

Positive Alliance between Human Rights and Narcotic Drugs

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Abstract— *The Research author is going to discuss the above-mentioned research topic in four parts. In the first part the researcher is going to present an outlook for the existence of Human Rights of person involved in Drug addiction which is affecting the nation and leading to envenomed environment in the youth.*

In the second part the researcher has given a detailed outline for the concept of Law with regard to those affected with Drug addiction and how the law related to Narcotic Drug and Psychotropic substances is being developed in Indian scenario.

In the third part the researcher will focus his intention to the growing role of Judiciary for benchmarking the Drug addiction in relation to Drugs and Cosmetics Act, 1940 where the sole purpose of Drug Manufacturing company is to cure the diseases where the Narcotic Drug and Psychotropic substances are used. Even though the Narcotic Drug and Psychotropic Substance Act-1985 is in existence but still when the so called Act-1985 comes in conflict with the Drugs and Cosmetics Act-1940 and Rules-1945 thereunder the conflicting interest needs a balanced scale.

In the last part the researcher will give the conclusions and the suggestions to save the conflicting interests and how to positively alliance between Human Rights and Narcotic Drugs where even the drugs under the NDPS Act-1985 are very much important for the patients also.

Keywords: *Drug Addiction, Human Rights, Narcotic Drugs, Judiciary and Conflicting Interests.*

I. DRUGS & HUMAN RIGHTS

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in spirit of brotherhood.¹ The Narcotic Drug & Psychotropic Substances Act, 1985 came into existence on 16 Sept. 1985 and amended time to time. In the Act, Sec. 2(1) defines the word ‘**ADDICT**’ means a person who has dependence on any Narcotic Drug or Psychotropic Substances. Thus the expression ‘Addict’ is applicable to a person who is habitually given to a practice, according to Black’s Law Dictionary, 1994, “Drug Abuse” is a state of chronic or periodic intoxication, detrimental to the individual and to society, produced by the repeated consumption of a drug, natural or synthetic. Further Sec. 27 of the Act, which was amended on 02. Oct. 2001 and provides for Punishment for illegal possession, in the small quantity, of Narcotic Drug or Psychotropic Substances in contravention of the act provided the substance is proved to be intended for personal consumption. The 1985 Act does not define the word “Consumes”. According to Black’s Law Dictionary, 1990, page 318 “Consumption” means – “Act or process of consuming; waste; decay; destruction; using up of anything as food; natural resources; heat or time”. Thus as per the Act the consumption and possession both are made illegal and one can be sentenced for possession as well as

consumption. The notable fact is although the person is being an addict and has some human rights but he is made to suffer for consumption and possession of small quantity. People who are drug addicted and people with drug dependencies are unable to take their own self decision. So they need special care rather than the punishment as per the stringent provisions of the Act, 1985. People who use drugs are not only tortured but they are executed for drug offences. So the primary purpose of civil, political, cultural and socio-economic rights is to protect the dignity of human beings.

II. LAW & DRUG ADDICTION

Major Drug laws of India are:

1. Narcotic Drugs & Psychotropic Substances Act, 1985.
2. Drugs & Cosmetics Act, 1940 and Rules, 1945
3. Prevention of Illicit Trafficking in Narcotic Drugs and Psychotropic Substances Act, 1988.

Chapter II-A² of the Narcotic Drugs & Psychotropic Substances Act, 1985 was added in the year 1989 and further amended on 2.10.2001. The Chapter itself states about the National Fund for control of Drug Abuse. Section 7-A states about the National Fund for control of Drug Abuse whereas Section 7-B states about Annual Report of activities financed under the Fund.

