States of America detains its very own greater amount residents than practically some other industrialized country in the world, at a rate five to multiple times higher than other industrialized nations. The high imprisonment rate in the United States is an aftereffect of "extreme on wrongdoing" approaches, especially the War on Drugs. Since the mid-1970s, when the War on Drugs started, the quantity of individuals imprisoned in the United States has expanded by 500%. While all medication wrongdoers have had their sentences stretched, including white lawbreakers, racial minorities have borne the brunt of the greater detainment rates in all states⁶⁶. This is valid for all minorities, however dark lawbreakers specifically

For instance, while one out of each and every 30 men between the ages of 20 and 34 is presently detained, one out of each and every nine individuals of colour in that age bunch is as of now imprisoned. These information apply to all states, while various states have managed mass imprisonment and its ramifications on ethnic minorities in various ways. The current political theory writing makes sense of why legislatures took on the brutal strategies of the War on Drugs, yet it doesn't make sense of why

⁶⁵ Drug Control and Human Rights in International Law (Cambridge: Cambridge University Press, 2017), by Richard Lines.

⁶⁶ 'International Law and Its Discontents: Critical Reflections on the War on Drugs or the Role of Law in Creating Complexity,' ASIL Proceedings (2012), pp.172-176. Alvaro Santos.

states have responded distinctively to issues that have emerged because of long periods of involvement in the projects.⁶⁷

The War on Drugs' draconian condemning regulation included compulsory least sentences for various offenses, which removed judges' circumspection in condemning and required jail time no matter what a guilty party's specific qualities. Numerous scholastics have expounded on why legislatures instituted compulsory essentials during the War on Drugs. Among its clarifications are an apparent danger presented by ethnic minorities, political moving to appear to be hard on wrongdoing, and response to criminological patterns and events. In any case, as of late, a few states have moved to alter their regulations to eliminate compulsory least sentences for re-establishing legal tact and restoring peaceful medication wrongdoers instead of detaining them. Regardless of the way that predisposition in the law enforcement framework stays neglected and an intense on-wrongdoing position is considered as a safe political methodology, this has happened.

A few state administrators used racial uniformity manner of speaking after the War on Drugs started, yet this way of talking has generally been deserted after the de-escalation. This brings up the issue of why a few states are making the politically troublesome stride of adjusting their obligatory least condemning regulations to mellow their position on wrongdoing, and how are they getting along so without seeming to utilize racial language in an exceptionally racialized strategy region? Some contend that changing the arrangements is fundamental on the grounds that the expense of detaining enormous quantities of medication wrongdoers has brought about spending plan shortages, and on the grounds that administrators presently have new data on certain medications, for example, the way that rocks is basically an alternate type of powder cocaine as opposed to an alternate, more hazardous

⁶⁷ 'Law in Other Contexts: Stand Bravely Brothers!' by Oscar Guardiola-Rivera. 111–134, p.114, *International Journal of Law in Context*, 4, 2 (2008), pp. 111–134, p.114.

substance. Be that as it may, assuming these are the reasons specific states are adjusting their arrangements, for what reason aren't different nations following after accordingly.

This study looks at state drug condemning regulations and changes in those regulations to act as an illustration of state-level arrangement progress. It investigates why certain states have changed their medication condemning approaches to be more merciful, while others have remained something similar or altered their regulations to be more rigid. The difference in state strategy changes in the field of medication condemning regulations is befuddling, considering that all states have encountered colossal expansions in imprisonment rates and the resultant monetary lacks. Likewise, racial minorities in all states have confronted different outcomes because of the limitations, including crueller punishments. Thus, this study researches whether minority investment in state law making bodies impacts the portrayal of minorities in state councils.

This study will take a gander at the heightening of the War on Drugs and the ensuing de-acceleration, during which various states re-examined their obligatory least approach. As per my hypothesis, not a great explanation pushed states to carry out compulsory least arrangements, and no single causal component constrained a few states to invert their approaches. Rather, a mix of elements are bound to connect to make the circumstances under which state run administrations order and change required least regulations. Both heightening and de-acceleration are probably going to be impacted by comparable factors.

In any case, the manners by which these factors connect have without a doubt modified in many states, especially those that have changed their arrangements. The

collaboration of components that drive the acceleration and de-heightening of the War on Drugs can be addressed utilizing straightforward conditions.⁶⁸

As per rationale, wrongdoing patterns and race impacted both the acceleration and de-heightening. The ascent or fall in crime percentages, whether certain areas are impacted, and the kinds of wrongdoings carried out are instances of wrongdoing patterns. Race incorporates both the race of lawbreakers and the race of casualties, including minorities who might be named casualties since they live in horror locales. Another significant issue is governmental issues, as state administrators should constantly think about the discretionary implications of their policymaking exercises while establishing required least guidelines. Coming up next is a condition that communicates the War on Drugs' heightening?⁶⁹

2.2.2 MALAYSIA

The way officials, people in general, and the media talked about wrongdoing patterns and race in legislative issues reflects how the issue was examined. The manner of speaking utilized, as well as racial and partially blind jargon, will be covered. It will show who upheld the arrangements as well as who upheld changes to the approaches.

The variables that influenced the de-heightening of the War on Drugs give off an impression of being equivalent to those that roused the acceleration, however in various ways, with one vital angle included: state financial plan issues brought about by the imprisonment of huge quantities of medication guilty parties. Thus, we have a condition that communicates the War on Drugs de-acceleration.

⁶⁸ 'To conduct a successful war against heroin addiction, we must have worldwide cooperation,' said Richard Nixon in his 'Special Message to the Congress on Drug Abuse Prevention and Control,' issued in 1971. In order to ensure such cooperation,

⁶⁹ Journal of Law and Society, 43, 3 (September 2016), pp. 393-415, Toby Seddon, "Inventing Drugs: A Genealogy of a Regulatory Concept."

2.2.3 CHINA

Most of the writing on compulsory essentials and the War on Drugs has focused on the escalation of the War on Drugs and the motivations behind why states executed obligatory least approaches in any case. Three ways of thinking have been introduced to make sense of the heightening of the War on Drugs: race issues, political causes, and criminological patterns and events. Every one of these will be shrouded in more detail later. My appraisal of the writing on the heightening of the War on Drugs will prompt a bunch of theories about the de-acceleration of the War on Drugs.

Since little examination has been done on this phase of the approach cycle, investigating the de-acceleration ⁷⁰of the War on Drugs will be a significant and imaginative commitment to the political theory writing. While the current examination contains a system for investigating the acceleration of the War on Drugs, there is no proposed or tried worldview for inspecting significant parts of the de-heightening. This study takes a gander at the political cycles included, the language and manner of speaking utilized in pushing for changes, and the moving that has permitted legislators to take the politically hazardous place of cancelling 'intense on wrongdoing' strategies while seeming to act without respect for race and nationality.

This examination makes a significant commitment to the corpus of information. It's the beginning of a gander at a confounded area of state policymaking. The heightening was basically an organized exertion among the states, as indicated by the writing. The de-heightening has been special and shifted among the states, with no point of reference in the writing. This investigation of the de-heightening will make the writing on the War on Drugs more intensive by copying a portion of the examinations and factors utilized in the ongoing writing, as well as taking a gander at

⁷⁰ 'Challenging "evil": Continuity and Change in the Drug Prohibition Regime,' *International Politics*, 51, 4 (2014), pp.525-542, p.526. Christopher Hobson,

extra factors and the interaction among the new and confounded parts engaged with the de-acceleration.⁷¹

2.2.4 INDIA

Race factors, criminological patterns and events, and political elements are the three vital autonomous factors in this review, which are all tended to through contextual investigations. In each state, I look at the manner of speaking utilized in official addresses, public remarks, and support proclamations to check whether my racial speculations are right. I likewise take a gander at the level of racial minorities in each state's populace, as well as their portrayal in the governing body⁷². This permits me to evaluate assuming that racial wording was utilized or stayed away from in the talk used to advocate for strategy changes. Also, I assess my suspicions on criminological patterns and events by looking at wrongdoing designs, spending plan shortfalls, and strategy corrections for each state. This will help assess whether strategy changes were made because of changing wrongdoing designs, subsidizing imperatives, or a blend of the two. I additionally see who was responsible for proposing and sanctioning arrangement changes by checking out at the party cosmetics of state law making bodies and governorships. This features how ideological groups and different circumstances, for example, hard on-wrongdoing manner of speaking and its later deserting, made approach changes politically doable for administrators. The states picked for this top to bottom contextual investigation are USA and China⁷³.

These states were decided to show the plenty of worries that have emerged in each express that has considered changing its compulsory least necessities. While it is essential that example cases address the full populace of cases, it is similarly important that the occurrences picked have the qualities vital for logical influence and examinations with different states. Generally speaking, the models ought to contrast

⁷¹ Article 36 of the 1961 United Nations Single Convention on Narcotic Drugs.

⁷² Article 36 of the 1961 United Nations Single Convention on Narcotic Drugs.

⁷³ UNESCO Courier, July (1987), pp.7-9, Jean Baudrillard, 'A perverse logic.'

in vital aspects. Test cases could likewise be valuable for giving foundation data that is essential to the whole investigation. USA and China have the absolute biggest jail frameworks in the country⁷⁴. This is expected to some extent to their set of experiences of sanctioning intense enemy of wrongdoing regulation, like obligatory least terms. Nonetheless, the obligatory least regulation in both of these states has been radically diminished. They are accordingly illustrative of the issues featured in this paper: for what reason are officials leaving intense on-wrongdoing arrangements to change compulsory least guidelines, and how can they keep away from the presence of following up on racial contemplations⁷⁵?

In the political theory writing, cases are partitioned into an assortment of classifications, including commonplace cases, differentiated cases, outrageous models, freak cases, powerful cases, and generally comparative/most unique circumstances. Albeit many occurrences are picked in light of the most comparable, in which cases are tantamount on all autonomous factors save the variable of interest, in this review, I have picked degenerate cases. When contrasted with famous comprehension of pertinent hypothesis or good judgment, degenerate models exhibit a surprising result. All through the War on Drugs, states and government officials have utilized their intense on-wrongdoing convictions to order obligatory least regulation. Different states, like New York and Michigan, have revoked comparable guidelines notwithstanding the political risk⁷⁶. While famous reasoning says that officials will keep on being hard on wrongdoing and backing obligatory least regulations, a few states have contradicted some common norms and changed their strategies. They've

⁷⁴ 'The Rhetoric of Drugs,' by Jacques Derrida.

⁷⁵ 21 The Avery Review, Shela Sheikh, "Translating Geontologies" (2017)

⁷⁶ See Ross Coomber and Nigel South (eds.), *Drug Use and Cultural Context 'Beyond the West'* (London: Free Association Books, 2004); or Jordan Goodman, Andrew Sherratt, and Paul E. Lovejoy (eds.), *Consuming Habits: Drugs in History and Anthropology* (London: Free Association Books, 2004). (London: Routledge, 1995).

done as such while keeping away from racial way of talking and bias in condemning, notwithstanding the way that separation and racial components and repercussions exist in the law enforcement framework and compulsory least guidelines.

Accordingly, by zeroing in on these exceptions, I had the option to recognize states with uncommon regulative results that are as of now unstudied. Such conditions will permit me to investigate attainable clarifications for these discoveries, and the revelation of a causal part in these conditions will consider speculation to extra freak cases and will act as an establishment for investigating causative viewpoints in non-degenerate cases⁷⁷.

India was at the front of the War on Drugs and the fight to authorize required least sentences. In 1973, the New York state assembly passed what might turn out to be the absolute most brutal medication condemning regulation in the country. The Rockefeller drug regulations laid out obligatory least jail sentences for a scope of offenses, including unlicensed belonging and offer of controlled substances, fully intent on diminishing medication use and deals while punishing the people who violated the law⁷⁸.

India was at the very front of the War on Drugs and the fight to order obligatory least sentences. In 1973, the Indian state council passed what might turn out to be the absolute most brutal medication condemning regulation in the country. The Rockefeller drug regulations laid out compulsory least jail sentences for a scope of

⁷⁷ The Preamble of the United Nations states that its goal is to "save future generations from the scourge of war," "to unite our strength to maintain international peace and security," and "to develop friendly relations among nations based on respect for the principle of equal rights and peoples' self-determination, and to take other appropriate measures to strengthen universal peace." The United Nations Charter is available at <http://www.un.org/en/sections/uncharter/preamble/index.html> (San Francisco: 1945). [On the 3rd of April, 2022, I checked].

⁷⁸ 'Concerning Violence: A Post-Colonial Reading of the Debate on the Use of Force,' *Leiden Journal of International Law*, 29, 2 (2016), pp. 95-112.

offenses, including unlicensed belonging and offer of controlled substances, fully intent on decreasing medication use and deals while punishing the individuals who overstepped the law⁷⁹.

Regardless of the minor changes in the law, the results of executing it were serious. The quantity of prisoners in prison in New York dramatically multiplied somewhere in the range of 1980 and 1992, from 20,000 to almost 62,000. The extent of medication guilty parties who were detained expanded from 9% in 1980 to 32.3 percent in 1997. Regardless of the way that the developing jail populace has cost generally \$4 billion, the jail framework remains seriously stuffed. Racial minorities and female hoodlums have been excessively impacted by the Rockefeller drug arrangements. While blacks and Latinos make up just 23% of the number of inhabitants in India, they represent 91% of those detained for drug offenses. Regardless of the way that information shows that drug deals and use are almost equivalent among races, this keeps on being the situation⁸⁰.

In the early long periods of the medication battle, during the 1970s, Michigan established probably the hardest medication discipline regulations in the country. The Michigan governing body started to switch a significant number of the standards during the 1990s, proposing new regulations that considerably modified drug discipline in the state, after over twenty years of extreme guidelines. From that point forward, the council has kept on transforming arrangements and think about new ones. Michigan was the principal state in the United States to lay out obligatory least sentences for an assortment of medication offenses in 1978. The most notable of these

⁷⁹ See Jennifer Beard, 'The International Law in Force: Anachronistic Ethics and Divine Violence,' in Fluer Johns, Richard Joyce, and Sundhya Pahuja (eds.), *Events: The Force of International Law* (London: Routledge, 2011); or Vanja Hamzi, 'International Law as Violence: Competing Absences of the Other,' in Dianne Otto (ed.), *Queering International Law* (London: Routledge, 2011). (London: Routledge, 2017).

⁸⁰ 'The International Law in Force: Anachronistic Ethics and Divine Violence,' p.27. Beard.

guidelines, the '650 Lifer Law,' required anyone indicted for conveying in excess of 650 grams of heroin or cocaine to serve life in prison without the chance of parole. The bill was endorsed by Republican Governor William Milliken. Michigan supported regulation in 1987 laying out compulsory continuous sentences for specific medication offenses, expecting that drug offense sentences be served simultaneously with other crime convictions⁸¹.

Policymakers in India featured aberrations in condemning outcomes for minorities during the early long stretches of the medication war. The Indian Felony Sentencing Project's 1979 report, "Condemning in Michigan," recognized racial incongruities in drug condemning in the state. In this investigation of 6000 lawful offense cases, the creators found that the condemning framework in Michigan during the 1970s produced critical differences in condemning results⁸². They found that the separation was not purposeful, yet it was critical enough that it couldn't be made sense of just by the offense or the attributes of the culprit. Because of these disparities, the Sentencing Commission was shaped, which brought about two convicts with comparable crook foundations being condemned to decisively unique least terms. The Michigan council answered by presenting regulation that included compulsory least punishments for specific medication offenses as well as lifetime probation for other people⁸³.

India started to loosen up its severe regulations following a couple of years. Rather than requiring prison or jail sentences, the change development contended that the state ought to dispense with compulsory least sentences and life probation for certain

⁸¹ 425-447 in Katherine Beckett's "Setting the Public Agenda: 'Street crime' and drug consumption in American Politics," published in 1994.

⁸² Meier, Kenneth J. *The Politics of Drug Abuse: Laws, Implementation, and Consequences*. *Western Political Quarterly*, 45, no. 1 (1992); Meier, Kenneth J. *The Politics of Sin: Drugs, Alcohol and Public Policy*. M.E. Sharpe, Inc. 1994

⁸³ Schiraldi, Vincent, and Judith Greene "Cutting Correctly: New Prison Policies for Fiscal Crisis," published in 2002. Center for Juvenile and Criminal Justice, Justice Policy Institute

offenses, repeal a segment of the state constitution that dependable the privileges of wrongdoing casualties, and kill obligatory stacking for convictions including various crimes.⁸⁴The objective of the change development, which was supported by FAMM and an alliance of residents and associations, was to change the "650 Lifer Law." In 1998, Governor John Engler endorsed a bill adjusting the '650 Lifer Statute,' nullifying the required life sentence without the chance of parole and permitting anybody detained under the resolution to appeal to for it. This act diminished the necessary least disciplines for violations that recently conveyed life sentences to 15 to 20 years. In 2002, Democrat Representative Bill Mc Conico recorded three bills to change Michigan's medication discipline regulation. HB 5394, HB 5395, and HB 6510 are three proposed charges that would decisively adjust present medication discipline regulation. House Bills 5394 and 5395 tended to obligatory least condemning resolutions. They pushed for the end of obligatory least sentences and lifetime probation for most medication offenses. In 2002, Governor John Engler marked Public Acts 665, 666, and 670, which changed the compulsory least condemning regulations and produced results on March 1, 2003.⁸⁵

The measurable tests in this review depend on a dataset that I made. These figures are utilized to resolve more unambiguous inquiries regarding the significance of minority portrayal in policymaking. The dataset contains data on a wide scope of reliant and autonomous factors. From 1979 to 2002, the information incorporates essentially of populace and segment information for each state, as well as information on state migration populaces. The segment information remembers data for middle family pay, training, and minority populace. Furthermore, information on the racial and

⁸⁴ For a variety of reasons, different cultures and societies have imposed some form of prohibition on specific substances, but the scope and impact of twentieth-century drug prohibition in international law, as well as the operation of universality underpinning these laws, distinguishes them from previous prohibition periods.

⁸⁵ *The Devil and Commodity Fetishism in South America*, by Micheal Taussig (Chapel Hill: University of North Carolina Press, 1980), p.xvi.

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orientation structure of each state's official body during the time-frame being referred to was gained. At long last, a proportion of the severity of the states.

CHAPTER III

INTERNATIONAL CONVENTIONS AND

INDIAN LAWS RELATED TO DRUG ABUSE.

3.1 INTRODUCTION

The National Policy on Narcotic Drugs and Psychotropic Substances depends on the Indian Constitution's Directive Principles of State Policy, which expresses that the "State will try to achieve the forbiddance of the utilization, aside from therapeutic purposes, of inebriating drugs damaging to wellbeing." ⁸⁶As India is a signatory to the 1961 Single Convention on Narcotic Drugs as altered by the 1972 Protocol, the Convention on Psychotropic Substances 1971, and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances⁸⁷, the Government strategy regarding the matter is likewise directed by the International Conventions regarding the matter.

The three Central Acts, in particular the Drugs and Cosmetics Act⁸⁸, the Narcotic Drugs and Psychotropic Substances Act⁸⁹, and the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act⁹⁰, set out the generally speaking authoritative methodology around here. Drug abuse avoidance and control is a crucial capacity that is done by various Ministries, Departments, and associations. The Narcotics Central Bureau of the Department of Revenue is answerable for thorough

⁸⁶ Article 47, Constitution of India

⁸⁷ 1988

⁸⁸ 1940

⁸⁹ 1985

⁹⁰ 1988

medication control coordination. Different Departments and Organizations handle a wide range of liabilities around here. The Narcotics Commissioners of the Department of Revenue, the Drug Controllers, and the Excise Commissioners of the States/Union Territories incline toward the permitting powers for restorative and logical purposes. They likewise have the power to manage protests and to recognize infringement. The Ministry of Health and Family Welfare, as well as the Health Departments of the States/Union Territories, are answerable for wellbeing, treatment, and hospitalization offices⁹¹. They additionally deal with the Drugs and Cosmetics Act⁹², which fundamentally affects psychotropic substance licensure and guideline. The Ministry of Welfare and the Welfare Departments of the States/Union Territories are answerable for the public government assistance parts of habit avoidance and de-compulsion endeavors, state funded schooling for request decrease, recovery, and social reintegration of fiends, which are fundamentally brought out through non-administrative social government assistance associations. Customs and Central Excise, State Police, Directorate of Revenue Intelligence (DRI), Central Bureau of Narcotics (CBN), Central Bureau of Investigation, and other requirement organizations are accountable for general implementation of the N.D.P.S. Act⁹³. Paramilitary units like the B.S.F., C.R.P.F., Coast Guards, and others are additionally expected to have a critical influence in fighting medication sneaking. Presently we will momentarily cover the job of critical implementation offices according to legal evaluations made by different Indian courts.

⁹¹ Leo R: Re- thinking the study of the miscarriage of justice: developing a criminology of wrongful convictions. *J ContempCrime Just* 21:201, 2005

⁹² 1940

⁹³ 1985

3.2 BUREAU OF NARCOTICS CONTROL (NCB)

The Narcotic Drugs and Psychotropic Substances Act⁹⁴ which produced results on November 14, 1985, makes express arrangement for the foundation of a Central Authority to practice the powers and capacities gave on the Central Government by the Act. To do the powers, the "Opiates Control Bureau" was laid out on March 17, 1986, with base camp in Delhi. The Bureau, which is under to the Central Government's management and control, does the Central Government's powers and capacities corresponding to:⁹⁵-

- i. Coordination of activity by different workplaces, state legislatures, and different experts as per the authorization prerequisites of the NDPS Act⁹⁶, the Customs Act ⁹⁷the Drugs Act and Cosmetics Act ⁹⁸ and some other regulation now active.
- ii. Implementation of India's commitments under various worldwide arrangements and conventions connecting with counter-unlawful dealing that are right now in power or that it might approve or acquiesce to from here on out.
- iii. Assistance to concerned experts in different countries and worldwide associations to work with coordination and widespread activity in the avoidance and concealment of unlawful medication and substance dealing.
- iv. Coordination of activities performed by other important Ministries, Departments, and Organizations according to medicate utilization issues.

The zenith organizing organization is the Narcotics Control Bureau (NCB). It additionally goes about as a policing through its units in Bombay, Delhi, Calcutta, Madras, Varanasi, Jodhpur, Chandigarh, Jammu, Ahmadabad, Imphal,

⁹⁴ 1985

⁹⁵ Gross S, Jacoby K, Matheson D, et al; Exonerations in the United States, 1989 through 2003. *J Crime Law Criminol* 95: 523 – 53, 2005

⁹⁶ 1985

⁹⁷ 1986

⁹⁸ 1940

and Thiruvananthapuram, which are respected weak regions as far as medication dealing.⁹⁹ The Zonal units accumulate data and team up intimately with Customs and other policing. The Narcotics Control Bureau attempts to advance between office participation in India and abroad, as well as to execute the arrangements of different global shows connecting with chronic drug use and unlawful medication dealing, incorporating liaising with worldwide associations like Interpol, the Customs Cooperation Council, SAARC, and policing from different nations. All cases with global results are submitted to the suitable offices, with the solicitation that they forward the data to the fitting nations and direct the important examinations. Cases alluded by them are then researched by the NCB through a fitting Indian organization. NCB is an impetus for an agreeable multi-disciplinary methodology that infuses energy into the country's whole authorization exertion¹⁰⁰.

The Central Government is expected to make all strides considered fundamental to forestall and battle the maltreatment of opiate drugs and psychotropic substances, as well as the unlawful dealing of these substances. The NCB was laid out by Notification S.O. No. 96(E) dated seventeenth March 1986 in exercise of the Central Government's powers under Section 4 (3) of the Act to satisfy the powers and elements of the Central Government under the Act, dependent upon the Central Government's oversight and control.

Controlled conveyance is a strategy used by policing all around the world to find and kill drug dealing organizations and syndicates. The Director General of the National Crime Bureau (NCB) is the Competent Authority for permitting limited conveyance tasks both inside and past the country. One controlled conveyance activity was done in 2009 with the help of a US implementation organization.

⁹⁹ Borchard EM: *Convicting the Innocent: Errors of Criminal Justice*. New Haven: Yale University Press, 1932

¹⁰⁰ Baumgartner FR, DeBoef SL, Cambridge University, 2005

The NCB works with other medication requirement offices to assist them with working on their abilities in handling the chronic drug usage. Monetary help is presented for the acquisition of gear and vehicles, expertise up-degree through preparing, and the arrangement of insightful instruments, for example, drug recognition tests¹⁰¹.

Considering the previous, the Narcotics Control Bureau's (NCB) key areas of concentration for enemies of opiates exercises can be expressed as follows¹⁰²:

- Serious endeavors to forestall and preclude known drug pathways.
- Recognizable proof of criminal opium poppy development and wild marijuana development, as well as their expulsion as causes of supply.
- Import and commodity focuses, land borders, air terminals, unfamiliar mail depots, and creation zones, among different spots, are dependent upon severe reconnaissance and requirement.
- Further developed coordinated effort between different medications policing to apply the Drug regulations effectively. Severe command over the exchange of antecedent synthetic substances.
- Making an automated data set of suspects and guilty parties.
- Fortifying worldwide collaboration to reinforce activity insight assortment, examination, and circulation to watch out for drug bootleggers.
- Carrying out a money related reward plan for witnesses and police who give data that prompts the capture of opiate opiates.
- Checking distinguished areas for illegal weed or opium development utilizing satellite photography.
- Earthy colored sugar and methaqualone unlawful creation plants are being

¹⁰¹ "The Politics of Drugs: An Inquiry in the Sociology of Social Problems," by Charles Reasons, *Sociological Quarterly* 15 (Summer 1974): 392-93.

¹⁰² *Drug War Politics: The Cost of Denial*, by Eva Bertram, Morris Blachman, Kenneth Sharpe, and Peter Andreas (University of California Press, 1996)

designated (Mandrax).

- Leading preparation developers for policing to work on their capacity to battle drug dealing.
- NCB attempts to cultivate interagency participation in India and abroad to put the necessities of various worldwide shows on drug abuse and illegal medication dealing into training.

Assuming the Narcotics Limit Bureau's history as far as booty seizures from 2009 to 2013 is thought of, it tends to be reasoned that the NCB worked effectively in such manner and was fruitful in its plan to control the inventory of contrabands. As per the yearly report given by the Narcotics Control Bureau, Department of Revenue, Ministry of Finance, Administration of India, the NCB's exhibition as far as stash seizure is as per the following¹⁰³:

To completely appreciate crafted by the NCB, it is important to consider various critical cases took care of or examined by NCB staff, as well as the decisions of a few courts, especially the Apex Court, about the technique wherein this association led its examinations. The Supreme Court held in *Francis Stanly @ Stalin versus Knowledge Officer, Narcotic Control Bureau, and Thiruvananthapuram* that sullied proof can't be utilized to help other spoiled proof. As indicated by current realities of this case, on October 1, 2000, at roughly 3.45 p.m., PW7, Radhesh, Intelligence Officer, got data that one individual was remaining in the stopping region between Gandhi Park and Pattomthanu Pillai Park in East Fort, Thiruvananthapuram, trusting that somebody will discard around one kilogram of heroin that he had. PW7 took notes and sent an Ext.P10 report to PW5, the Superintendent of the Narcotic Control Bureau's Regional Intelligence Unit in Thiruvananthapuram. PW7 and

¹⁰³ *The American Disease*, by David F. Musto (New York: Oxford University Press 1987)

the source went to where the Ist blamed was pausing, and the witness showed PW7 the Ist charged. PW5 showed up close to Pattomthanu Pillai Park around 4.30 p.m. with PW4 and PW6, and PW7 called attention to the Ist charged to them. The denounced, who was conveying M.O. 2(a) pack, was drawn nearer by PWs 4,5 and 6, as well as the observers. PWs 4-6 uncovered their personalities and communicated a craving to look through the First Defendant. He was likewise informed that he reserved the privilege to have his effects checked within the sight of a Gazetted Officer or a Magistrate. The principal denounced denied his entitlement to stay quiet and consented to be looked by the specialists. At the point when PW1 asked the Ist charged assuming that he had any opiate drugs in his control, the Ist denounced gave over M.O. 2(a) sack to PW4. M.O. 2(d) white total shirt and a heap of M.O. 2(b) and M.O. 2(c) lungies were found taken care of. A clear polythene cover holding earthy substance was found when the lungies were taken out. PW4 got a spot of powder from the polythene bundle and tried it with a Field Drug Detection Kit. PW4 held onto the opiate drug after the test returned positive. The medication and the polythene covering both weighed 1.110 kilos. Two examples were taken, every one of which was pressed and fixed independently. The leftover medication was comparably bundled and fixed independently. Ext.P1 Mahazar was ready by PW4. PW6 served Ext.P2 summons on the Ist blamed at the solicitation for PW4, guiding him to show up at the N.C.B. office at 7 p.m. around the same time. PW7 was told to go with the Ist blamed to the N.C.B. office since the Ist blamed didn't have the foggiest idea where it was. The Ist blamed showed up before the N.C.B. office in light of the request and made Ext.P12 explanation in Tamil, which was recorded by PW6. Following that, PW6 captured the First Defendant. The primary denounced was brought before the Magistrate the following day, who remanded him in the Sub-Jail. PW5 went to Idinthikara in Thirunalveli District on the morning of 2.10.2000 in light of the fact that the second denounced's name was expressed in Ext.P12 proclamation, and Ext.P15

summons was given on the second charged, teaching him to show up before the N.C.B. Office in Thiruvananthapuram at 5 p.m. on that day. In the evening, the subsequent charged went before the N.C.B. Office and gave Ext.P16 proclamation in his own penmanship. The subsequent blamed was secured by PW6. The subsequent litigant was brought before the Magistrate, who remanded him in the Sub-Jail. PW7 was responsible for the examination¹⁰⁴. The examples were sent to the Cochin Customs Laboratory, where they got an Ext.P5 report. PW7 documented a protest with the court subsequent to completing the request. The charge was denied by the respondent. PWs 1 to 7, named Exts.P1 to P20, and M.Os 1 to 4 were then inspected by the arraignment. Following the finish of the arraignment's case, the blamed were addressed under Section 313 for the Criminal Procedure Code. They argued their blamelessness and discredited the arraignment's confirmation.

An audit of the case's conditions uncovers that there is no charge that the appealing party/blamed no.2 was found under lock and key for any opiates. He was exclusively blamed for giving over certain opiates to denounced No. 1. The withdrawn assertion of denounced No. 1 and the appealing party's own withdrawn admission are the main bits of proof against him. The Hon'ble Apex Court has cautioned the researching organization for this situation that an admission made before an official of the Department of Revenue Intelligence under the N.D.P.S. Act should be exposed to nearer examination than an admission made to private residents or authorities who don't have insightful abilities under the Act. For this situation, the denounced admitted not before an ordinary cop, but rather before an official under the N.D.P.S. Act, who was an official of the Department of Revenue Intelligence, and the appealing party's contribution for the situation in view of the assertion of a co-blamed was viewed

¹⁰⁴ *Jin Fuey Moy v. United States*, 241 U.S. 402 (1916)

as unlawful, and his conviction was upset. This choice fills in as a suggestion to the insightful office that in situations when an individual is associated with carrying out such a terrible wrongdoing, each safeguard ought to be taken founded exclusively on the confession booth articulation of a co-blamed.

In *Chonampara Chellappan versus State of Kerala*¹⁰⁵, the Hon'ble Apex Court expressed that it is similarly all around perceived that one defiled proof can't authenticate one more spoiled proof in light of the fact that doing so nullifies the point of certification. A Central Bureau of Narcotics (CBN) specialist researched an instance of a comparative sort, and the denounced was embroiled in light of the confession booth declaration of the co-blamed. On account of *Arif Khan v. Focal Bureau of Narcotics*¹⁰⁶, the Hon'ble Rajasthan High Court expressed that much of the time, the court requires a type of support to the confession booth explanation that can be used under Section 30 of the Evidence Act. The standard is that one blamed's assertion can't be utilized against another. Whenever this is the situation, the request for charge against the blamed candidate can't be maintained exclusively based on the co denouncer's.

To examine the offenses under the Act and without housing the First Information Report under Section 154 of the Code of Criminal Procedure, an approved official of the Narcotic Control Bureau designated under Section 42 of the NDPS Act isn't contributed with the force of a cop under Section 53 of the Act. Under the Act, such an authority can examine the offense. Under Section 42 of the Act, he has the power to enter and look through any design, vehicle, or spot, hold onto opiates or substances, and capture the denounced without a warrant or authorization. On account of *Emma Charlottee Eve versus Opiate Control Bureau*, the Honorable Delhi High Court gave its decisions. The arraignment has neglected to lay out without question that the parcel containing

¹⁰⁵ 1945

¹⁰⁶ 1960

the stash was recuperated from the appealing party's cognizant and insightful belonging. Therefore, Section 54 of the Act can't be utilized to lay out an assumption of culpability against the appealing party. The official of the Narcotic Control Bureau got the data and that knowledge data report was recorded by the official within the sight of better however it was not sent than unrivaled for the situation *Kalema Tumba versus Narcotic Control Bureau*¹⁰⁷, it was held that simple non-sending of report to predominant for this situation won't abuse Section 42 of the N.D.P.S. Act¹⁰⁸.

Officials of the Narcotic Control Bureau explored this matter as well as *Kuldip Singh v. Narcotic Control Bureau*¹⁰⁹, during an inquiry led by a NCB official, an unlawful article was found on the individual of a charged. The blamed got no notification under Section 50 of the NDPS Act. It was concluded that a pursuit embraced in negation of Section 50 of the NDPS Act couldn't be used to demonstrate the blamed's unlawful belonging for stash. Therefore, the challenged conviction and discipline can't be maintained. The Narcotic Control Bureau managed one more case in which booty was recuperated from the denouncer's premises, however the exploring organization had not gathered any proof of the blamed's proprietorship or ownership for the premises from which the stash was recuperated. In *Mohd. Alam Khan versus Narcotic Control Bureau*¹¹⁰, the Hon'ble Apex Court held that the charged was qualified for exoneration. From these discoveries, it tends to be concluded that without proprietorship and ownership of the structures, the blamed can't be seen as liable for recuperating an article in his nonattendance. Therefore, while examining such cases, the researching offices should make sure to gather proof in regards to the blamed's proprietorship and ownership for the premises.

¹⁰⁷ 1965

¹⁰⁸ 1956

¹⁰⁹ 1980

¹¹⁰ 1985

This is because of the way that the seizure Mahazar didn't unveil the NDPS Act's Section 50 consistence. Without a trace of an autonomous observer, consistence with Section 50(1) can be shown by the declaration of a solitary observer. Despite the fact that no free observer was consulted, the knowledge official's declaration that the blamed was told for his right to a pursuit within the sight of a Magistrate/Gazetted Officer can be accepted. The example was taken within the sight of the Magistrate and submitted to a substance examiner; the seal was found unblemished by the compound investigator, the character was laid out, and the weight uniqueness of the example was considered unessential.

There was a capture of mandrax, a high strength opiates substance, for a situation researched by a Narcotic Control Bureau knowledge official, and a charge was recorded under Section 29 read with Section 23 of the NDPS Act. The Hon'ble Apex Court forewarned the court at the hour of outlining the charge in Umar Abdul Sakoor Sorathia versus Intelligence Officer, Narcotic Control Bureau with the discoveries that the court isn't supposed to dive excessively deep into the probative worth of the materials on record at the hour of outlining the charge. In the event that the court can reason that the blamed would have perpetrated the wrongdoing in light of the proof, the court is expected to charge the denounced and continue to preliminary.

At last, it's significant that the Narcotic Control Bureau was laid out by the Central Government with explicit specialists to manage drug matters so that denounced parties don't profit from the NDPS Act's details. The material got by the NCB Officers ought to be esteemed by the Courts considering the NDPS Act's expectations. The Central Government is expected by Section 4(1) of the NDPS Act to embrace all actions considered fundamental to forestall and battling the maltreatment of opiate drugs and psychotropic substances, as well

as their unlawful dealing.

The Central Government laid out the Narcotics Control Bureau (NCB) on March 17, 1985, in exercise of its ward under Section 4(3) of the Act to satisfy the specialists and elements of the Central Government under the Act, dependent upon the Central Government's oversight and control. In the conditions, obviously when cases are opened on the NCB's objections, it isn't simply a complainant, however a leader activity, and it should act and release its capacity as commanded by the rule, which is to really look at unlawful medication scattering and sneaking, in addition to other things.

Since the Narcotic Control Bureau comes up short on power to fill roles under Sections 41, 42, 53, and 67 of the Act, any examination, recuperation, or procedures attempted by it under the Act would be void abdominal muscle initio, unlawful, and subsequently couldn't be utilized to help an arraignment and conviction under the Act, as held by the Hon'ble Apex Court in *Roy V.D. versus State of Kerala*. It was additionally held in this judgment that any assortment of material, detainment or capture of an individual, search of a structure or transport, or seizure a not an engaged affected by an official or an approved official approved under Section 41(2) of the Act needs lawful assent and is intrinsically unlawful, and along these lines can't shape the premise of a procedure in regard of offenses under Chapter IV of the Act¹¹¹.

It ought to be underlined that the indictment has neglected to show that the arraignment has contributed position to approve people of NCB to fill roles under Sections 41, 42, 53, and 67 of the NDPS Act. Considering Section 53 of the NDPS Act, it is important for the Central Government to inform officials of the NCB and different organizations approving them to seize and examine NDPS cases and engaging them with the suitable powers as expected by the Act

¹¹¹ *United States v. Webb et al.*, 249 U.S. 96 (1918)

for legitimate examination of the cases¹¹².

3.3 LOCAL LAW ENFORCEMENT

State authorization organizations, essentially the police, bear the essential obligation regarding policing road level hawking and dealing, incorporating its crossing points with transport traffic. State police have simultaneous authorization abilities, and a few states, including Maharashtra, Tamil Nadu, Gujarat, Uttar Pradesh, Madhya Pradesh, and the North Eastern States, have put forth steps to support enemies of opiates attempts by laying out committed opiates cells.

To handle the opiates danger, police offices in the United States direct occasional ranges. The expansion in the travel industry, which has brought about an enormous movement of outsiders in areas like the Kullu Valley, has helped drug dealing. The issue has developed to such aspects that it presently takes steps to harm the social texture of slope networks. Residents have been drawn in into the undertaking, including ladies, jobless youths, and even schoolchildren. Cabbies, local area experts, servers, and others in the travel industry have been enticed to the pain free income. Consistently, a major number of outsiders run to the Kulu Valley because of the basic accessibility of top notch weed at moderately low costs¹¹³.

Consistently, the Narcotics Control Bureau has teamed up with the State Police to eliminate unlawful yields, however without any result. More than 2990 bighas of standing harvest were obliterated in 2003, incorporating 1700 bighas in Kulu and 650 bighas in Mandi (H.P.).

¹¹² Behrman v. United States, 258 U.S. 288 (1922)

¹¹³ Linder v. United States, 268 U.S. 5 (1925)

The police force in Punjab has focused on the conflict on drugs, as indicated by an inventive activity plan. The counter opiates unit was allowed unlimited authority, bringing about a record capture of 163 kg of heroin in October 2009. Following this choice, the Punjab Director General of Police "admonished the cops to network up their midsections to get control over the offenders engaged with drug dealing" and furthermore looked for public participation, saying that assuming the detestable plans of merchants were to be crushed, the public should be a join forces with the police.

The nearby police have had a critical influence in drug cases, as most of cases are tested by them. By and large, public observers are reluctant to partake in examinations, and the blamed are cleared by courts at different levels because of an absence of free validation. The Apex Court didn't see the value in the court's methodology and given an admonition to Indian courts that police faculty' proclamations ought not be excused exclusively on the grounds that no impartial or public observer was engaged with the examination assuming their articulations are solid and meriting trustworthiness¹¹⁴.

We accept an old-fashioned presumption cop acts ought to be seen with doubt right away. We realize that such a thought was generally engaged during the British time frame, and that cops knew about it. Its delayed consequences waited in the post-autonomy years, yet this is the ideal opportunity to begin placing a few confidence in the police's activities and papers. Anyway, the court can't start by accepting that the police records are inconsistent. The assumption ought to be a contrary strategy for getting around as a lawful reason.