¹ Article 1 of Universal Declaration of Human of Rights, 1948

² Ins. By Act No. 2 of 1989, w.e.f. 29-5-1989

Section 7-A: National Fund for Control of Drug Abuse-

- (1) The Central Government may, by notification in the Official Gazette, constitute a Fund to be called the National Fund for Control of Drug Abuse (hereafter in this Chapter referred to as the Fund) and there shall be credited thereto:
 - (a) An amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide;
 - (b) The sale proceeds of any property forfeited under Chapter V-A;
 - (c) Any grants that may be made by any person or institution;
 - (d) Any income from investment of the amounts credited to the Fund under the aforesaid provisions.
- (2) The Fund shall be applied by the Central Government to meet the expenditure incurred in connection with the measures taken for;
 - (a) Combating illicit traffic in Narcotic Drugs and Psychotropic Substances or controlled substances;
 - (b) Controlling the abuse of Narcotic Drugs and Psychotropic Substances
 - (c) Identifying, treating, rehabilitating addicts;
 - (d) Preventing drug abuse;
 - (e) Educating public against drug abuse;
 - (f) Supplying drugs to addicts where such supply is a medical necessity.
- (3) The Central Government may constitute a Governing Body as it thinks fit to advise that Government and to sanction money out of the said Fund subject to the limit notified by the Central Government in the Official Gazette.
- (4) The Governing Body shall consist of a Chairman(not below the rank of an Additional Secretary to the Central Government) and such other members not exceeding six as the Central Government may appoint.
- (5) The Governing Body shall have the power to regulate its own procedure.

Section 7-B: Annual Report of activities financed under the Fund- The Central Government shall, as soon as may be, after the end of each financial year, cause to be published in the Official Gazette, a report giving an account of the activities financed under Section 7-A during the financial year, together with the statement of accounts.

Department of Revenue does not allocate any fund under National Fund for Control of Drug Abuse directly to State Government/ other institutions for establishment of Rehabilitation centers for the victims of Drug Abuse. However, in case, if any State Government/ Central Government/ any other institutions seek financial assistance under National Fund for Control of Drug Abuse, the same is to be examined in the Department of Revenue and placed before the Governing Body of National Fund for Control of

Drug Abuse and such amount is sanctioned to them on the basis of recommendation of the Governing Body of National Fund for Control of Drug Abuse and with the approval of the Competent authority.

As far as The Drugs and Cosmetics Act, 1940 came into existence only to regulate the import, manufacture, distribution and sale of drugs and cosmetics and further defines the word Drug.

III. ROLE OF JUDICIARY

Section 2 of The Drugs and Cosmetics Act, 1940 states that "The provisions of this Act shall be in addition to, and not in derogation of, the Dangerous Drugs Act, 1930 and any other law for the time being in force." Whereas Section 80 of the Narcotic Drug and Psychotropic Substance Act-1985 states that "the provisions of this Act or the rules made thereunder shall be in addition to, and not in derogation of, the Drugs and Cosmetics Act, 1940 or the rules made thereunder." Thus the conflicting interest in between these two Acts can only be resolved by benchmarking that the manufacturing of Drugs under the Drugs and Cosmetics Act, 1940 is only made for the purpose of curing the disease of the needy patient and those must not be misused for the purpose of Drug Addiction otherwise that will be made punishable under the provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985. At present most of the states in India, the manufactured drugs are being abused by the drug addicted person, whereas, these are meant only for the needy patient to cure diseases. Here, it can be highlighted for example: Buperinorphine is a drug which is also used to relieve the drug addicted person from the Drug Addiction in the Rehabilitation centers and made available to them free of cost under the supervision of Doctors. The Judiciary is playing the role of balancing the scale between these two Acts through its Judicial pronouncements in number of cases.

IV. CONCLUSION & SUGGESTION

The Human Rights of the Drug Addicted person is indefeasible right which need to be taken care as they need not to be punished or sentence for the addiction. They need special treatment and care so that the drug addicted youth can be brought into the main stream and relieve their drug dependence. They need to be educated through different educational programmes making them release that Drug dependence is curable and these manufactured drugs are meant only for the patient for curing the disease.

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