In another new Supreme Court choice, *Ram Swaroop v. State (Govt.NCT) of*

¹¹⁴ The Role of Demand Reduction in Government Operations, 46th House Committee on Government Operations

*Delhi*¹¹⁵, respondents were accused of wrongfully having 64 kg of poppy straw powder in 32 polythene packs. Albeit the seizure occurred in a bustling region, no autonomous observer was involved since no bystander decided to be an observer for this situation. The Hon'ble Apex Court decided that there was no proof that the declaration of police observers was deceitful, and that convictions in light of police proof couldn't be blamed, and offered the accompanying proclamations in commendation of the job of neighborhood police:

To comprehend the principal appendage of the accommodation, we painstakingly inspected the proof introduced on the record and read the High Court's and preliminary Court's decisions. It's significant that PW-7 Sub Inspector Ritesh Kumar's declaration was upheld by PW-5 Constable Balwant Singh and different observers. Sub Inspector Ritesh Kumar affirmed that he mentioned passers-by to be observers, however that not a solitary one of them acknowledged and left without uncovering their names and addresses. A cautious assessment of their variant uncovers nothing that would persuade us to think their evidence is deceitful. It is, going against the norm, totally blameless. It's important that there's no distinct decide that cops can't be called as witnesses, and their testimonies ought to be taken with alert. In such manner, we may productively allude to the decree in *State of U.P. v. Anil Singh*¹¹⁶ where this Court noticed that the overall population is reluctant to approach to remove under the watchful eye of the court, and that, therefore, the indictment case can't be addressed for neglecting to question free observers.

In *Kashmiri Lal v. Territory of Haryana*¹¹⁷, 5-1/2 kg of opium was recuperated from the denounced in a polythene sack, and the charged was indicted and condemned under Section 18 of the NDPS Act, 1985. His conviction and

¹¹⁵ 1986

¹¹⁶ 1988

¹¹⁷ 1999

sentence were maintained the whole way to the Hon'ble High Court, and he recorded a crook offer under the steady gaze of the Hon'ble Apex Court, contending that the indictment had just analyzed police official observers, though opium was recuperated from The denounced's case was excused by the Hon'ble Apex Court, which said in passage 9 of the judgment:

As far as the primary accommodation, the proof on record shows that the police specialists asked individuals present in the "dhaba" to be observers, yet they would not participate and, as a general rule, didn't make themselves accessible. Aside from that, there is no unmistakable decide that police faculty can't be called as witnesses, and their declaration ought to be seen with alert. Regularly, the overall people communicates a hesitance to approach as witnesses. In the event that the cop's not entirely set in stone to be solid and reliable, the court will without a doubt follow up on it. The court might question the cop's proof assuming it is viewed as inconsistent and deceitful over the span of examining the proof, however it shouldn't do so simply based on the assumption that an observer from the branch of police ought to be seen with doubt. This is similarly predicated on the thought that nature of proof overshadows amount. These elements were underlined in the instances of *State of U.P. v. Anil Singh*¹¹⁸ *State, Govt. of NCT of Delhi v. Sunil and others*¹¹⁹ and *Ramjee Rai and others v. Territory of Bihar*¹²⁰

Assuming the aggregate and substance of the three decisions is considered, apparently the Hon'ble Apex Court has given the authorization specialists a go-ahead in the examination of medication cases. These days, most individuals from people in general are hesitant to help with exploring associations and are reluctant to partake in examinations. A few courts have shown in decisions that

¹¹⁸ 1988

¹¹⁹ 2001

¹²⁰2006

autonomous authentication to help the assertions of police observers is required, however the Apex Court has expressed unequivocally in the previously mentioned decisions that the declarations of police official observers can't be tossed out on the premise that no free or unbiased observer was called during the examination assuming their declarations are dependable and solid. The examination offices' spirit will be supported by these finishes of the Hon'ble Apex Court, that's what which show assuming their proof is believable, their request would be recognized¹²¹.

In the new instance of *State of H.P. v. Simranjit @ Sunny*¹²² the Division Bench of the Himachal High Court noticed the quittance of the blamed on the reason for procedural defects brought about by the examining organization. For this situation, two suspects escaped when they saw the police, however officials secured them and supposedly held onto nine little bundles containing smack. Witnesses who weighed recuperated stash gave incongruous declaration. The NCB Form for recuperated substance, which should be ready in three-fold, was not created, there was no connection proof, case property was not stored in Malkhana, bundles recuperated from individual blamed people bore no ID imprint, and delegate tests were not drawn from stash supposedly recuperated from the denounced, so the charged's vindication was considered appropriate. Assuming we consider the capacity of the exploring organization for this situation, we can see that the researching official was either careless or needed suitable familiarity with the necessities of the law and the guidelines declared thereunder, which permitted enough of a chance for the charged to be vindicated. In such conditions, such messy examinations are totally ridiculous and can't be defended. Quittances because of such defective examinations

¹²¹ The Federal Government's Response to Illicit Drugs, 1969-1978, by Peter Goldberg, in The Drug Abuse Council's Facts About "Drug Abuse" (New York: Free Press, 1980)

¹²⁰2006

obviously ponder the analytical organization's adequacy, which ought to be denounced by the neighborhood police's managing body.

The Central Bureau of Investigation (CBI) is India's most impressive insightful office. The organization's abilities and exercises are confined to specific offenses under the Delhi Special Police Establishment Act of 1946. It was established on April 1, 1963. The CBI is an Indian government organization that capacities as a criminal examination body, as well as a public safety and knowledge office. It likewise fills in as India's nodal police organization, planning examinations for Interpol part nations. All critical examinations in the nation look for the assistance of its insightful officials. The Supreme Court, the High Courts, Parliament, and the overall population respect the CBI. The CBI is liable for exploring genuine wrongdoings in the country that have cross-public and global results. It additionally gathers criminal insight in three of its vital areas of activity: against debasement, financial violations, and extraordinary wrongdoings.

The CBI is responsible for the accompanying wide sorts of criminal cases:¹²³-

- i. Cases of debasement and misrepresentation executed by open authorities of all Central Government Departments, Central Public Sector Undertakings, and Central Financial Institutions are examined by the Anti-Corruption Division.
- ii. Economic Crimes Division: manages cases, for example, bank cheats, monetary fakes, Import Export and Foreign Exchange infringement, enormous scope opiates, collectibles, social property, and other stash items carrying, in addition to other things.
- iii. Special Crimes Division: manages cases including illegal intimidation,

¹²³ Congressional Quarterly Amanac 33 (1978): 165-71. "Senate-Passed Criminal Code Dies in the House.

bombings, shocking murders, kidnappings for payment, and mafia/hidden world violations.

Different Courts play tended to the part of the CBI in examining matters under the NDPS Act and different Acts. The examination of this organization on the evidentiary worth of withdrawn confession booth articulations recorded under Section 67 of the NDPS Act or Section 108 of the Customs Act was dissected by the M.P.High Court in *Prem Chand versus Central Bureau of Investigation*¹²⁴, with perceptions that the assertion recorded by officials of the Central Excise and Customs Department and NCB can be utilized against the blamed in preliminary as considerable proof. Nonetheless, the surface and tone of the assertion should be appreciated. Considering the arrangements of Section 67 of the NDPS Act¹²⁵, there is a rising pattern to keep the denouncer's discourse to incorporate admission. Some Investigating Officers are deftly keep the previously mentioned assertion to stay away from the legitimate prerequisites for recording the denouncer's admission. A nearby assessment of the tone, surface, and tune of such a proclamation is required. The Court ought to likewise investigate the examination records to see whether there is some other proof to back up the sentences in the explanation.

On account of *Ashok Husain Allah v. Assistant Collector of Customs*¹²⁶, the Bombay High Court held that in procedures under the NDPS Act and the Customs Act, the arraignment is without a doubt qualified for depend on the articulations of the charged recorded during the request. They don't, nonetheless, have the power to get proclamations by pressure, attack, or unlawful detainment, and such an explanation can't be viewed as willful in such conditions. Assuming the Court is fulfilled that the admission was valid and

¹²⁴ 1990

¹²⁵ 1986

¹²⁶ 1996

made intentionally, it might act as one of the legitimate bases for conviction; notwithstanding, the standard of reasonability expects that such a confession booth proclamation not be utilized as the sole reason for conviction without verification from free and unmistakable proof. A charge's admission is anything but a significant piece of proof against a co-denounced. A charge's admission must be utilized against co-blamed for the reason for guaranteeing that any considerable proof, if any, would be utilized or followed up on. Without free positive proof, a confession booth proclamation under Section 67 of the Act must be utilized against the individual who made the confession, but it cannot be used as the sole basis for laying charges.

3.4 REVENUE INTELLIGENCE DIRECTORATE, CUSTOM AUTHORITIES, ENFORCEMENT DIRECTORATE, AND SECURITY FORCES

In India, the capacity of the Directorate of Revenue Intelligence, Customs Authorities, Directorate of Enforcement, and Security Forces in authorizing drug regulations is equivalent to that of the neighborhood police, the Central Bureau of Investigation, and the Narcotics Control Bureau. These organizations have likewise worked effectively in their particular areas of obligation in fighting the developing issue of opiates dealing and authorizing against opiate regulations. The scientist will make sense of the organizations' short jobs, as well as unambiguous lawful proclamations gave by different courts in regards to cases took care of by these specialists.

3.4.1 Revenue Intelligence Directorate

The Directorate of Revenue Intelligence is answerable for all components of customs, focal extract, and opiates work. The need for a focal association to gather information of monetary regulation infringement in a constant and

coordinated way to figure out a procedure to manage them and alarm the significant traditions developments was perceived as soon as 1953. In 1953, another association named the Central Revenue Intelligence Bureau was laid out subsequently. The association was entrusted with social occasion insight on enemy of pirating and against debasement issues in Customs and Central Excise units around the country. By and large, one Assistant Commissioner and two Superintendents, as provided at that point, was obviously lacking. The action of this unobtrusive association, then again, exposed the critical need and earnestness for a devoted association to battle the danger of tax avoidance. Thus, the Directorate of Revenue Intelligence (DRI) was laid out in 1957.

DRI's unique brief was very broad. There was no particular element to manage evasion of focal extract obligations or medication dealing counteraction. Thus, DRI's contract, as it existed at that point, covered all pieces of action connecting with customs, focal extract, and medications that required the Center's oversight, direction, and examination. With the progression of time and the development of new hardships connected to the productive control of infractions of a wide scope of regulations, a requirement for specialization and skill became evident. Subsequently, in 1978, a different Directorate of Anti-Evasion (presently known as Directorate General of Central Excise Intelligence) was laid out to deal with infringement of Central Excise regulations, and in 1985, the Central Economic Intelligence Bureau was laid out to facilitate exercises among the Department of Revenue's different requirement offices. With the ascent in opiates dealing and India's obligation to the global local area under a few shows to battle the issue, the Narcotics Control Bureau was laid out in 1986 to facilitate the implementation of against drug regulations.

It is right now separated into seven zones, each under the charge of an Additional Director General, and further sub-isolated into Regional Units, Sub-Regional Units, and Intelligence Cells with a supplement of Additional

Directors, Joint Directors, Deputy Directors, Assistant Directors, and Session Directors. It is right now headed by Director General in New Delhi and capacities under the Central Board of Excise and Customs in the Ministry of Finance, Department of Revenue¹²⁷.

Our country's geological boundaries, which range in excess of 15,000 kilometers and incorporate a shoreline of in excess of 7,000 kilometers, make the mission before DRI incredibly troublesome. The continuous financial advancement, which puts a more prominent spotlight on exchange assistance, has brought about a monstrous expansion in the abuse of offices/concessions, bringing about customs obligation and unfamiliar trade misfortunes. The substance of monetary duplicity has moved hugely. In this specific situation, each authorization organization should step cautiously and accomplish a fragile harmony between assistance a characteristic side-effect of advancement and implementation. Once more the psychological militant assaults of September 11 and December 13 have moved general assessment of Customs' part from here on out, with security becoming the overwhelming focus. This Directorate has adapted to the situation, and I might want to accept that its goal has been for the most part achieved.

The DRI's contract contains the accompanying:

- Insight on pirating of unlawful things, opiates, under-invoicing, and different issues accumulated from Indian and global sources, including incognito sources.
- Knowledge investigation and transmission to handle arrangements for activity.
- While essential, working out insight by the Directorate officials themselves to a good end.

¹²⁷ Text of President Bush's Address," 6 September 1989, Washington Post

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- Partner or assuming control over key seizures and examination matters that require particular dealing with by the Directorate.
- Overseeing high-profile examinations and arraignments.
- Helping nations of the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) in trading data and battling global carrying and customs misrepresentation as per the ESCAP meeting's suggestions.
- Keeping in touch with different states, Indian Missions, and Enforcement Agencies.
- Keep in touch with the C.B.I. furthermore, through them, with INTERPOL.
- To design, direct, and regulate hostile to pirating exercises along the Indo-Nepal line.
- To suggest cases documented under the Customs Act to the Internal Revenue Service for activity under the Internal Revenue Code.
- To keep measurements on seizures, costs, and rates, in addition to other things, to screen carrying patterns and send essential materials to the Finance Ministry and different Ministries.
- To investigate and propose answers for lawful and procedural escape clauses in the battle against carrying.

The capture of maryjane was on the higher side in the table above, and the capture of heroin and marijuana was likewise unsettling. Indeed, even Ephedrine was seized in immense amounts by the DRI. These seizures show that medication dealing isn't absolutely under the power of policing, and that more brutal measures are expected to battle it in India.

It is expected to make reference to a couple of episodes in which the representatives of the Directorate of Revenue Intelligence led examinations and the courts simply decided. On account of *Narayanaswamy Ravishankar v. Collaborator Director*¹²⁸, Directorate of Revenue Intelligence, 5940 gms. Of heroin were found in the litigant's bag, which was heading out from Chennai to Singapore. Sometime thereafter, he was secured and charged. The inquiry and seizure too led in a public region, the air terminal. It was concluded that main Section 43 would be set off, not Section 42. The issue of resistance with Section 42 was not raised. Area 50 was not set off in light of the fact that no hunt and seizure was attempted on the denouncer's individual. The blamed was accurately indicted for heroin ownership¹²⁹.

The arraignment was sent off by the DRI in *State of Kerala v. Insight Officer*¹³⁰, DRI Bangalore, yet the examination had previously been finished by another researching body. It was concluded that assuming one power's examination had previously been finished, another authority couldn't start a request to indict a similar offense, yet any additional proof accumulated by that authority must be considered by the court.

Assuming the DRI's general viewpoint is considered, it tends to be resolved that crafted by this authorization organization is basic in successfully upholding against opiate regulations¹³¹.

¹²⁸ 1940

¹²⁹ Congressional Quarterly Almanac 44 (1990): 503 (Martinez to succeed Bennett as Drug Czar).

¹³⁰ 1990

¹³¹ Tom Wicker, "The Wartime Spirit," New York Times, 3 October 1989, cites a Washington Post/ABC News poll.

3.4.2 Authorities in charge of customs

The BSF (Border Security Force) and Customs against pirating developments have essential obligation for observing travel traffic along land borders. Customs is very much addressed in ocean ports, and on the high oceans, the obligation is shared by the traditions specialists and the Coast Guard. Customs officials have a basic influence in the worldwide battle against drug sneaking by just being available at line intersections, whether they be land borders, ocean ports, or air terminals. The battle against drug dealing into or out of the nation is a troublesome endeavor for customs officials. Sneaking of different things, like medications, creatures, ecologically touchy merchandise, and products powerless against obligation avoidance or exchange limitations, is a major component of their absolute work. The custom officials have acquired space information and ability in the techniques for countering pirating, including the best utilization of human knowledge, the investigation of customs archives, and the utilization of modern innovation. Customs authorities' information has every now and again been utilized by different specialists entrusted with fighting addictions to drugs¹³².

Indian Customs is liable for fighting medication dealing at the lines, yet additionally inside the country. The Directorate of Revenue Intelligence (DRI), an expert organization of Indian Customs, has logged significant episodes of Heroin and Ganja (Cannabis) dealing inside India. During the most recent quite a while, DRI captures of Heroin have represented a huge part of all out seizures. The Indian Customs Department has been a forerunner in the battle against drug dealing. Indian Customs' joint effort with other Indian and unfamiliar specialists has driven in the block attempt of a significant number of medication shipments and the arraignment of eminent medication dealers both in India and abroad.

¹³² *Drug War Politics: The Price of Denial* (University of California Press, 1996) by Eva Bertram, Morris Blachman, Kenneth Sharpe, and Peter Andreas.

The Indian Customs Department perceives the need of cooperation between different public and global experts in the fight against drug dealing and is a proactive member in these endeavors. It effectively urges sources to offer medication dealing knowledge.

The traditions specialists have additionally managed circumstances under the NDPS Act, and faculty from the traditions specialists have examined such cases. Regardless of the way that stash was recuperated from the charged's belonging, in *Kulwant Singh v. Assistant Collector*¹³³, Customs, Amritsar, the denouncer's vehicle was come by custom experts on doubt, yet the blamed was not given the choice for having the hunt directed within the sight of a Gazette Officer. It was resolved that the required arrangements of Section 50 were not followed, and the inquiry was announced invalid, in light of the discoveries that the hunt and seizure were led before a Gazette Officer of the Department (Custom Authorities), which was disregarding Section 50 of the NDPS Act. The examining specialists can see from this deciding that it is required for them to advise the blamed regarding his lawful right to be looked before a Gazetted Officer or a Magistrate while looking through his individual, and that assuming they neglect to do as such, the whole hunt and seizure is unlawful.

The traditions specialists held onto booty, however no report of the capture or seizure, alongside every one of the subtleties of the capture or seizure, was submitted to his nearby manager in something like 48 hours of the capture or seizure. It was viewed as infringing upon Section 57 of the NDPS Act, that's what which expresses assuming any individual makes a capture or seizure under this Act, he should reveal the subtleties of the capture or seizure to his nearby authority unrivaled in 48 hours or less.

The regulation specifies that a female suspect's inquiry should be directed by a

¹³³ 1985

female, and no male individual from the police group is qualified for lead such a pursuit. The arraignment's case is corrupted by the shortfall of a female observer on the seizure list. For the situation Veneela Tilak against Assistant Collector of Customs, the Court advised the traditions specialists that while looking through a lady charged, they ought to do as such within the sight of a female official and female panchas. A disengaged area is expected for the pursuit. The appropriate convention should be followed, and the exploring specialists should not weaken it at all.

The Central Government gave Standing Order No.1/89, dated thirteenth June, 1989, specifying the intricate technique to be taken on by drug policing while holding onto drugs, drawing tests from them, legitimate capacity, and how such medications could be discarded by the official worried, as per the powers presented under sub-segment (1) of Section 52-An of the NDPS Act, 1985, as revised by the NDPS Act, 1989 (2 of 1989). The drawing of an example, the conveyance of a delegate test, the dispatch of an example for testing, etc were completely exposed to an itemized convention. It is unquestionable that, in the prompt case, the strategy illustrated in the previously mentioned standing request had not been ignored in these regards.

At the hour of examination for the offenses under this Act, the official enabled under Section 53 of the NDPS Act will have the power of an official responsible for Police Station. Each offense culpable under the NDPS Act is a cognizable offense, as per Section 37 of the Act. Thus, the official engaged under Section 53 of the Act has each of the abilities of a police headquarters official responsible for a cognizable case examination. Nonetheless, as held by the Gujarat High Court in Alok Badridas Agarwal against B.M.Bhutt, Superintendent, Central Excise, these powers are confined to the reason for examination and do exclude the capacity to record a charge-sheet.

The indictment didn't have to introduce oral proof to demonstrate the papers, and the took in Additional Sessions Judge failed in establishing that the previously mentioned arrangement didn't liberate the arraignment from introducing proof to validate the records. As a matter of fact, Section 66 of the NDPS Act accommodates an assumption of the honesty of the items in such records, which is generally dependent upon answer. As indicated by the took in Additional Sessions Judge's decision, notwithstanding the arrangements of Section 66 of the NDPS Act and Section 139 (b) of the Customs Act, it is expected for the indictment to introduce proof to prove the previously mentioned papers as per the Indian Evidence Act. While it is actually the case that the appraiser snatched the reports, there is confirmation in his oral declaration that he is a Customs Department Gazette Officer, which would permit him to hold onto the records and make him an appropriate official under Section 2(34) of the Customs Act. Now, there is not a great explanation to accept he isn't such an official, essentially not on a superficial level. In these conditions, they took in Additional Sessions Judge's position is erroneous. The contention to the records' suitability was excused by the High Court.

The job of customs authorities in the examinations of the previously mentioned examples performed under the NDPS Act has been perceived by the courts now and again. It ought to be noticed that the Courts play fortified the part of requirement offices by deciphering the essential arrangements of the Act, for example, the assumption of rightness of records and the assumption of ownership of contrabands in specific cases, which is generally not disproved by the blamed, through legal proclamations. Therefore, as long as the researching organizations play out the request genuinely, no extra remarks from the courts have been recorded, and the court has offered it's thanks to the examining specialists as well as a fair preliminary to the blamed.

3.4.3 Directorate of Enforcement

With its central command in New Delhi, the Enforcement Directorate has seven zones in Mumbai, Kolkata, Delhi, Jalandhar, Chennai, Ahmedabad, and Bangalore. The Deputy Directors are accountable for the workplaces. The Assistant Directors supervise the Directorate's nine sub-zones in Agra, Srinagar, Jaipur, Varanasi, Trivandrum, Calicut, Hyderabad, Guwahati, and Pajjim. A unit of the Directorate is situated in Madurai and is driven by a Chief Enforcement Officer. Likewise, in Head Office, there are three Special Directors of Enforcement, one Additional Director of Enforcement, and two Deputy Directors. The Directorate's key liabilities are as per the following:

- To uphold the Foreign Exchange Management Act of 1999 and the Money Laundering Prevention Act of 2002.
- To assemble and make insight on possible infringement of the Foreign Exchange Management Act and the Money Laundering Prevention Act of 2002.
- To look through suspects, their vehicles, and their homes, as well as hold onto implicating materials (counting Indian and unfamiliar monetary standards included).
- To investigate and examine potential infringement of the Foreign Exchange Management Act and the Prevention of Money Laundering Act 2002.
- To arbitrate instances of Foreign Exchange Management Act infringement on a departmental level, as well as to take the assets engaged with the infractions.
- To know about the outcomes of departmental settlement;

- Joining and seizing properties took part in illegal tax avoidance.
- To capture and arraign people associated with taking part in tax evasion exercises.

Notwithstanding the previously mentioned capacities connected with the Foreign Exchange Management Act, the Directorate likewise processes and suggests cases for routine wrongdoer detainment under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (COFEPOSA), which takes into consideration the confinement of an individual determined to keep him from acting in a way that is impeding to the protection and increase of trade.

In *Deepak Mahajan v. Directorate of Enforcement*¹³⁴, the inquiry was raised whether an official of the Narcotic Department with the powers of an official accountable for a police headquarters who led the pursuit and seizure and captured the charged could look for his remand with the end goal of examination under Section 167 Code of Criminal Procedure. Such official who has care of the blamed is expected by Article 22 for the Constitution to create him before the Magistrate worried inside the time period determined. He can't hold the blamed for longer than the period permitted on the grounds that this would be an infringement of the denouncer's basic freedoms, and hence the Magistrate should remand the charged. Considering these conditions, the way that such official isn't distinguished as a cop with the power to look for remand is deficient to preclude his entitlement to do as such. In Section 167(1), "cop conveyed" doesn't show up, nor does it show up elsewhere in the Cr.P.C. The position to hold an individual as expected by Section 167 (2) is in help of a request to be directed by any indictment organization with analytical powers.

¹³⁴ 1990

For this situation, Their Lordships added, "There is a progression of choices of different High Courts, for certain exemptions, taking the view that a Magistrate before whom an individual captured by the skilled authority under the FERA or Customs Act is delivered can approve confinement in exercise of his powers under Section 167 Cr.P.C." Otherwise, the compulsory heading under Section 32(2) of the FERA or Section 104(2) of the Customs Act to bring each individual captured before the Magistrate right away if the arrestee was not delivered on bail under the sub-segment (3) of those exceptional Acts will become futile and negligible, and to say that the Courts must choose the option to set the individual captured at freedom by collapsing their hands as a calf, will become trivial and insignificant¹³⁵.

Whether or not resistance with required legal method qualifies the blamed for bail or on the other hand on the off chance that the FIR can be invalidated in such conditions was brought up for a situation researched by officials of the Directorate of Enforcement. In *Dr.Partap Singh v. Overseer of Enforcement, FERA*¹³⁶, the Supreme Court held that unlawful hunt and seizure in break of legitimate method couldn't be accustomed to subduing a FIR. What effect does their resistance have on convictions on one hand, and capture and detainment on the other? As far as the first, it tends to be said completely that essentially on the grounds that the regulations are not followed, the conviction won't be toppled consequently on the grounds that the conviction will be founded on proof introduced during the preliminary with respect to the offense committed by the denounced. The illicitness of the pursuit, seizure, and capture wouldn't be guaranteed to refute the end came to about the blame's guilty direct except if it very well may be shown that resistance with the arrangements delivers the

¹³⁵ "Shutting Out the Evil: Nativism and Narcotics Control in the United States," *Journal of Policy History* 3, no. 4 (1991): 472-73. Douglas Clark Kinder, "

¹³⁴ 1990

indictment case deceitful or suspicious, or that the denounced has been truly biased in the preliminary because of such rebelliousness. Whenever a capture is made or detainment is stretched out infringing upon the arrangements, the circumstance is unique. Assuming the law requests and explicitly commands that specific techniques be taken before a capture is made or a confinement is expanded, such activities should be proceeded as usual, generally the capture or detainment will become unlawful. The prerequisites should be seen as required to that degree, or, in all likelihood the regulation's security will become fanciful, which isn't what the council probably expected. Assuming a flight is made, either the capture or the detainment becomes helpless, with the obligation to prove anything falling decisively on the power making the capture or laying out that the takeoff was undeniable and fundamental in the conditions of the case. Accordingly, assuming that the capture and confinement are viewed as unlawful because of infringement of Sections 50, 52, and 57 or any of them, the captured individual might be qualified for freedom, as the capture was unapproved or, regardless of whether the capture is substantial, the detainment was unapproved, except if the contradiction is generally advocated¹³⁷.

If the previously mentioned rule is remembered and the situation of a blamed associated with the commission for an offense under the NDPS Act is considered for discharge on bail, and the official goal joined in Section 37 of the Act is considered, there is no question that the charged won't be qualified for be delivered on bail except if the circumstances recommended in Section 37 are met, and it would be ill-advised for the court to subdue the FIR for resistance with arrangements inconsequential to the NDPS Act¹³⁸.

¹³⁷ *Drugs and Minority Oppression*, by John Helmer (New York: Seabury Press, 1975)

¹³⁸ A.E. Fossier, "The Marijuana Menace," *New Orleans Medical and Surgical Journal*, vol. 84, no. 4, pp. 247-52, 1931.

3.4.4 Forces of Security

Various exercises are completed by requirement organizations at the government and state levels to supply confine drug. Opiates Control Bureau, Directorate of Revenue Intelligence, Customs and Control, Central Bureau of Narcotics, Border Security Force (BSF) or Coast Guard, and Central Bureau of Intelligence are the organizations required at the government level. Police and Excise are the organizations at the state level. We will address the job of safety powers in confining the medication supply during search activities and different obligations under this heading¹³⁹.

Border Security Force (BSF)

The Border Security Force (BSF) is the Indian government's line security force. It is one of the Central Armed Police Forces, having been laid out on December 1, 1965. Its significant mission is to safeguard India's global lines during seasons of harmony and to battle transnational wrongdoing. The BSF, similar to India's paramilitary powers in general, is controlled by the Ministry of Home Affairs. It is one of India's various policing¹⁴⁰.

Given these hardships, line security against human dealers and fear mongers becomes significant. The BSF worked really hard of shielding our boundaries from such wrongdoings. Fear mongers taking advantage of dealing courses with the backing of deeply grounded criminal organizations to enter with weaponry and explosives add another aspect to line security¹⁴¹. Security powers' captures

¹³⁹ Bureau of Statistics, United States Department of Justice

¹⁴⁰ Warren, Jennifer. "One in 100: Behind Bars in America 2008." The Pew Center on the States. 2008

¹⁴¹ Bureau of Statistics, U.S. Department of Justice

of medications and weaponry along the boundary, especially along the Pakistani boundary, show an immediate connection between drug dealers and against public components. In Punjab, for instance, the BSF caught 23 kg of heroin, 12 handguns, and various rounds of ammo in 2009. The BSF seized 58 kg of heroin, 10 kg of Maryjane, as well as guns and RDX, along the Rajasthan line around the same time¹⁴².

Indian Coast Guard

The Indian Coast Guard (ICG) is an Indian Armed Forces branch. With purview over both regional and worldwide streams, its will likely save India's sea advantages and implement sea regulation. The Coast Guard Act of 1978 officially comprised the ICG as an equipped power of the Union on August 18, 1978. It is important for the Union Ministry of Defense's Department of Defense. The Indian Navy, Department of Fisheries, Department of Revenue (Customs), and the Central and State Police Forces all participate intimately with the Coast Guard. The ICG is typically driven by a Vice Admiral who is otherwise called the Director General of the Coast Guard¹⁴³.

The tasks of the Indian Coast Guard are partitioned into four zones. The Western Region is situated in Mumbai, the Eastern Region in Chennai, the Andaman and Nicobar Region in Port Blair, and the North West Region in Gandhi agar. An Inspector General (IG) or a Deputy Inspector General (DIG) drives every locale (DIG). Every region is additionally partitioned into locale, which frequently cover a waterfront state or an association domain¹⁴⁴.

¹⁴² Rockefeller Drug Laws Information Sheet," Partnership for Responsible Drug Information, 2009.
Wilson, Aaron D

¹⁴³Miller, 2007; Smith, 2004; Meier, 1992, 1994; Daly and Tonry, 1997

¹⁴⁴ Meier, 1992

Central Industrial Security Force (CISF)

The CISF was laid out in 1969 as an explicitly prepared power to give insurance to the country's public area undertakings. The Force has grown massively over the last four and a half many years, with an ongoing strength of north of one lakh 33 thousand. With its developing profile and administration base, the CISF has advanced into the nation's top multi-talented security association, ordered to give security assurance to the nation's critical fundamental foundation and profoundly significant people in an assortment of fields. Air terminals, Sea Ports, the Department of Atomic Energy, the Department of Space, Power Plants, Steel Plants, Oil Refineries, Coal Mines, the Delhi Metro, National Monuments, Very Important Persons (VIPs), Sensitive Government Buildings, and the Indian Embassy in Nepal are totally safeguarded by the CISF. Starting around 2008, the CISF has additionally conveyed an UN-supported Formed Police Unit (FPU) in Haiti, which has been sent in private crucial enterprises like Infosys, Electronic City, and Reliance Industries. The rising interest for the CISF is a demonstration of its impressive skill and commitment to the current mission¹⁴⁵.

To handle any snag at an air terminal, CISF troops are instructed in profiling and conduct discovery to find and kill people who might represent a danger to air terminal security. This work has brought about the CISF performing outstandingly, with occurrences of opiates pirating/conveying, as well as weaponry and ammo, being gotten and seized at air terminals. At air terminals, CISF troops have found an enormous amount of substances like as Opium, Methamphetamine, Heroin, Pseudo-Ephedrine, and Methaqualone, as well as

¹⁴⁵ ason Seawright and John Gerring are the authors of this book. "A Menu of Qualitative and Quantitative Case Selection Techniques in Case Study Research" June 2008, *Political Research Quarterly*, Vol. 61, No. 2.

arms and ammo, during schedule/arbitrary checks and profiling of plausible suspects. Numerous outside nationals were likewise gotten by CISF authorities at IGI Airport in New Delhi for conveying unlawful items. The CISF additionally got two episodes of stuff lifting possess in Kolkata and New Delhi's IGI Airport¹⁴⁶.

The Government of India has decided to give over the security of the Delhi Metro to the CISF, and the CISF has previously assumed control over the control of the Delhi Metro on 15.4.2007. From that point forward, the CISF has taken care of its business with the workers' full help. Undoubtedly, the CISF, similar to the country's military, is doing its part to guarantee a completely safe climate for public resources and monetary action¹⁴⁷. Since the security of all air terminals has been shared with CISF officials, and instances of medication pirating have been found and recuperated at air terminals through this organization, this organization's part in managing the danger of medication dealing is famous. As an expert association, the CISF endeavors to work on its ability, innovation, and labor supply to establish a wrongdoing free climate for the nation's populace. Accordingly, the CISF's situation as India's opiates policing can't be lessened in any capacity. Besides, this organization plays had a critical influence in the implementation of India's medication regulations¹⁴⁸.

3.5 INTERNATIONAL PARTNERSHIP

Considering the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, which became real on December 15, 1993, India has been endeavoring to go into two-sided concurrences with similar nations in the space of battling unlawful medication dealing. To battle illegal intimidation

¹⁴⁶ Drug Policy Alliance Network

¹⁴⁷ www.famm.org (Families Against Mandatory Minimums)

¹⁴⁸ stopthedrugwar.org/chronicle-old/268/Michigan.shtml

and coordinated wrongdoing, India has marked removal deals, shared legitimate guide arrangements, and other specific game plans. Removal arrangements exist with Canada, the United Kingdom, the Netherlands, Belgium, Nepal, Bhutan, and the United States¹⁴⁹. India inked two-sided concurrences with the United States in March 1990, Mauritius in January 1990, Afghanistan in August 1990, the Russian Federation in January 1993, Myanmar in March 1993, Zambia in October 1993, and the United Arab Emirates in October 1993¹⁵⁰.

3.6 SCHEME OF NATIONAL COORDINATION:

In addition to international coordination, national cooperation of various control agencies and state governments in regards to drug law enforcement in the country is critical. The Narcotics Control Bureau is India's primary nodal agency for concerns concerning drug law enforcement. Different coordination forums exist, and they can be discussed in the following ways¹⁵¹:

3.6.1 Secretaries' board on opiates coordination:

As per the Cabinet Sub Committee on Drug Misuse Control's idea, the Ministry of Finance laid out a Narcotics Committee of Secretaries to inspect the rate of chronic drug use, control and countermeasures, ongoing drug habits in the states, and the activity of de-enslavement centers. The Secretaries of the Department of Revenue, Ministry of Social Justice and Empowerment, Ministry of Health and Family Welfare, and Ministry of Home Affairs make up the advisory group, which is led by the DG, NCB¹⁵².

¹⁴⁹ 9 Zalman, et al., 1979

¹⁵⁰ Rene Rocha of the University of Iowa provided the information on the racial and gender makeup of each state's legislature.

¹⁵¹ Section 4(3) of the NDPS Act, 1985.

¹⁵² Section 50 A of the NDPS Act, 1985.

3.6.2 MAC (Multi Agency Center):

The insight Bureau has MAC gatherings, which are gone to by Nodal Officers from a few policing. The significant objective of this social occasion is to share data about psychological oppression, coordinated wrongdoing, drug dealing, and narco-illegal intimidation. Comparable gatherings are hung consistently by the auxiliary knowledge authority (SIB) in the states (State Level Multi Agency Center (SMAC))¹⁵³.

3.6.3 REIC: Regional Economic Intelligence Council

The Chief Commissioner of Customs and Central Excise/Income Tax assembles the REIC gatherings, which center around trading data about monetary wrongdoings and coordinated wrongdoing with financial repercussions, for example, drug dealing¹⁵⁴. Members incorporate state and government authorization/security offices, income organizations, the RBI, and the Securities and Exchange Commission, among others.

3.6.4 Lead Intelligence Agency (LIA):

The line monitoring office positioned in the State/Region is facilitating this gathering. MHA has assigned the SSB (Nepal Border), BSF (Pakistan and Bangladesh Border), Assam rifles (Myanmar Border), and coast watch (beach front States) as the lead knowledge offices for gathering the gathering to share insight and talk about issues connecting with fear, pirating, coordinated wrongdoing, drug dealing, and other security issues. State and government policing knowledge offices are among the members in this issue¹⁵⁵.

¹⁵³ 2001 Drugs Cases 99 (Raj.)

¹⁵⁴ 2003 Cri.L.J.3210 (Kant.)

¹⁵⁵ Annual Report, 2009, Narcotics Control Bureau, Department of Revenue, Ministry of Finance, Government of India, p.36.

3.6.5 Nodal Officers' Meetings on Illicit Cultivation Destruction:

On March 9, 2009, a gathering of Nodal Officers from the ten states inclined to unlawful Opium Poppy development (Jammu and Kashmir, Himachal Pradesh, Uttarakhand, Bihar, Jharkhand, West Bengal, Orissa, Arunachal Pradesh, Manipur, and Karnataka) was held at NCB Headquarters for an appraisal of the illegal Poppy development circumstance by the particular Nodal Officers of the impacted States. Following that, at a gathering held at NCB Headquarters on September 8, 2009, the activity plan for recognizing and obliterating unlawful poppy creation for the yield season 2009-10 was endorsed and given.

3.6.6 Meeting of the Anti-Narcotics Task Force:

The top of the concerned State's enemies of opiates talks force gathers this gathering on a quarterly premise. Agents from a few state requirement organizations, including NCB, go to the gathering to share data and foster an activity plan for productive authorization.

The job and capacity of a few organizations engaged with the examination of cases under the NDPS Act and other applicable rules have been investigated. Presently we're digging into the imperfections in these offices' examinations, which have brought about the absolution of the culprits of such awful violations. While considering the job of examining offices in examinations attempted by these organizations, the implementation organizations should remember the legitimate suggestions put somewhere near different courts¹⁵⁶.

¹⁵⁶ Press Information Bureau, Government of India, Special Service and Features, 21.1.2013. CISF-Providing Safe and Secure Environment.

A sensible and fair preliminary is one in which both the charged and the person in question or the distressed individual get equity. Different justification for these NDPS Act exonerations have been recorded above, but some consideration ought to be paid to inadequate examination. Many cases bomb because of deficient request. Whenever we take a gander at the reasons for an imperfect examination, we can see that brought about by issues emerge from the time the FIR is recorded, through the case journal's upkeep, the inquiry and capture of articles/contrabands and archives, the postponement in the examination, and the assistance of request to witnesses, in addition to other things. It is the obligation of the researching organization to direct a fair and careful examination and gather all proof, whether great or ominous to the charged. With the security of society as the main goal, regulation, guidelines, and police practice should be intended to guarantee that the blameworthy are captured and rebuffed as fast as conceivable while the honest are not badgering¹⁵⁷.

The council has ordered and given specific shields in different arrangements of the Act, including Sections 42 and 50 of the Act, remembering the grave results that are probably going to follow on evidence of ownership of illegal articles/contrabands under the NDPS Act, in particular, the moving of the onus to the denounced and the extreme discipline to which he becomes responsible. In *State of Punjab v. Baldev Singh*¹⁵⁸, an established seat of the Hon'ble Apex Court presumed that, notwithstanding the insurances gave under the Code of Criminal Procedure, the shields gave under the Act should likewise be regarded while undertaking search and seizure. As indicated by the Hon'ble Supreme Court in *Beckodan Abdul Rahiman v. Province of Kerala*¹⁵⁹, the tough

¹⁵⁷ Pib.nic.in/newsite/efeatures.aspx?relid=91716

¹⁵⁸ 1955

¹⁵⁹ 1965

arrangements of the Act force a commitment on the indictment to rigorously follow the technique and consent to the protections. Anything recuperated is unlawful in the event that the pursuit isn't completed stringently in accordance with the insurances expressed or in break of procedural solution. At the point when there is an inability to consent to look and seizure prerequisites, the courts have concluded that the proof can't be depended upon.

In *Ram Kumar Singh v. Province of Rajasthan*, a cop led an examination that brought about a recuperation, capture of booty, and capture of the blamed, which was viewed as invalid. Another free official ought to attempt the examination. In another case, *Gopal v. Territory of Rajasthan*¹⁶⁰, it was held that a conviction couldn't be maintained assuming the examination was imperfect. For another situation, *Mahmood v. Province of U.P.*¹⁶¹, the Supreme Court held that it is the exploring official's liability to play it safe in the wake of fixing the article by entrusting his seal to the proper individual (autonomous observer) to keep away from the chance of altering the seal.

In *Amar Chand v. Express*, the Hon'ble Rajasthan High Court observed that an examination directed by an Assistant Sub Inspector without satisfactory authorization from the Central Government or the State Government was absolutely without power.

As expressed in *Kader @ Kader Babu Vs. Territory of Kerala*¹⁶², examination of an offense under the Act should be possible by the complainant or recognizing official himself, and insightful procedures under the Act are not vitiated in that frame of mind of confirmation of explicit harm to the charged. The Supreme Court excused the procedures in *Roy V.D. v. Territory of*

¹⁶⁰ 1960

¹⁶¹ 1950

¹⁶² 1940

*Kerala*¹⁶³, on the grounds that the official who directed the inquiry and seizure was not an approved authority. In light of that inquiry, the Supreme Court administered as follows:

Obviously no official other than an engaged official can summon Section 41 (2), practice powers under Section 42 (1), or document an objection under provision (d) of subsection (1) of Section 36-An of the NDPS Act. Thus, any assortment of materials, detainment or capture of an individual, search of a structure or movement, or seizure did by a not an engaged official or an approved official under Section 41 (2) of the NDPS Act needs legitimate assent and is innately unlawful, and accordingly, such a procedure can't be utilized to indict offenses under Chapter IV of the NDPS Act.

The strategy taken by the courts in conditions of poor or imperfect request has moved as of late. In various cases, the Supreme Court has decided that circumstances including poor examination should be taken care of with outrageous awareness. In such conditions, the more noteworthy probabilities should be thought of, and the courts should not be affected by slight irregularities or minor aberrations that don't have a critical effect. The proof should be assessed with regards to the total case, not in disengagement. The real factors on the ground should be remembered. Subsequently, it is vital to recollect that a defective examination doesn't necessarily in all cases infer exoneration. It would be shameful to clear the litigant simply because of an imperfect request. Therefore, where the examining official has intentionally delivered the examination imperfect, a proactive methodology by the court can be successful in accomplishing the objectives of equity. In the notable instance of *Zihira Habibullah Sheik v. Province of Gujarat*¹⁶⁴, the Hon'ble Supreme

¹⁶³ 1996

¹⁶⁴ 1990

Court reaffirmed that if "power is given to planned or careless examination, to the exclusion or slips by spur of the moment examination or missions, individuals' confidence and certainty would be shaken in the law implementing organization as well as in the organization of equity," individuals' confidence and certainty would be shaken not just in the law.

Different decisions have observed that the exploring specialists come up short on information on the regulations applicable to the matter, and that they leave holes in their examinations, which at last add to the charge's quittance. In its new case *Sukhdev Singh v. Province of Haryana*¹⁶⁵, the Hon'ble Apex Court stressed the significance of consenting to Section 42 of the Act, which is required. In this situation, the hunt was completed in the wake of getting the data. The examining official made no endeavor to lessen data to composing and to advise his higher specialists right away or even after a sensible pause. There was no proof introduced to make sense of what forestalled the examining official from recording and announcing data to bosses. It was resolved that all out rebelliousness with the arrangements of Section 42 of the NDPS Act was available, and that such a defect is serious, and that the charged is probably going to be cleared. The Hon'ble Apex Court gave an admonition to the analytical experts in such occurrences as a feature of the decision, and that segment of the judgment is alluded to as follows:

Before we close this document, we accept it is the Court's liability to arrange the Director General of Police responsible for all states to give proper guidelines guiding the exploring officials to adhere to the arrangements of Section 42 of the NDPS Act at the suitable stage to stay away from such vindications. Since consistence with the terms of Section 42 is required, it is the obligation of each and every exploring official to do as such in letter and soul, as per the law

¹⁶⁵ 1991

communicated by this Court in *Karnail Singh v. Territory of Haryana*¹⁶⁶

While summing up the discoveries of this section, the scientist states that the adequacy of these requirement associations is basic in forestalling the danger of illegal medication dealing. Their expert capability, i.e., their capacity to lead examinations, assemble proof, and follow legitimate hunt and seizure strategies, would clearly expand the conviction rate in such circumstances, which will make an impediment difference. These organizations should integrate legal rules gave every once in a while in their tasks on the grounds that, in light of an assessment of the previously mentioned decisions, obviously the Courts have adopted a proactive strategy to meet the closures of equity, where the exploring officials have intentionally delivered the examination blemished and properly reasoned that no casualty is at risk to endure because of the researching organization's issue. The law has been perused by Indian courts so that the blamed in such conditions can't be vindicated attributable to inadequacies in spur of the moment examinations. Notwithstanding a few blemishes on the off chance that examinations, the capacity of these implementation organizations is admirable, and it very well might be made much more effective by appropriate coordination among numerous offices and severe adherence to legitimate and legal standards¹⁶⁷.

¹⁶⁶ 2009

¹⁶⁷ Annual Report 2009, Narcotics Control Bureau, Ministry of Home Affairs, Govt. of India, Chater 10, p.46.

CHAPTER IV

JUDICIARY AND WAR AGAINST DRUGS IN INDIA, USA, MALYASIA, AND CHINA

4.1 INTRODUCTION

Despite the fact that central area China's ongoing drug habit doesn't have similar verifiable history as Western nations, the quantity of medication clients has been quickly extending throughout the past ten years. As indicated by measurements given by China's focal government, the quantity of medication clients signed up for restoration revolves has expanded to around 901,000 from 540,000 of every 1997. (Li et al., 2007). Since people enlisted at restoration focuses just address a little level of China's whole populace of medication clients, the genuine circumstance could be far more terrible. Moreover, given China's set of experiences of hiding certified SARS figures in spring 2003, the veracity of true information delivered by the Chinese government is in uncertainty¹⁶⁸. 72% of revealed drug clients are younger than 25 (Li et al., 2007), proposing major areas of strength for a between the medication abuse issue and Chinese youth. Youngsters matured 13 to 25 are significantly more vulnerable to medicate abuse than other age bunches because of their absence of information and experience, helplessness, interest, and friend pressure¹⁶⁹.

¹⁶⁸ "Opium/Leisure/Shanghai: Urban Economies of Consumption," by Alexander Des Forges. China, the United Kingdom, and Japan's Opium Regimes, 1839-1952. 167-182 in Berkeley: University of California Press, 2000.

¹⁶⁹ The Fall of Imperial China, by Frederic Wakeman Jr. Free Press, New York, 1977, pp. 131-137

Opium smoking turned into a recreation action among the Chinese upper class in the nineteenth 100 years, particularly in urban areas like Shanghai, which were thickly loaded up with opium nooks. While tobacco was for the most part seen as the result of decision for the everyday person, opium filled in prevalence. Smoking opium was related with the favored existence of the privileged in Shanghai, with the ability to bear the cost of the relaxation that others proved unable. The development of items and wealth was likewise advanced by opium smoking, which supported the economies of these urban communities. Opium turned out to be monstrously influential for China's metropolitan social orders because of this opium and item trade¹⁷⁰.

England and the United States both profited from opium commodities to China in the eighteenth and nineteenth hundreds of years. The rising exchange irregularity, nonetheless, in the end prompted the Opium Wars. Just before the contention, Imperial Commissioner Lin Zexu needed to kill all opium utilization inside China as well as the sneaking of opium from different nations. Lin Zexu composed a progression of letters to the British government trying to stop the overall opium exchange Canton, China. Lin asserted in these letters that the importation and offer of opium in China was untrustworthy, and that the lord ought to stop it later on. Lin Zexu likewise attempted to stop the opium exchange by coercively eliminating opium dealers from Canton. Lin's endeavors, be that as it may, were at last fruitless, as the British armada crushed Chinese warriors and kept the Emperor of China from thoroughly disposing of opium deals¹⁷¹.

¹⁷⁰ *Drugs, Dreams, and the Making of China*, by Julia Lovell. Picador, London, 2011, p. 371.

¹⁷¹ Tadashi Wakabayashi, Brook, Timothy, and Bob China, *the United Kingdom, and Japan's Opium Regimes, 1839-1952*. University of California Press, Berkeley, 2000: 25.

The British expanded their requests during the 1850s to incorporate more extensive exchanging freedoms for British finance managers, as well as the legitimization of the opium exchange. These solicitations were embraced into the Treaty of Tianjin in 1860 after China couldn't avoid British powers. The job of outsiders in the Opium Wars impacted how Chinese individuals saw opium in the 20th hundred years.

While the opium exchange and use were not completely killed during the 1930s crusade, it was a turning point in China's opium concealment endeavors. China abruptly started to notice progress toward its point of absolutely wiping out all hints of opium all through the country¹⁷².

China didn't accomplish its objective of eliminating opium from inside its nation until the mid-1950s. This was definitely not a simple errand. It took the participation of numerous provincial organizations to guarantee that opium development and utilization wouldn't be permitted to continue. This theory will investigate how China finished opium creation and utilization¹⁷³.

The investigation of Zhou Yongming's examinations was the beginning stage for this postulation. Zhou Yongming examinations the Chinese opium

¹⁷² Chinese and Opium in the Republic: Worse Than Floods and Wild Beasts, by Alan Baumler. 177-193 in Albany: State University of New Jindu shijian [Opium Suppression Events], Changsha: Yuelu chubanshe, 1997: 446-447. Wang, Hongbin. Jindu shijian [Opium Suppression Events]. Changsha: Yuelu chubanshe, 1997: 446-447.

York Press, 2007

¹⁷³ Jindu shijian [Opium Suppression Events], Changsha: Yuelu chubanshe, 1997: 446-447. Wang, Hongbin. Jindu shijian [Opium Suppression Events]. Changsha: Yuelu chubanshe, 1997: 446-447.

concealment exertion during the 1950s in Anti-Drug Crusades in twentieth Century China. Various elements of the mission, like meetings, decrees, and binds to the Chinese Communist Party, are referenced by Zhou. While Zhou gives a significant level outline of the mission, he doesn't carefully describe the different techniques utilized during the mission or why it was viable. This proposition will develop Zhou's statements about the job of opium denial in the Chinese Communist Party's union of force, as well as the explanations behind the mission's prosperity.

The organization of a few concealment methods was the vital justification for the mission's viability during the 1950s. China's opium status varied in provincial and metropolitan regions. Numerous people group in Sichuan, Yunnan, and other horticultural districts were encircled by poppy fields¹⁷⁴. Then again, urban areas like Shanghai and Nanjing were tormented with drug processing plants, dealers, and clients. Confronted with fluctuated issues in every area, the PRC government needed to devise separate approaches for provincial and metropolitan regions. The PRC government had the option to focus on all portions of the opium market by joining these methods¹⁷⁵.

The mission of the 1950s was very fruitful in answering the local distinctions. Policing ready to follow, capture, question, and rebuff drug crooks at different levels of the medication market because of these actions. Nearby authorities in country China likewise recognized poppy cultivates and annihilated the harvest to forestall further opium creation. Policing drug producers, shut opium lairs, and restored fiends in urban areas. Against drug fights were arranged to adjust popular assessment in regards to tranquilize deals and utilization to forestall the

¹⁷⁴ Chinese and Opium in the Republic: Worse Than Floods and Wild Beasts, by Alan Baumler. 158-168 in Albany: State University of New York Press, 2007.

¹⁷⁵ The Shanghai Green Gang: Politics and Organized Crime, 1919-1937, by Brian G. Martin. University of California Press, Berkeley, 1996, pp. 79-82.

renewed introduction of opium into populaces. Against drug manner of speaking and measures were connected to political missions, for example, the "Oppose US Aggression and Aid Korea" mission and land change to pressure the mission's significance. Opium could at this point not be filled in that frame of mind to the expansive assortment of procedures utilized during these activities¹⁷⁶.

4.2 In the 1940s, the opium trade was booming.

After decades of combating the spread of opium in China, the presence of opium in Chinese society shifted dramatically in the 1940s.¹⁷⁷ Measures like the Six-Year Plan were successful in reducing opium production and consumption during the 1930s, but they did not totally eliminate the drug's presence. The avowed purpose of the Chinese Nationalist government's Six-Year Plan, enacted in 1935, was to manage and limit opium cultivation, distribution, and consumption, primarily by handing over control of all opium-related enterprises to the government and taxing opium consumers.¹⁷⁸ However, corruption and the government's need for money from opium taxes, one of the measures used to curb opium consumption, hampered opium's total elimination. Controlling opium sales allowed the Chinese Nationalist government and warlord administrations, such as Long Yun in Yunnan province, to collect cash and pay for their military costs, posing a challenge to opium prohibition¹⁷⁹.

¹⁷⁶ The Blooming Poppy Under the Red Sun: The Yan'an Way and the Opium Trade," by Yongfa Chen. Tony Saich is a writer. *The Communist Revolution in China: New Perspectives* Routledge, New York, 2004: 98-101.

¹⁷⁷ Tadashi Wakabayashi, Brook, Timothy, and Bob China, the United Kingdom, and Japan's Opium Regimes, 1839-1952. University of California Press, Berkeley, 2000: 25.

¹⁷⁸ Chinese and Opium in the Republic: Worse Than Floods and Wild Beasts, by Alan Baumler. 177-193 in Albany: State University of New York Press, 2007.

¹⁷⁹ Chinese and Opium in the Republic: Worse Than Floods and Wild Beasts, by Alan Baumler.

Chiang Kaishek, the Nationalist leader, was an example of this conflict of interest. The chairman of the Military Affairs Commission, Chiang Kai-shek, strongly opposed gambling and opium smoking in public and chastised individuals who engaged in these activities. Chiang Kai-shek, for example, asked for harsher penalties for opium smugglers in 1940. Chiang stated in one of his lectures that anyone who cultivates, transports, or sells opium shall be executed. Anyone who assists and/or abets these drug-related activities should be put to death. Those who help authorities find and arrest opium dealers should be rewarded, but those who try to conceal opium stockpiles should be severely penalized.¹⁸⁰ Despite his strong anti-opium stance, several sources suggest that Chiang Kai-shek, like several other government leaders, may have benefitted secretly from opium trafficking through tax systems.¹⁸¹ Furthermore, Chiang Kai-shek had formed an alliance with Du Yuesheng, the Shanghai Green Gang's leader. To make money, the Green Gang engaged in drug trafficking and sales while simultaneously supporting Chiang's political activities.¹⁸² Chiang Kai-shek's desire to decrease opium addiction was likely hampered by the fact that he profited from opium monopolies in China and collaborated with local gangs.

Regions in the South, such as Sichuan and Xikang, were still growing and exporting opium at the conclusion of the Six-Year Plan due to these concerns

Press of the State University of New York, 2007: 217.

¹⁸⁰ Jindu shijian [Opium Suppression Events], Changsha: Yuelu chubanshe, 1997: 446-447. Wang, Hongbin. Jindu shijian [Opium Suppression Events]. Changsha: Yuelu chubanshe, 1997: 446-447.

¹⁸¹ Chinese and Opium in the Republic: Worse Than Floods and Wild Beasts, by Alan Baumler. 158-168 in Albany: State University of New York Press, 2007.

¹⁸² The Shanghai Green Gang: Politics and Organized Crime, 1919-1937, by Brian G. Martin. University of California Press, Berkeley, 1996, pp. 79-82.

about willingness to implement bans and limitations.¹⁸³ Because the Six-Year Plan failed to totally eliminate opium manufacturing, the drug remained a problem far into the 1940s. China was believed to be generating at least 1100 tons of opium annually three years after the Six-Year Plan ended, accounting for roughly half of the world's total opium production.¹⁸⁴

These Japanese puppet administrations wanted to establish opium monopolies in the areas of China that they controlled. As a result, Japanese puppet administrations built numerous opium dens and trafficking routes throughout China. Cities' gangsters and local law enforcement personnel supported these governments by gathering information on potential opium markets and trafficking the substance to urban customers.¹⁸⁵ As a result of these monopolies, opium consumption became more prevalent in occupied areas. The Japanese were able to grow opium trafficking in China by engaging in these techniques.

The opium trade benefited a number of regimes. One example is the Mengjiang administration, which operates in present-day Inner Mongolia as a puppet state for the Japanese empire. Between 1939 and 1942, the Mengjiang administration shipped more than half of its opium to Shanghai, which served as a narcotics distribution centre for opium and heroin in China.¹⁸⁶ The Nationalist Party

¹⁸³ Chinese and Opium in the Republic: Worse Than Floods and Wild Beasts, by Alan Baumler. Press of the State University of New York, 2007: 217.

¹⁸⁴ Government of the United States of America. Traffic in Opium and Other Dangerous Drugs. Washington, D.C.: Government of the United States of America, 1944: 51.

¹⁸⁵ "Drug Operations by Resident Japanese in Tianjin," by Motohiro Kobayashi. China, the United Kingdom, and Japan's Opium Regimes, 1839-1952. Tadashi Wakabayashi, ed. University of California Press, Berkeley, 2000: 159.

¹⁸⁶ "An Opium Tug-of-War: Japan vs. the Wang Jingwei Regime," by Motohiro Kobayashi. China, the United Kingdom, and Japan's Opium Regimes, 1839-1952. Tadashi Wakabayashi, ed. 344-346 in University of California Press, Berkeley, 2000.

claimed that Japan was exploiting opium to destabilise China, thus linking opium prohibition to anti-Japanese operations. Those who continued to assist the opium trade in China were deemed traitors, and their crimes were harshly punished.

One such organization, the Wang Jingwei administration, is thought to have collaborated with the Japanese to trade opium within China. The Wang regime aimed to create a monopoly over the opium trade in order to profit from its sale.¹⁸⁷ At the same time, they wanted to promote anti-opium activities without jeopardizing their reputation by siding with the Japanese. While the Wang regime implemented new suppression methods in the early 1940s, the conflict between their desire to profit from opium and their goal to eradicate opium undermined these policies. An opium tax was one such scheme. The opium tax accounted for around 5% of the government's revenue, allowing them to continue profiting from opium trafficking while inadvertently suppressing its use.¹⁸⁸

Opium was linked to the issue of warlords, feudal officials, and landlords in southwest China, in addition to foreign aggression. Many of these people made money by forcing peasants to produce enormous opium poppy fields and smuggling the product across China. Peasants were forced to convert cropland into poppy farms in places like Shaanxi, Sichuan, Yunnan, and Fujian. Peasants who did not produce opium poppies were frequently required to pay taxes,

¹⁸⁷ "In My Heart I Opposed Opium: Opium and the Politics of the Wang Jingwei Government, 1940-45," by Brian G Martin. 365-410 in *European Journal of East Asian Studies* (2003).

¹⁸⁸ "An Opium Tug-of-War: Japan vs. the Wang Jingwei Regime," by Motohiro Kobayashi. *China, the United Kingdom, and Japan's Opium Regimes, 1839-1952*. Tadashi Wakabayashi, ed. University of California Press, Berkeley, 2000, pp. 346-352.

making it impractical to do so.¹⁸⁹ These taxes were particularly infamous in Sichuan and Shaanxi. Officials in some counties imposed high land taxes, which farmers could only afford if they planted opium. Other districts imposed a "laziness tax" on peasants who did not plant a certain number of opium poppies, motivating locals to continue farming the poppy. Those who were successful in growing opium, on the other hand, faced difficulties. Troops would be dispatched to demand an opium levy from local farmers in some areas. Farmers' violent protests erupted as a result of these sometimes inconsistent taxation regimes.¹⁹⁰ Warlords would utilize the opium produced to control local forces in addition to targeting farmers.¹⁹¹ Warlords would distribute opium to troops in the early 1940s, eventually rendering the troops completely reliant on the warlord to sustain their opium addiction. Warlords were able to utilize opium to instill obedience in their troops in this fashion. These warlords' capacity to bribe, threaten, and undercut any government officials who attempted to implement eradication initiatives went hand in hand with their control over troops. Officials attempting to decrease opium consumption in these areas were greeted with resistance from the warlords and landowners who controlled the area. Local magistrates would also fabricate data on the incidence of poppy growing in order to make it appear that little intervention was required. Opium suppression in southwest and northwest China was thwarted by these forces.

During the early 1940s, the government made numerous measures to prevent poppy planting. Despite repeated attempts to adopt and implement new

¹⁸⁹ *Opium, State, and Society: China's Narco-Economy and the Guomintang, 1924-1937*, by Edward R. Slack. 11th edition, University of Hawaii Press, 2000.

¹⁹⁰ "The Responses of Opium Growers to Eradication Campaigns and the Poppy Tax, 1907-1949," by Lucien Bianco. *China, the United Kingdom, and Japan's Opium Regimes, 1839-1952*. University of California Press, Berkeley, 2000, p. 306.

¹⁹¹ *Chinese and Opium in the Republic: Worse Than Floods and Wild Beasts*, by Alan Baumler. 2007: 89, State University of New York Press.

regulations to fight opium cultivation, these measures were usually rendered ineffectual due to opposition. This was especially true in China's rural areas, where farmers relied largely on the opium poppy as a cash crop.

County magistrates in Yunnan, such as the one in Luxi, would urge farmers to grow poppy, encourage them to bribe officials to protect their crops, and then falsely claim that the poppy plants had been destroyed.¹⁹² Farmers battled and killed soldiers ordered to destroy poppy plants, as well as the Luxi court magistrate, when the magistrate continued to extort opium farmers.

4.3 BACKGROUND ON CHINA AND NARCOTICS

China has remained remarkably undisturbed by worldwide drug networks since the formation of the People's Republic of China in 1949. This is partly owing to mainland China's small consumer market mixed with a strong repressive regime, but it's also because other industrial and transportation zones have been deemed more appealing. Except for a brief period between 1941 and 1946, when the Communists profited from drugs in their war against the nationalist government, Mao Zedong fought aggressively against both drug manufacture and consumption as soon as he came to power, substantially reducing the incidence of both. This position has changed since then, since China's spectacular economic growth has developed a large consumer base, and China is now considered as a viable market for drugs trafficking networks. As a result, China's government has adopted a firm stance against the sale and manufacture of narcotics. China is now the world's largest heroin seizure state (10,836 kg), the ninth largest opium seizure state (890 kg), the seventh largest ecstasy seizure state (300 kg), and the second largest amphetamines seizure state (300 kg)

¹⁹² "The Responses of Opium Growers to Eradication Campaigns and the Poppy Tax, 1907-1949," by Lucien Bianco. *China, the United Kingdom, and Japan's Opium Regimes, 1839-1952*. University of California Press, Berkeley, 2000: 311.

(2,746 kg). While these seizures demonstrate China's commitment to tackling the illegal narcotics trade and the resources it devotes to the effort, they also illustrate the scope of the problem it faces today. In 2003, the number of addicts registered with public security agencies jumped substantially to more than a million. While data show a decrease in the number of registered addicts to 71,579 in 2004, it is evident that China still has a long way to go in its efforts to prevent drug usage. According to UN data from 2006, 88 percent of addicts use heroin. According to Chinese data, 79.2 percent of registered addicts are under the age of 35 and sexually active, which has a direct impact on the HIV/AIDS crisis, since 72.4 percent of the 17,316 HIV/AIDS carriers in 1999 were intravenous users. This ratio appeared to drop to 68.7% in 2001, but the true statistic was a sharp increase in overall HIV/AIDS carriers to 28,000.10 Regardless of this decline, these data paint a bleak image, especially as this is thought to be just the tip of the iceberg, as drug addicts often avoid registering with authorities and only do so when they are jailed or really unwell.

4.4 SUPPRESSION OF OPIUM IN RURAL CHINA

Between 1949 and 1952, the People's Republic of China waged an opium eradication campaign that targeted both rural and urban areas of the country. Previous initiatives, on the other hand, had only had limited success. The tactics used by the Nationalist government did not take into account the specific conditions and environment in which the opium trade flourished in the province. Local administrations in certain rural regions have focused on removing poppy fields without considering other concerns such as warlordism, severe drug addiction, or even the intentions of the people who grow poppies. Because of their lack of foresight, these officials were unable to put an end to opium trafficking and usage. PRC officials would have to propose techniques that were applied on a case-by-case basis to successfully eliminate opium in both of these contexts.

The presence of opium in rural and urban China was strikingly different. While opium consumption was concentrated in places such as Shanghai, poppy fields could be found throughout China's rural south. In 1949, an estimated 134,045 mu (20,000 acres) of cropland in Sichuan, China, was utilized to cultivate opium poppy.¹⁹³ Around 150,000 mu (22,400 acres) of land in Guangdong Province was used for opium poppy cultivation in the same year. According to documents from the 1940s, opium production accounted for around 3% of the agricultural sector in rural China.¹⁹⁴ Farmers saw opium poppies as a good cash crop since they required less land to cultivate and were more profitable than food. In a single year, one acre of rich farmland might generate up to 90 kilograms of opium.¹⁹⁵ Collecting opium was also a straightforward method. Farmers would cut along the stems of maturing poppies, allowing sap to accumulate on the stem's surface. The opium sap was gathered and sold in markets when it had dried.¹⁹⁶ Raw opium might either be refined into a more potent product (morphine) or chemically synthesized into heroin. Raw opium might be worth two to six times as much as other crops, giving farmers a significant incentive to produce poppies over other crops.¹⁹⁷ Farmers used the extra money they made to buy new tools or grain. Even after the opium had

¹⁹³ There is a good chance that the actual acreage dedicated to poppy cultivation in China is significantly higher than what was documented, due to widespread misreporting of the prevalence of poppy cultivation in China.

¹⁹⁴ *New Perspectives on the Chinese Communist Revolution*, edited by Tony Saich and Hans van de Ven. M. E. Sharpe, Armonk, 1995, pp. 277-286.

¹⁹⁵ *Opium, State, and Society: China's Narco-Economy and the Guomindang, 1924-1937*, by Edward R. Slack. 8th edition, University of Hawaii Press, 2000.

¹⁹⁶ Stephen Endicott, *Stephen Endicott, Stephen Endicott, Stephen Endicott In a Sichuan village, a revolution is brewing*. I.B. Taurus, London, 1988: 33.

¹⁹⁷ "Opium and Modern Chinese State-Making," by R. Bin Wong. 192 in *Opium Regimes: China, Britain, and Japan, 1839-1952*.

been extracted from the poppy, the remaining leaves, seeds, and dried stalks may be used as a food source or given to livestock.

The first step in the opium suppression campaign, which lasted from 1949 to 1952, was gathering intelligence and preparing how the campaign would deal with opium in each province. The PRC government needed to acquire information on the current situation surrounding poppy cultivation and drug trafficking in China's rural counties before launching drug-suppression operations. Variations in opium usage, poppy cultivation, and drug trafficking between regions may have a considerable impact on anti-drug operations' success. Within each of these regions, government agents tried to compile data on poppy field patterns as well as lists of people involved in opium trafficking and consumption. Some provincial governments concerned that too many arrests might alert drug lords to the agents' actions, so they developed these lists instead of arresting drug offenders right away. Since poppy cultivation was the most common part of the opium market being investigated in rural China, great emphasis was placed on determining the scope of these operations. Cadres carried out orders to eradicate poppy planting in areas where there was no military presence until after this research was completed.

During earlier attempts at suppression, troops would remove poppy fields and levy high tax rates on poppy growers in an attempt to deter continuing growth of the plant. Farmers, who were not always able to afford the high tax rates, resisted these efforts, proving that this strategy was futile. Worse, taxation encouraged local magistrates to favour the ongoing production of opium poppies rather than their removal. While magistrates made half-hearted measures to reduce poppy planting, the taxes received from poppy growers provided a convenient source of cash.

Unlike prior efforts, the 1949 to 1952 campaign used a different set of tactics to

combat poppy cultivation. The "General Order" was the most essential campaign measure. The following are the mandates of the General Order:

- i. Make propaganda to enlist the help of the people.
- ii. The People's Government should convene opium suppression committees at all levels and in all regions, and opium should be eradicated within a reasonable timeframe.
- iii. Eliminate opium in areas where the military is not present, and eliminate opium in areas where the military is present after the end of military operations.
- iv. Make all illegal narcotics cultivation, manufacture, trafficking, and sale illegal.
- v. Encourage folks to surrender any opium or other narcotics they might have.
- vi. Within a reasonable timeframe, register all addicts.
- vii. Provide resources such as clinics and medications to help opium addicts get back on their feet, but only under the rigorous supervision of the Chinese Health Department.
- viii. In cities with serious drug issues, establish rehabilitation clinics.

- ix. In collaboration with the People's Administration, each province government must develop specific techniques and timeframes.

According to the "General Order," any region without a military presence was required to outlaw opium immediately.¹⁹⁸ Individuals who farmed, trafficked, or consumed opium would face no exceptions under the law, regardless of their circumstances. When opium was discovered in a person's possession, the General Order mandated that their supply of opium be confiscated and that the culprit be punished. Executions were used sometimes, but most punishments were limited to prison sentences ranging from 2 to 5 years. Addicts who failed to register or quit using opiates within a certain time frame were also subjected to these penalties. These new procedures were implemented throughout China.

First, the campaign's goals were linked to land reform in order to urge the prioritization of opium suppression in rural China. This was a one-of-a-kind strategy since it took advantage of existing societal shifts in rural China. The split and redistribution of land possessed by the landlord class was a primary preoccupation during the PRC's early years.¹⁹⁹ The Agrarian Reform Law was passed by the Chinese government in 1950. Area owned by rural landlords was divided and redistributed under this rule, thereby ending the landlord's hold over the land. Farmers produced opium by seeding large properties with opium poppy, making it easier for landowners to mass produce the poppy derived drug. The Agrarian Reform Law had an impact on poppy cultivation because farmers

¹⁹⁸ The Government Administration Council is a body that oversees the administration of the "Zhengwuyuan guanyu yanjin yapien yandu de tongling" (Opium Suppression Directive). The date was February 24, 1950. The 17th of February, 2019, according to Baidu.

¹⁹⁹ *Anti-Drug Crusades in Twentieth-Century China: Nationalism, History, and State Building*, by Yongming Zhou. Rowman & Littlefield, Lanham, MD, 1999: 160-161.

produced opium by seeding large properties with opium poppy, making it easier for landowners to mass produce the poppy derived drug. Poppy farmers found it more difficult to maintain their former levels of poppy cultivation after dividing and transferring ownership of these lands. Another advantage of the Agrarian Reform Law is that it resulted in the formation of cadres who assisted in the destruction of poppy farms. As a result of land reform, poppy growing in rural China has decreased.

Poppy cultivation and opium trafficking plagued Guangxi, which is now an autonomous region in southern China. Part of the problem stems from Guangxi's warlordism. Guangxi warlords compelled peasants to produce opium in the 1920s and 1930s so that the warlords could profit from the opium earnings and expand their military and political dominance. Drug traffickers used Guangxi as a base of operations. The "Guangxi Corridor" ran through eastern China, connecting opium plantations in Yunnan with major cities. Guangxi was able to establish itself as a major player in the opium trade as a result of these circumstances. It continued to play a role in the opium trafficking throughout the 1940s and early 1950s. Guangxi had to deploy several techniques of control to take down the entire region's market, with over 200,000 mu (32,947 acres) of cropland dedicated to poppy cultivation and over 30,000 drug traffickers.²⁰⁰

Poppy farming was first outlawed by Guangxi's provincial government. Poppy plantations were demolished, and any opium or drug paraphernalia found in the possession of citizens was confiscated and destroyed by police authorities. Guangxi officials prepared lists of people suspected of being involved in drug smuggling before arresting them in waves to cope with the problem. The drug

²⁰⁰ Jinchang jindu [Oppose Prostitution, Suppress Opium], Ma Weigang. *Jinguan jiaoyu chubanshe*, Beijing, 1993: 385.

offenders would be interviewed before being sentenced to up to ten years in prison. Guangxi's poppy plantations and smuggling rings were permanently shut down during this effort.

Yunnan was likewise cautious about how it conducted its own repression effort. Yunnan was once recognized for producing high-quality opium. Yunnan farmers were able to produce opium that could be sold at twice the price of opium produced in other provinces thanks to the fertile land. Even in the nineteenth century, Yunnan was regarded as a major opium-growing province in China, with opium poppies considered one of the region's most important exports.²⁰¹ drug traffickers bought high-priced Yunnan opium and transported it to neighboring areas. As a result, Yunnan needed to handle the operations of opium cultivators and traffickers.

In 1949, the Yunnan Provincial government discovered that opium poppies were grown on at least 2,400,000 mu (395,369 acres) in the province, with annual opium production of around 250,000 liang (12,500 kilograms). According to some accounts, poppy farms made up much to 3% of Yunnan's agricultural area.²⁰² Yunnan issued an Opium Suppression Directive in June 1950, outlining the steps it will take to eradicate opium. Yunnan propagated propaganda and began uprooting poppy farms to combat opium. Government personnel visited some districts of Yunnan to educate villagers about the hazards of opium addiction. Cartoons and small demonstrations were held in several of Yunnan's more populated areas to discourage production and

²⁰¹ "The French Stranglehold on Yunnan; a First-Hand Survey," by Wilbur Burton. 20. *China Weekly Review*, 1933.

²⁰² The actual data on opium production rates varies greatly from one source to the next. The difficulty in gathering trustworthy data on cultivation patterns, as well as over- or under-reporting of real cultivation, may be the cause of these disparities.

consumption.²⁰³ Locals were persuaded to stop growing opium poppies and report drug trafficking through propaganda. Yunnan removed nearly 6000 kg of opium poppy in 1951. Drug dealers were also tracked down and apprehended by local cops. Drug dealers who were apprehended were routinely sentenced to prison and, in some cases, executed.²⁰⁴ By 1951, the Yunnan government declared that opium had been eradicated from all but the most remote counties.

The use of force was not used in all anti-drug policies. Citizens were also encouraged to participate actively in the drug-suppression effort. The provincial administration of Guizhou encouraged residents to establish a "new Guizhou." Citizens were offered the option of surrendering any narcotics they had in their possession willingly in order to avoid receiving jail time for their offences. Addicts could also register with anti-drug organizations like the Central Ministry of Public Security and obtain assistance from health volunteers in overcoming their addictions. Out of the 18,000 drug offenders detected in Guizhou in 1951, 11,700 were able to be registered and rehabilitated as a result of these compassionate directives.²⁰⁵ Addicts who participated in rehabilitation programs were given drugs to assist them cope with withdrawal symptoms and progressively reduce their opium intake. Guizhou, for example, was able to implement excellent rehabilitation programs.

The success of rural China's anti-opium campaign was due to the fact that it was carried out in every location where the PRC discovered opium. It was also via

²⁰³ Niu, Helan. "Yunnan sheng jianguo chuqi jindu douzheng dui dangqian jindu gongzuo de qishi [Drug War in Yunnan Province at the Country's Founding]." *Yunnan Police Officer Academy Journal* (2011): 17-20.

²⁰⁴ *Ibid.* 17-18.

²⁰⁵ *Anti-Drug Crusades in Twentieth-Century China: Nationalism, History, and — State Building*, by Yongming Zhou. Rowman & Littlefield, Lanham, MD, 1999: 96.

cooperation that the campaign was carried out. These remote counties and provinces were only able to abolish all sorts of drug offence by rigorous planning, selection, and execution. Unlike previous operations, which left routes for opium multiplication and trafficking to continue, the 1950s campaign left no options for opium to persist once the campaign's job was accomplished.

While the strategies detailed in this chapter were extremely effective in rural China, urban China faced a unique set of obstacles. The PRC government needed to come up with innovative ways to deal with the complicated opium situation in China's cities.

4.5 OPIUM PROHIBITION IN CHINA'S CITIES

The pervasiveness of opium in China affected both rural and urban areas. Despite this similarity, opium's presence in these two diverse regions of China manifested in various ways. While poppy growing was mostly concentrated in rural China, the majority of opium consumption took place in urban areas. In 1949, Shanghai had at least 8,000 opium merchants and 20,000 opium dens.²⁰⁶ Several cities were densely inhabited with opium dens, gathering places for individuals to smoke the illegal substance. On average, there were eight opium dens for every square mile in some cities.²⁰⁷ Because opium dens were less densely populated in the countryside, smoking was less common.

While early twentieth-century suppression measures reduced the openness with which Chinese residents living in cities might smoke opium, smoking continued

²⁰⁶ Zhongguo Gongchandang jindu shi [Chinese Communist Party Period of Opium Suppression]. Qi Ji. Zhongguo Gongchandang jindu shi [Chinese Communist Party Period of Opium Suppression]. 2017: 203.

²⁰⁷ Ibid

well into the twentieth century. Shanghai and Nanjing were the two most important opium-smoking cities. Other cities, though, had opium smoking as well. In 1949, cities in Fujian had up to 100,000 opium dens.²⁰⁸ Opium from places such as Yunnan and Sichuan was brought in large quantities to cities and supplied to smokers by drug dealers. Nanjing was importing at least 2550 kg of opium per year at the start of the 1940s.²⁰⁹ Throughout the 1940s, these levels of importation were maintained.

The Communists wanted to use additional measures of repression in China's cities. Opium prohibition, on the other hand, was not a novel concept in Nanjing. During the 1920s, the city attempted to suppress opium production. Prior to the 1950s campaign, the city distributed literature "demonstrating the dangers of opium usage" and issued licenses to addicts and opium stores.²¹⁰ The idea was to keep tabs on opium consumption and gradually limit smokers' access to the narcotic. This licensing system, contrary to expectations, proved ineffective, as it offered a loophole through which opium stores could continue to operate. The licensing system was later outlawed by the Opium Suppression Committee in an effort to eradicate any lingering narcotics activity. Nanjing also clashed with the National Anti-Opium Association in the 1930s when the organization attempted to enforce opium prohibition laws in the city. Instead of obtaining support from the city, the group was faced with criticism because

²⁰⁸ Zhongguo Gongchandang jindu shi [Chinese Communist Party Period of Opium Suppression]. Qi Ji. Zhongguo Gongchandang jindu shi [Chinese Communist Party Period of Opium Suppression]. 2017: 203.

²⁰⁹ Jinchang jindu [Oppose Prostitution, Suppress Opium], Ma Weigang. 363-380 in Beijing: Jingguan jiaoyu chubanshe, 1993.

²¹⁰ "Nationalists Move to Suppress Opium," by Henry F. Misselwitz. 7 October 1928, New York Times:

Nanjing benefited from the opium taxes.²¹¹ Both initiatives to limit opium consumption in Nanjing ultimately failed.

Because of the challenges in regulating opium within cities in the past, the PRC government used a variety of measures to eradicate drug activities. To begin, propaganda was prepared and disseminated in order to sway public opinion on the subject of opium. Citizens were told to "fight America, aid Korea, confront reactionaries, and suppress opium," according to propaganda.²¹² By linking the Communist Party's anti-drug activities to the Korean War, the CCP was able to earn the trust of Chinese citizens and strengthen their grip on the country. Citizens were encouraged to compare opium eradication to the CCP's political and military accomplishments. Some propaganda efforts claimed that the sale of opium and other narcotics was part of a secret scheme by foreigners to destroy Chinese people and society, in addition to linking opium suppression to the Korean War. Opium smoking was connected with patriotism, and supporting the drug's trafficking was equated with opposing the PRC government, according to propaganda. The Directive on Anti-Drug Propaganda restricted the use of paper propaganda in order for the PRC government to avoid drawing worldwide attention to the suppression operation. Propaganda trucks and buses would pass through cities, spreading anti-drug sentiments via speakers, in place of newspapers and other types of media that could potentially leave the nation. Propagandists would also go door-to-door in Tianjin, notifying residents of future meetings and promoting propaganda. The suppression campaign was supported in telegraphing propaganda throughout cities by the use of propaganda vehicles and verbal news exchange.

²¹¹ *Opium, State, and Society: China's Narco-Economy and the Guomindang, 1924-1937*, by Edward R. Slack. 96-97, University of Hawaii Press, 2000.

²¹² *Anti-Drug Crusades in Twentieth-Century China: Nationalism, History, and State Building*, by Yongming Zhou. Rowman & Littlefield, Lanham, 1999: 385

The propaganda effort had a significant impact on Chinese residents' motivation. Many people dismissed the campaign's chances of success. Despite assertions that law enforcement was seeking to reduce drug activity, residents in many places saw little to no decrease in the degree of drug activity. Several drug dealers were apprehended, only to be released a few days later and resume their narcotics operations, giving people even more cause to distrust the Communists' capacity to eradicate opium. Cities began organizing meetings and rallies in combination with propaganda operations to motivate locals in order to help citizens regain trust in the PRC leadership. Between 1949 and 1952, hundreds of thousands of public meetings were conducted to encourage individuals to report any drug activities and drug offenders to turn themselves in. Guangzhou hosted 11,000 anti-drug protests, with an estimated 1.2 million people in attendance. Similar levels of involvement were seen in Shenyang. Following a single meeting in Xian, almost 700 people confessed to their misdeeds, making these rallies crucial to the success of the 1950s campaign.²¹³

Along with supporting opium prohibition, these demonstrations instilled in Chinese residents a sense of patriotism. On April 14, 1951, 40,000 people in Dali, Yunnan Province, organized a rally in support of opium prohibition and American involvement in the Korean War. The PRC government was able to further motivate the masses to aid in the campaign to eradicate opium from cities by linking opium suppression to the Korean War and social movements within China.

Beijing allowed opium addicts to register during anti-drug rallies in order to

²¹³ *Anti-Drug Crusades in Twentieth-Century China: Nationalism, History, and State Building*, by Yongming Zhou. Rowman & Littlefield, Lanham, 1999: 103

urge more people to attend.²¹⁴ Addicts who register during these rallies may be able to avoid being prosecuted for opium possession. Following the rallies, registration rates in Beijing dramatically climbed, indicating that the inducement was successful.

Citizens were also urged to participate in anti-drug operations decision-making. Committees of heads of society and community leaders were formed in Shanghai and other large cities. These groups aided city administrations in putting out propaganda, rallying, inspections, and punishment strategies. People's active participation in opium suppression in urban areas aided Chinese citizens' mass mobilization during the anti-drug campaign.

In addition to organizing propaganda campaigns and demonstrations, the Communists worked hard to track down and punish drug abusers. Because poppy farming was less common in the areas around China's cities, local governments concentrated their efforts on the existing networks of opium sellers and users. Instead of focusing their efforts on individual drug users, law enforcement agents in numerous places arrested and prosecuted drug lords and significant distributors.²¹⁵ These people were crucial to the underground network of smugglers and dealers that fueled the drug trade in cities.

Nanjing was one of the cities that made significant efforts to apprehend drug offenders. Nanjing had a major drug trafficking problem at the commencement of the PRC's opium suppression campaign. Because of its large population, opium traders and smugglers flocked to the city. According to Ma Weigang's investigation, of Nanjing's local industries exhibited evidence of being involved

²¹⁴ The Legal Daily is a publication dedicated to legal issues. "Beijing's Large-Scale Opium Suppression, 1952 Nian Beijing Dagui Jindu Xingdong [Beijing's Large-Scale

²¹⁵ *Anti-Drug Crusades in Twentieth-Century China: Nationalism, History, and State Building*, by Yongming Zhou. Rowman & Littlefield, Lanham, 1999: 98.

in the city's drug trafficking system out of 145.²¹⁶ While Nanjing was able to identify many of the participants in the drug trade, the city often gave offenders who were apprehended light punishments. Officers discovered 1,569 cases of opium smuggling and arrested 472 drug offenders between May and December 1949. Only 26 of the 472 offenders, on the other hand, faced jail time. The great majority of those arrested were either released or received just minimal sentences. Only 345 of the 2,090 convicts detained in 1950 appeared in court. These figures show that, while Nanjing had some success in detecting smuggling, nothing was done to penalize the drug traffickers who were identified. The main reason for the leniency was most likely due to Nanjing's incentives for confiscating narcotics but not for arresting and sentencing drug offenders, an oversight that resulted in less severe sanctions accidentally.

The Government Administrative Council and the Interior Ministry agreed that drug-related offences needed to be punished more harshly. To make drug offences more punishable, the council decided that no bonuses should be given to law enforcement or informants based on the amount of opium collected. Because certain districts rewarded cops for capturing opium but not arresting offenders, many officers would simply confiscate the drug without arresting or punishing the drug dealers from whom the opium was seized. As a result, drug traffickers were allowed to continue operating in exchange for opium that could be turned in for bonuses. By making these payouts illegal, officers no longer have a strong incentive to ignore drug charges. Second, numerous districts received guidelines recommending harsher penalties for drug offenders arrested. For example, in Shanghai, these standards defined who may be declared a drug

²¹⁶ Jinchang jindu [Oppose Prostitution, Suppress Opium], Ma Weigang. 363-380 in Beijing: Jingguan jiaoyu chubanshe, 1993.

criminal and how these drug offenders were to be punished.²¹⁷ These measures aided cities in combating law enforcement corruption and bribery.

Shanghai had a better track record when it came to dealing with drug dealers. Shanghai promptly prohibited the production, sale, and consumption of opium after the General Order was passed. Drug facilities were seized, and tools used in drug production were recovered. Shanghai has also started looking for those who are in possession of drugs and confiscating drug paraphernalia. Shanghai made 6,873 drug seizures, detained 12,211 individuals, and collected nearly 18,000 kilos of drugs between 1950 and 1951.²¹⁸ These arrests and seizures continued until the campaign's conclusion in 1952, when Shanghai succeeded in eliminating opium usage.

During the second wave of the campaign, from 1950 to 1952, law enforcement agents in cities made arrests in waves to avoid alerting specific drug criminals, as was the situation in rural China. Agents would question suspected drug sellers after arresting them for more information about their narcotics activities. Arrested offenders in Tianjin will be probed about their crimes before being sentenced to long prison terms. The information acquired during these interrogations was used by law authorities to track down drug lords and opium manufacturers.

Along with drug trafficking, local administrations also had to deal with opium addiction. Cities opened rehabilitation centers to help drug users. Shanghai's municipal government donated 360 million old yuan to addicts in rehab over the

²¹⁷ Department of Archives in Shanghai. "Luelun 1952 nian Shanghai de jindu yundong [Opium Suppression Activity in Shanghai in 1952]." September 28th, 2012. Shanghai, March 15, 2019.

²¹⁸ Jinchang jindu [Oppose Prostitution, Suppress Opium], Ma Weigang. *Jingguan jiaoyu chubanshe*, Beijing, 1993, pp. 360-383.

course of the campaign. Rehabilitation centers were created in Nanjing, and over a thousand addicts voluntarily signed up for treatment. Unfortunately, several of Nanjing's treatment centers closed soon after they started due to a lack of resources.

Despite losses early on in the programme, cities were successful in eliminating opium. Between 1949 and 1951, Nanjing, for example, was able to seize almost 100 kg of crude opium and heroin. Shanghai reported in 1953 that all known opium operations had been shut down. Only a few areas of opium consumption remained to be dealt with throughout China by the time the campaign ended in 1952.

There were various reasons why opium-eradication programs in cities were successful. The Central Ministry of Public Security's level of collaboration in conducting the drug campaign across many cities was one of the primary reasons. The Ministry of Public Security decided where more information should be obtained, when arrests should be conducted, and how propaganda should be spread. The huge mobilization of city inhabitants was a second motive. Residents took part in rallies and committees, giving millions of people the chance to help end the opium epidemic. Another important feature of the campaign was that each city's strategies were altered to address the most pressing concerns about opium's presence in the community. These tactics were essential in the 1950s battle to remove opium from Chinese cities.

CHAPTER V

CONCLUSION AND SUGGESTION

5.1 CONCLUSION

Drug misuse, in some form or another, is a worldwide problem. India isn't an outlier in this regard. Herbal Cannabis and Opium, which were only available in limited amounts from licensed shops until recently, were the traditional narcotics of abuse in India. As long as drug addiction was limited to particular sorts of people and the problem was controlled by an informal social control system. However, the situation has changed dramatically in the last two decades as a result of rising clandestine demand for hard drugs such as Heroin and Concentrated Cannabis in affluent Western countries, which has led to the development of illicit opium conversion into Heroin in clandestine laboratories in the "Golden Triangle" and "Golden Crescent." Hashish production grew in Nepal, and India's geographic location soon established it as a transit point for the drugs from the aforementioned source countries to Europe, America, and other countries.

Individual states, such as the United States, the United Kingdom, and India, have also enacted anti-drug abuse legislation. On November 14, 1985, the NDPS Act, which replaced the Opium Act, 1857, The Opium Act, 1878, and The Dangerous Drugs Act, 1930, became the major legislation in India to combat drug misuse. The previous Acts were primarily regulatory and restrictive in nature, and thus failed to accomplish the expected objectives in light of India's alarming surge in drug misuse. The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988, was added to this Act (PITNDPS Act). The NDPS Act of 1985 included an express provision for the establishment of a central authority for the purpose of exercising the powers

and functions of the Central Government, namely the "Narcotic Control Bureau," which exercises those powers and functions. The most recent modification, the NDPS (amendment) Act, 2001, is yet another legislative attempt to iron out the kinks and fix the technological issues. Under the case of *Durand Didier versus Chief Secretary, Union Territory of Goa*, the Supreme Court of India praised the Indian Parliament for enacting appropriate measures in the NDPS Act, 1985.²¹⁹

In Chapter II, the researcher looked at the problem of drug use and misuse in India, as well as what types of drugs are being misused in India and how they affect society, as well as what mechanisms should be devised to control and prevent drug addiction.

Substances that have physiological and psychological effects on humans and other higher animals are classified as drugs. However, these medicines are frequently abused for their non-therapeutic qualities in order to alter one's mood, escape from reality, and, in some cases, even to end one's life.

Every year on June 26th, the International Day Against Drug Abuse and Illicit Trafficking is commemorated. It is a global effort by the international community to raise awareness about the dangers of drugs among the general public and among youth in particular. As a result, drug addiction is a social issue caused by a variety of circumstances. People use drugs for a variety of reasons, including peer pressure, stress reduction, enhanced energy, relaxation, pain relief, escape from reality, higher self-esteem, and recreation. They might take stimulants to stay awake, or cocaine for the rush it gives them. Many athletes and bodybuilders use anabolic steroids to gain muscular bulk. Drug addiction is a behaviour whose manifestation is determined by the intricate

²¹⁹ AIR 1989 Supreme Court 1966.

drug-individual-society link and is intertwined with society's socioeconomic and religious fabric. The type of drug misuse is largely determined by a variety of societal factors that vary with time and geography. There are differences in drug misuse control legislation from country to country for the same reasons. A law is created to suit a specific goal in a certain social context. The disparity in legal legislation concerning the problem of drug usage from state to state causes a great deal of misunderstanding in the legal community.

The worst element of drug addiction is that it has the greatest impact on the most vulnerable young people. The young are particularly vulnerable to drug experience due to their insatiable curiosity and need for new experiences. When a significant portion of a generation becomes addicted, the generation suffers from a loss of productive citizens and becomes burdened by a severe societal burden. The authorities have faced a major issue as a result of the creeping growth of drug addiction in rural areas.

Drug addiction raises a lot of difficulties. The widespread use of drugs is a human tragedy that has catastrophic consequences for family members, whether they are parents, children, or other relatives. It produces discord and discord in the family, and every family member suffers as a result. Criminal activity naturally sneaks into the family. Parents frequently find it difficult to accept that their children use the substance or to blame their children's aberrant behavior on something the parents did or did not do during their child's upbringing. Shame and embarrassment keep them from acknowledging their child's drug use far too often. They can't help the child if they don't tackle the drug problem; find the guts and the right tools to stop using drugs.

Addiction to drugs has serious social consequences. Drug addiction has a high cost to society. The majority of drug users in the globe are between the ages of

18 and 35 and are employed. They bring their drug-taking habits to work, resulting in a slew of major issues such as decreased productivity, machinery damage, extended absences from work, and higher health-care costs.

The presence of addicts in huge numbers in our cities and towns is a manifestation of insufficient or immature personalities, not an overpowering demand caused by the psychological impacts of narcotics. However, attitudes, beliefs, and definitions that are favorable to drug use are frequently learned in the drug subculture. Understanding, analyzing, and finding solutions to the problem are now a priority for social reformers, politicians, and social scientists alike.

After reviewing the historical context, the researcher examined the negative effects of drugs such as opium and its derivatives, cocaine, alcohol, sedatives, ganja (cannabis), anabolic steroids, tranquillizers, inhalants, Caffeine/Nicotine, and others, which not only harm individual health but also harm society as a whole. The psychological, divergent association, ongoing stressful life, bodily necessity, and easy availability of substance are the main factors of drug addiction. The importance of parents, teachers, and family members in the prevention and control of drug usage cannot be overstated. Various policies have been developed to prevent and regulate drug addiction, as well as attempts to prevent drug addiction at the community, family, and college levels. Workplace prevention programs have already begun. Drug prevention centers have been established in institutions and workplaces to provide effective counselling to drug users as well as strong motivation and guidance. Drug addiction has been reduced to some extent as a result of all of these efforts, but the problem in India remains alarming, as India's youth have become drug addicts, necessitating immediate attention from the Centre, State governments, and nongovernmental organizations (NGOs) working in this field.

The primary goal of drug-trafficking policy and action is to diminish demand for drugs as well as to regulate supply. A positive and life affirming campaign is required for prevention, treatment, and rehabilitation. The primary methods for combating this threat are persuasion, motivation, coercion, compulsion, and punishment, and all of these processes will have to be employed in order for drug addicts to resist the urge to take drugs and live a drug-free life. Families and volunteer organizations can also play a significant role in reintegrating rehabilitated addicts back into society.

The United Nations adopted a worldwide programme of action in 1990, which will be implemented at the national, regional, and global levels. It has also proposed four particular actions to be implemented, in addition to focusing on improved communication, more effective information exchange, and increased government engagement. First and foremost, prevention should become an intrinsic part of global drug control efforts. Second, a multifaceted drug control strategy including all levels of government and society should be developed. Third, as the foundation of a global framework of cooperation, international drug control treaties should be adopted and enforced. These agreements can serve as a legal framework for efficient drug control cooperation. Finally, a regional collaboration involving neighboring countries should be established to effectively combat the illicit drug problem. As a result, the only way to stop drug misuse is for everyone to work together and make a concerted effort.

Finally, it can be argued that drug addiction is an issue that requires coordinated efforts from a variety of players, including the government, NGOs, IGOs, social groups, and entire societies, to combat the problem and its negative consequences. The necessity of the hour is for a thorough and rational investigation into the reasons of drug addiction. The way people treat drug addicts needs to change, and they need to be provided therapeutic therapy. The

laws should be re-examined and revised to take a firm stance against drug abusers and peddlers, with the drug addict being seen as a victim rather than a perpetrator.

After providing some historical background on drug addiction legislations, the researcher provides a quick overview of all existing drug laws in India in Chapter III. The earliest enactment on narcotics in India was the Opium Act of 1857, which dealt with the issue of licenses to cultivators for the cultivation of poppy, delivery of produce to officers of the Central Government at the established rate, action in case of opium embezzlement by cultivators, and penalty for illegal opium purchase, among other things. It also established the responsibilities of landowners and others. The Opium Act of 1878 followed, attempting to regulate the possession, transportation, export, import, and sale of opium. This Act made it illegal to cultivate poppy plants and possess opium, among other things. Following that, the Dangerous Drugs Act of 1930 was enacted in order to honour an international commitment to regulate some dangerous drug operations. This Act also attempted to increase the penalty for some offences involving dangerous substances and to make all penalties for specific operations involving such drugs uniform. Following that, the Substances and Cosmetics Act of 1940 and the Drugs (Control) Act of 1950 were passed, both of which were seen as efforts toward reducing illicit trafficking and the consumption of harmful drugs. The Indian government likewise established a National Committee on Drug Addiction in 1976, but its objective was failed as the scourge spread swiftly across the country. Apart from these three Central Acts, some States have passed their own legislation to combat narcotics consumption.

The NDPS Act, 1985, was passed to replace the Opium Act, 1857, the Opium Act, 1878, and the Dangerous Drugs Act, 1930, as the major legislation to

combat drug usage in India. The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988, was enacted after the NDPS Act of 1985. The Drugs and Cosmetics Act, 1940, and the Prevention of Money Laundering Act, 2002, as amended to date, supplement the NDPS Act, 1985, in terms of controlling the manufacture and supply of certain drugs, as well as forfeiture of property derived from or used in the illicit trafficking of such drugs and substances. On the basis of an analysis of all of India's drug legislation, it can be stated that the legislative mechanism to combat drug misuse in India is adequate, but that the implementation level requires additional measures to battle this evil.

Because the majority of drug cases are investigated by the local police, they must take the lead in dealing with them. In general, public witnesses are hesitant to participate in investigations, and the accused are cleared by courts at various levels due to a lack of independent corroboration. The Apex Court did not appreciate the Court's approach and issued a cautionary note to the courts while praising the role of local police in the *Government of NCT of Delhi versus Sunil and others*.²²⁰ The Supreme Court of India has taken a pragmatic approach in dealing with the investigation of these cases by the investigating agency in recent judgments, as it is becoming increasingly difficult to join independent witnesses due to the general public's lack of cooperation with the investigating agency, particularly in drug cases. In *Ram Swaroop versus State (Govt. of NCT) of Delhi*²²¹, it was held that the general public is hesitant to come forward to testify in court, and so the prosecution case cannot be questioned for failing to cross-examine independent witnesses. There is no definite rule that police officers cannot be called as witnesses, and their depositions should be considered with suspicion, and the accused's conviction has been upheld based

²²⁰ (2001) 1 SCC 52.

²²¹ 2013 CrL.J. 2997.

on the claims of police officials. In a previous judgment, the Honble Apex Court cautioned the various courts in India that statements of police official witnesses could not be thrown out solely because no independent witness was examined where their depositions are trustworthy and reliable, and this very important observation was made by the Apex Court in *State, Govt. of NCT, Delhi versus Sunil* and others (supra), which is necessary to quote:

In this way, the Honble Supreme Court has sent a positive signal to law enforcement agencies in regards to drug case investigations, because if the cases are probed fairly and properly by the police, their evidence cannot be disbelieved solely because no independent witness was called. The Central Bureau of Investigation (CBI) is India's most powerful investigative agency. The Supreme Court, the High Courts, Parliament, and the general public hold the CBI in high regard. The CBI is responsible for investigating serious crimes in the country that have inter-state and worldwide implications, as well as gathering criminal intelligence in three key areas of operations: anti-corruption, economic crimes, and special crimes. This outfit is also in charge of narcotics smuggling on a huge scale. Various Courts have debated the role of this agency in the investigation of NDPS cases.

The researcher looked into the roles of the Directorate of Revenue Intelligence, Custom Authorities, Enforcement Directorate, and Security Forces in Chapter IV. The Directorate of Revenue Intelligence (DRI) is responsible for all elements of Customs, Central Excise, and Narcotics activity. In its current incarnation, the DRI is a lean organization tasked with gathering intelligence, analyzing it, collating it, interpreting it, and disseminating it on topics relating to violations of customs rules and, to a lesser extent, anti-narcotics legislation. The DRI is part of the Ministry of Finance's Department of Revenue and reports to the Central Board of Excise and Customs. DRI maintains close ties with all

important enforcement agencies in India, including the Central Economic Intelligence Bureau, Income Tax Department, Enforcement Directorate, Narcotics Control Bureau, Directorate General of Foreign Trade, Border Security Force, Central Bureau of Investigation, Coast Guard, State Police Authorities, and all Customs and Central Excise Commission rates, in order to ensure effective discharge of its responsibilities. It also works closely with the World Customs Organization in Brussels, the Regional Intelligence Liaison Office in Tokyo, Interpol, and other international customs administrations. Although the courts have warned DRI officers on several occasions for leaving lacunae in their investigations, it can still be stated that the role of this agency is highly significant because it is dealing with anti-narcotic legislation in an effective manner the majority of the time.

International cooperation in the field is also required to tackle the problem of drug usage. In light of the 1988 UN Convention, India has been attempting to enter into bilateral agreements with like-minded countries in the area of fighting illicit drug trafficking. To combat terrorism and organized crime, India has signed extradition treaties, mutual legal aid agreements, and other particular arrangements. In addition to international cooperation, national coordination of various federal and state government entities charged with enforcing drug laws in the country is critical. In India, the Narcotics Control Bureau is the national nodal agency for drug law enforcement issues. India maintains numerous coordination forums by hosting meetings of various agencies at varied intervals. It could be argued that when considering the role of investigative agencies in ensuring compliance with required provisions and other sections of the NDPS Act, particularly Sections 41, 42, 50, 52, 55, and 57, enforcement agencies should take heed of legal directives issued by various courts. Based on an examination of the numerous court decisions, it has been determined that the victim is not liable to suffer as a result of the investigating agency's negligence,

and that the investigating officers are liable for disciplinary proceedings if the investigation is purposely flawed. Despite occasional shortcomings in case investigation, the role of these enforcement authorities is commendable and has been recognized by the courts on occasion.

In Chapter V, the researcher examines the judicial response to drug law enforcement by addressing penal policy as outlined in the NDPS Act. Due to the inclusion of multiple provisions prescribing strong sanctions, the NDPS Act, 1985 stands out from all other socio-economic legislations. For different offences, a minimum of ten years of hard imprisonment and a fine of one lakh rupees are stipulated as punishments, making the penalties as severe as feasible. However, due to widespread abuse of the provisions, modifications were enacted in 2001 that divided the offences into three categories: one involving commercial quantities, a second involving a small quantity, and a third involving quantities less than commercial but greater than small quantity. This chapter has gone over the NDPS Act's offences and punishments. The researcher has critically examined the judicial response to drug law enforcement in India in the following headings:

A search and seizure, as well as the recovery of contraband, must be conducted by an authorized person, and Sections 41 and 42 of the NDPS Act must be followed. Failure to comply would invalidate the search and seizure of the contraband. When an empowered officer conducts a search and seizure in a public area, no such requirement as anticipated by Sections 41 and 42 applies. The Supreme Court of India considered this matter in *State of Punjab vs. Balbir Singh*²²² and issued certain directions regarding compliance with mandatory provisions. Sections 41 and 42 were held to be mandatory in nature, and their violation would jeopardize the prosecution's case and vitiate the trial. According to a three-judge bench of the Supreme Court of India, in *Sajjan Abraham versus*

²²² AIR 1994 Supreme Court 1872.

State of Kerala,²²³ the empowered officer can conduct a search and seizure if the urgency and the grounds of information and reasons for the search and seizure cannot be recorded, and a violation of Sections 41 and 42 of the NDPS Act will have no effect on the case.

Social democracy is generally defined as a style of life based on monumental liberty, equality, and fraternity as guiding ideals. Such liberty is inextricably linked to economic democracy. The pervasive evil of drug trafficking not only shackles these beliefs, but also causes a full halt in the country's progress in different spheres. In the context of a clause of the NDPS Act, the phrase "reason to believe" has been a source of much legal debate. It must be a belief in good faith and not based on a mere pretense on the part of the concerned officer when he has to search a suspect carrying narcotics; it cannot be solely subjective satisfaction. Various Supreme Court decisions, notably one by a Constitution Bench in the case of *State of Punjab against Baldev Singh*, have subjected the provisions of Sections 42 and 50 to the principle of statutory interpretation.²²⁴ In this ruling, it was also determined that Section 50 of the NDPS Act must be followed, and that any search or seizure conducted in violation of it is illegal. It is a legal right of the accused to be informed by the investigating agency if he wishes to be searched before a Gazetted Officer or a Magistrate under Section 50 of the Act, and it is not a mere formality. According to the Punjab & Haryana High Court in *Bachan Singh versus State of Haryana*, compliance with Section 50 of the Act is required when contraband is to be recovered from the accused's person, but this provision does not apply to searches of a vehicle, container, bag, or premises.²²⁵ The investigating agency must adhere to the search and seizure procedure, as no female shall be searched by anybody other

²²³ AIR 2001 Supreme Court 3190.

²²⁴ AIR 1999 Supreme Court 2378.

²²⁵ 2004 (2) RCR (Criminal) 394 (P&H).

than a female. In the case of *State of Punjab against Surinder Rani@ Chindi*, when a female accused was searched by a male person, the search became illegal, and the accused was acquitted on this basis.²²⁶

The Supreme Court and other High Courts have held that in personal searches, notice under Section 50 of the Act is required, and that the accused are being acquitted on minor technical grounds. There was some debate about whether the Section 50 requirement should apply when a bag or other container was discovered on the person of an accused during a search. The Honble Supreme Court of India considered this matter in *State of Himachal Pradesh versus Pawan Kumar*,²²⁷ and a Bench of three learned Judges held that the provisions of Section 50 will only apply to a personal search of the accused and not to any baggage such as a bag, article, or container that he may be carrying. In this way, the Supreme Court of India limited the application of Section 50 of the Act's notice requirement to searches of bags, containers, and the like, and limited it to searches of the accused's person. In the given circumstances of the country, such an approach by the Court is commendable, as the drug business is on the rise due to large profits, and if the courts deal with the matter in light of the urgency of the situation, it will inevitably result in a decrease in drug abuse. As a result, acquittal of the accused in drug cases should be avoided on the basis of mere legal technicalities.

The prosecution is compelled to transmit a sample of the contraband to the Forensic Science Laboratory whenever incriminating materials are seized (FSL). As a result, the confiscated article should be sealed immediately and stored in the Malkhana of the respective Police Station, where it should be kept intact until it is deposited for analysis to the FSL. The impression of the seal

²²⁶ 2001 (4) RCR(Criminal) 776 (SC).

²²⁷ AIR 2005 Supreme Court 2265.

used on sealed goods must be recorded on a CFSL form to rule out the possibility of tampering with the seal on a sealed packet from the time it is seized until it is received in the laboratory. According to Indian courts, if any infringement is proven on record and causes prejudice to the accused, the accused is entitled to acquittal. As determined in *Valsala vs. State of Kerala*, the requirements of Section 55 of the NDPS Act are purely advisory and not mandatory.²²⁸ Because there was no evidence that the recovered materials were properly sealed and kept in proper custody, and because there was an unexplained three-month delay in bringing the articles to the court, the conviction under Section 21 of the Act was declared invalid. As a result, it is established that the confiscated illegal items must be securely packed and kept. Independent witnesses are not required in every case since the facts and circumstances of each case vary. While independent witnesses should be present during a search and seizure, it is the Court's duty to evaluate the evidence of police officers with proper care and caution if they are not. There was contraband recovered in *Ram Singh versus State of Haryana*²²⁹, and a public witness was called into the investigation, but he did not support the prosecution account. Both official witnesses in this instance were consistent in their testimony about the factum of recovery, the location of recovery, the time of recovery, the way in which the search was done, and how the sample was taken and stored, and the accused's conviction was upheld. As a result, even in the absence of independent corroboration, conviction of accused persons can be justified if the evidence of police official witnesses is trustworthy and credible. The courts are taking a more proactive approach these days, not pressuring public witnesses on every occasion, but the evidence of police official witnesses must be considered in the context of the facts and circumstances of each case.

²²⁸ 1994 Cri.L.J.1 (SC).

²²⁹ 2000 (1) RCR (Criminal) 541 (P&H).

The objectives of the Juvenile Justice (Care and Protection of Children) Act 2000, as revised up to date, must be considered while dealing with situations of juveniles in conflict with the law under the terms of the NDPS Act, 1985. The provisions of this Act 2000 pertaining to offences committed by juveniles in contradiction with the law regulate the Courts. When a juvenile offender is brought before the Special Court under the NDPS Act, the court must consider the juvenile offender's request for bail. In exercising powers under Section 12 of the Juvenile Code, the Court of Sessions or High Court as a Juvenile Court might release the accused on bond while dealing with an application for bail. The Court must record a definite finding that the petitioner is a child, and as such, he is to be released on bail under Section 12 of the Juvenile Act because there is no evidence that the juvenile's release will bring him into contact with any known criminal, expose him to moral dangers, or defeat the ends of justice. The courts have taken the position on several occasions that the provisions of Section 37 of the NDPS Act dealing with bail have precedence over other laws, and this approach does not align with the objectives of the Juvenile Act, 2000, as in every case involving a juvenile offender, his case should be considered under Section 12 of the Juvenile Act, which was passed after the NDPS Act, which is a Special Act. In the case of the other accused, the restrictions imposed for the grant of bail under Section 37 of the NDPS Act are completely reasonable. Because the NDPS Act is an Unique Act dealing with a specific type of crime that poses an international threat, the legislature has wisely inserted some special provisions impacting the authority of the Trial Court in granting bail. The court can only grant bail if it has a reasonable belief that the accused did not commit the crime and that if the accused is released on bail, he will not commit another crime, as the Punjab & Haryana High Court held in *Gopi Ram versus State of Haryana*.²³⁰

²³⁰ 1994 (2) Crimes 1075 (P&H).

Internationally, financial investigations leading to asset forfeiture have recently received a lot of attention. During the last few years, the Narcotics Control Bureau (NCB) has likewise focused on its field of drug law enforcement. Despite this, they have not been able to fully utilise the forfeiture provisions of the NDPS Act of 1985. As a result, when the researcher comes to the end of the study, he or she concludes:

- i. In India, the national drug policy is guided by legislation, and the focus has been on reducing demand through prevention and treatment, as well as reducing supply through enforcement actions. However, political backing and resource investment for supply reduction have been clearly prioritised. One example is one of the act's 2001 revisions, which established a National Fund for the Control of Drug Abuse. This was put in place to help expand demand-reduction programs.
- ii. Primarily, the judiciary has a restricted role to play because it can only penalize drug addicts and not eradicate this evil from society. There are numerous additional components of this problem that have nothing to do with the judiciary. Drug addiction is solely a social evil, not a legal issue, hence social working organizations play an important part in this area. The threat of trafficking in narcotics, drugs, and psychotropic substances must be dealt with severely, according to the Judicial decision, but because of the provision of Section 27 of the NDPS Act, courts have punished the accused with a punishment that may extend to one year or a fine of up to twenty thousand rupees or a punishment of up to six months or

ten thousand rupees, this situation needs to be improved by amending and making provisions for severe punishment. Drug users have also been threatened with punishment, implying that they must seek medical treatment and participate in a preventative programme, with the goal of eradicating the problem.

- iii. Drug trafficking has reached worrying proportions in the country's north and north-eastern states. The amount of heroin smuggled across the Indo-Pak, Indo-Burma, and Indo-Nepal borders has been a major source of concern at the highest levels. The development of drug trafficking as the worst form of organised crime has not only harmed the well-being and welfare of a huge population, but it has also posed an unprecedented threat to future generations' quality of life.

- iv. The Indian government responded by enacting a very strict and thorough law in response to the magnitude of the problem. The Narcotic Drugs and Psychotropic Substances Act of 1985, which stipulates a minimum sentence of ten years in prison and a fine of one lakh rupees, with a maximum fine of three lakh rupees. Furthermore, the courts have been given the authority to impose fines that are higher than these limits for reasons that must be recorded in their decisions. In December 1988, the NDPS Act was revised to inflict harsher penalties for supporting illicit trafficking and harbouring convicts, including the death penalty for those who commit these crimes. It also calls for the confiscation of any property obtained or utilised in illegal trafficking.

- v. Under this act, a central authority known as "The Narcotic Control Bureau" was established to coordinate the enforcement operations of the various agencies in the country as well as to carry out India's duties under several international accords.

If the overall picture is taken into account, there is a high rate of acquittal in drug cases due to major flaws/technical flaws such as (i) lack of cooperation from public or independent witnesses; (ii) casual method of investigating the cases, allowing lacunae in the investigation; (iii) liberal interpretation of statutes in favour of the accused; and (iv) unusual delay and low percentage of conviction, but the trend is slowly changing as various judgments have been. For example, in the past, the accused were acquitted because independent witnesses refused to testify, but now, even if an independent witness refuses to testify, the evidence of official witnesses is given weight, and a conviction can be based exclusively on the evidence of official witnesses. The same thing has happened with other important sections of the NDPS Act, such as Sections 41, 42, 43, 50, 52, 55, and 57, because while the provisions of these sections are mandatory and concerned officials are required to comply with them, their failure to do so will not be fatal unless it results in a miscarriage of justice or prejudice to the accused on the facts of the case. It has been observed that the judiciary has a sympathetic attitude toward the defendants charged under this legislation. However, some improvements are on the way, and they are desperately needed. There is no need for such a statute if the accused who commit crimes under this Act are acquitted in this manner. Although this Act contains numerous strict and deterrent provisions, the judiciary should give equal weight to all sides and develop creative ways to bring the truth to light and ensure that no criminal goes unpunished. It is past time to make the required revisions to the Act in order to achieve the desired effects.

5.2 SUGGESTIONS

On the basis of the aforementioned analysis, the following recommendations are made to improve the effectiveness and efficiency of the legal system.

- i. Despite two major revisions to the NDPS Act, it remains ambiguous and weak in some areas. With each amendment, the flaws in the statute have become more evident. It should also be emphasized that the legislation be written in simple language, not only to make it more popular among the general public, but also to limit the scope of diverse interpretations of the law by the public, investigating agencies, and the judiciary. The Judicial Magistrates have the authority under Section 36 A (1) (b) to hold and remand an arrestee in custody for a total of fifteen days. Except for certain commercial quantity offences, the NDPS Act does not specify the maximum length of custody, unlike Section 167 (2) of the Cr.P.C. In this sense, there is a nearly horizontal division in the upper judiciary. Many High Courts have ruled that a Magistrate becomes *functus officio* after 15 days, and that the accused must be brought before a Special Judge for future remands. However, in the case of *Janta Singh vs. State of Punjab*²³¹, the Punjab & Haryana High Court declared that until Special Courts are established, Judicial Magistrates can remand accused persons for more than 15 days. In *Alimuddin vs. State of Rajasthan*²³², the court took a similar stance on this issue. Nonetheless, both of these High Courts

²³¹ 1996 Cri.L.J.1185 (P&H) (FB).

²³² 1991 (1) EFR 263 (Raj.)(FB)

stopped short of saying that, even after the establishment of Special Courts, the Special Judge should not be required to fulfil the duty of Magistrates, as this would defeat the goal of expedited case trials. Even the Orissa High Court declared in the case *Bimbadhar Behera against State of Orissa*²³³ in 1993 that magistrates have the power to remand accused persons for more than 90 days, let alone 15 days. As a result, Section 36 A must be amended or modified in a particular and explicit manner.

- ii. If an investigation is not completed within 90 days, the accused's custody may be extended up to 180 days instead of the 90 days prescribed by Section 167 (2) Cr.P.C. in the case of persons accused of an offence punishable under Section 19 or Section 24 or Section 27 A or for offences involving commercial quantity. Even if the investigation cannot be completed within the 180-day period, the Special Court may extend the period up to one year based on the Public Prosecutor's report on the investigation's progress. This provision, which gives the investigative agency so much power, is completely opposed to the rapid trial of such cases, as the accused's right to a speedy trial is guaranteed by the Constitution. Providing such a long term for inquiry in instances under the NDPS Act is not justifiable because simple conscious possession of contraband is an infraction under various provisions of the Act. This provision immediately violates the accused's constitutional rights and obstructs the rapid trial of certain cases, which is the fundamental goal of this

²³³ 1993 Drug Cases 146 (DB).

Special Act. Even yet, there is no need to allow such a long time for inquiry, and thus Section 36 A (4) needs to be amended or modified to reduce the term of investigation when the accused is in jail, which should not exceed 90 days in any instance.

- iii. Prior to the 1989 revisions, there were no pre-conditions for granting bail under Section 37 of the NDPS Act, and bail applications were governed by the Cr.P.C. In 1989, only a few limitations were placed on the issuance of bail for narcotics offences that carried a five-year sentence. The pre-conditions have now been limited to commercial quantity offences or offences covered by Sections 19, 24, and 27 A of the Act. Despite this, the authority of the Judicial Magistrate to hear bail applications remain ambiguous in these statutes. The Judicial Magistrates have been empowered (impliedly) to trial offences punishable for a period of three years or less by using summary procedure under subsection 5 of Section 36 AA as a result of Section 36A's change. The 2001 Amendment gave the authority of trial, but it did not specifically provide the Magistrates the right to accept bail petitions. If detention of an arrestee is deemed unnecessary, the Magistrates are required to refer the person to the Special Courts under Section 36 A (1) (b). As a result, this proviso functions as a check on the ability of Magistrates to grant bail to accused persons even for minor offences, and legislators should pay close attention to this issue and make necessary revisions or modifications to this provision to provide clarity.

- iv. The NDPS Act is noticeably quiet on the issue of granting accused persons the benefit of anticipatory bail. Special Courts can use Section 36-C of the NDPS Act, which allows them to work under the Cr.P.C. In the absence of any specific embargo in the Act, such as certain restrictions and pre-conditions imposed under Section 37 for granting regular bail, it can only be assumed that the Special Courts, which are deemed to be Courts of Sessions, can entertain and dispose of applications for pre-arrest bail under Section 438 Cr.P.C. The view of the High Courts on anticipatory bail is more interesting. Special Courts have been declared to be Courts of Sessions with limited authority to hear bail applications under Section 439 of the Criminal Procedure Code. This is an obviously absurd legal stance. The Honble Gauhati High Court in *Baljeet Singh against State of Assam*²³⁴ concluded that it would be totally incongruous with the idea that it had been stripped of its powers under section 438 Cr.P.C. to eliminate this anomaly. Their Lordships also held that the power of the High Court to grant pre-arrest bail under Section 438 Cr.P.C. was preserved in accordance with the Legislative intent expressed in Section 36B (Power relating to appeals and revisions) to construe that in scheme of the Act as envisaged under Chapter IV thereof. It is past time to correct this legal flaw in order to ensure that the terms of India's drug laws are effectively implemented.
- v. The NDPS Act's Section 27 addresses the illegal possession of narcotic narcotics and other controlled substances for personal consumption in small quantities. Prior to the 2001 amendment,

²³⁴ 2004 (1) Gau.L.R.94 (Gau.).

the penalty for this offence was a year in prison or a fine if the drug was cocaine, morphine, or diacetyl-morphine, and six months in prison or a fine if the drug was other substances in tiny amounts. The Government of India decided the "small quantity" under the stated pre-amended Act via Notification dated 14.11.1985. The table of "small quantity" has been updated upwards by Gazette Notification dated October 19, 2001. While the rest of the globe tries in vain to combat the global threat of drug trafficking and abuse, India's government has expanded the quantity of drugs classified as "small quantities," which runs counter to the NDPS Act's goals. The reasons for this are best known to the government, but in order to battle the drug threat in India, these anomalies must be reconsidered and revalued at the level of competent authorities or the legislature.

- vi. It has been seen that major offenders are acquitted by the courts on technical grounds or as a result of a flawed police investigation done for ulterior motivations. The courts must also take responsibility for the values embodied in the NDPS Act, as an offence linked to Narcotic Drugs and Psychotropic Substances is more terrible than culpable homicide because the latter affects and has a negative impact on society, as well as breaking the nation's economy. In these instances, the court should keep the following things in mind when implementing the NDPS Act's sentencing mechanism.
 - a. When evaluating the imposition of suitable punishment, courts must consider not only the rights of the criminal, but

also the rights of the victim of the crime and society as a whole.

- b. The nature and intensity of the crime, not the criminal, are relevant factors in determining the appropriate penalty for a defendant in a criminal trial.
- c. Under such circumstances, imposing an insufficient penalty would cause more harm to the justice delivery system, weaken public trust in the efficacy of the law, and society would not be able to withstand such major threats for long. As a result, it is the responsibility of every court to impose the appropriate punishment, taking into account the nature of the offence and the way in which it was committed.
- d. The goal should be to safeguard society while also deterring criminals from attaining the stated goal of the law by imposing suitable penalties. The courts are expected to run the sentencing system in such a way that the penalty reflects the society's conscience, and the sentencing procedure must be harsh and appropriate to the evidence of the perpetrator's guilt.
- e. Any liberal attitude toward such offences, such as imposing a light sentence or being overly sympathetic simply because of the passage of time or personal inconveniences, will be counterproductive in the long run and against societal interest, which needs to be protected/strengthened by a string of deterrents built into the sentencing system.

- vii. Drug trafficking cannot be combated by a single country. Only worldwide cooperation and broad efforts for the prevention and control of illicit traffic can yield the best results. This should be accompanied with increased efforts to deal honestly and effectively with the problem of drug addiction in order to reduce demand. Only effective and harsh law enforcement will not be enough to achieve the desired goals unless such a strategy is implemented. For this, law enforcement agencies and non-governmental organisations (NGOs) involved in the treatment, rehabilitation, and social integration of drug users should work closely together. Strict enforcement of drug laws in complete cooperation with all associated departments, as well as broadest possible co-operation and assistance on a regional and worldwide level, will be required to combat drug trafficking and drug traffickers.

- viii. Drug misuse is a diverse and multidimensional problem that must be addressed in its context, according to experience. Despite the fact that no national survey has been conducted to assess the nature, pattern, and magnitude of drug abuse in various regions of the country, the Ministry of Social Welfare has launched a series of coordinated initiatives aimed at raising awareness and identifying, treating, and rehabilitating drug addicts through voluntary organisations and citizen initiative. A large-scale network of voluntary action agencies should be established throughout the country in order to identify the elements that cause addiction and restore a drug-free society.

- ix. Drug abuse is a psychosocial, socioeconomic, and medical condition that requires treatment throughout the addict's life. The primary goal of constructing facilities for voluntary organizations is to maximize the mobilization of family and community support through social welfare organisations at the local level. The concept tries to reinforce the family as a unit by enlisting the help of social professionals to persuade addicts to accept detoxification and then maintain a drug-free lifestyle.
- x. To achieve a drug-free society, the underlying causes of drug addiction must be addressed quickly and effectively; else, this monster will annihilate and devour humanity one day. Every member of society must lend his or her power to this crucial struggle against drug misuse. Everybody, including parents, teachers, social workers, lawyers, judges, artists, literary figures, religious leaders, legislators, government officials, and law enforcement organisations, should consider it their job to do everything they can to prevent drug usage and trafficking.
- xi. Existing addicts must be convinced to seek treatment by means of counselling. However, the country's lack of suitable facilities for this purpose severely hampers attempts to prevent drug abuse. As a result, there is a need to improve facilities in this area.
- xii. Where there is a strict provision of the penal law, compliance must be even stricter. Law enforcement and investigative agencies must follow the NDPS Act's procedures to ensure that criminals are not acquitted for failing to comply with

mandatory provisions.

- xiii. Only impoverished people who use the substance for personal consumption or poor people who are employed as drug carriers by the Mafia have been prosecuted by the law enforcement forces. State and federal law enforcement agencies must work together to track out the source and true beneficiaries of drug abuse funds, as well as to prosecute the true criminals in a timely and effective manner.
- xiv. There is a pressing need to intensify efforts to better understand drug use patterns and trends across the country, particularly in rural communities with drug-trading roots and those near agricultural areas.
- xv. The importance of education must be emphasized, and law enforcement authorities and other social groups should educate the public about the dangers of drugs.
- xvi. Parents must play a major role in their children's education and socialization so that they do not become addicted to drugs.
- xvii. An attempt should be made to develop an effective control mechanism to monitor drug manufacturing and sale in both open and black markets.
- xviii. Drug-trafficking laws should be strengthened, and people should be made aware of them. Law enforcement authorities should develop a policy programme to ensure that such laws are

properly implemented.

- xix. In order to speed the fight against the drug epidemic, steps to promote international collaboration and a multidisciplinary approach to the problem must be adopted

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