



# **A critical study on the legislative act ‘The Narcotic drugs and psychotropic substances act, 1985’ and its impact on the modern day society with special reference to children who consumes it and violates their child rights to live in a healthy environment**

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## **Abstract**

Narcotic and psychotropic substances are the most deadly weapons that are crawling in our society as cancer. It is affecting the vulnerable section of the society and violating the basic human right i.e the right to live in a healthy environment. The most affected group are children above 12 years when they have the ability of understanding maturely. The paper will reflect on the child rights where children are affected by consuming it where their parents lacks to take care of their children and the children feel themselves as neglected and commit crimes where the law considers them as juveniles. If we look at the definition from the medical point of view, psychotropics designate chemical substances that act upon the mind, that is on the conscious or unconscious mental life of an individual. Narcotics include substances that cause stupor, muscular relaxation and a reduction or elimination of sensitivity. Examples of psychotropic substances include alcohol, caffeine, nicotine, marijuana, and certain pain medicines. Many illegal drugs, such as heroin, LSD, cocaine, and amphetamines are also psychotropic substances.

**Keywords:** Narcotic, psychotropic, mental life, vulnerable section

## **1. Introduction**

A drug or other substance that affects how the brain works and causes changes in mood, awareness, thoughts, feelings, or behavior. Also called phychoactive substance.

Narcotic analgesics relieve pain, induce euphoria, and create mood changes in the user. Examples of narcotic analgesics include opium, codeine, heroin, Demerol, darvon, morphine, methadone, Vicodin, and oxycontin.

If we see the children who are neglected by their parents feel like consuming the substances which makes them to commit black collar crimes. The situation is find mostly in slum areas or children of downtrodden society. But that does not conclude that the children of privilege group or high-profile group doesnot consume it. It is a cancer that is spreading through all sections of society. This is because lack of consultation with

parents or indifference of parents towards their children. The priviledge section enjoy because of pleasure and the underprivilege children consume it because they feel the society has neglected them.

The consumption makes them juveniles where the law cannot punish them because of their age and thinking about their future.

## **2. The legal aspects where the society should treat the children with outmost care and affection**

In *Antaryami Patra vs State of Orissa* on 26 March, 1993 point out the question whether in view of Section 18 of the Juvenile Justice Act ,1986, a “juvenile” as defined in Section 2(h) of the Act is entitled to be released on bail even if he is accused of committing an offence under the N.D.P.S. Act notwithstanding the provisions of section 37 of the said

Act.

In the aforesaid case the learned judge of the High court observed that the children are the future of the country and they need special protection because of their age, physical and mental faculties. The constitution of India has conferred enabling power on the State Governments to make special provisions for children as would be found from Art 15(3) of the constitution. Art 39(e) and (f) of the constitution are the provisions under the Directive Principles of State Policy which stipulate that the tender age of the children should not be abused and children should be given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and the childhood and youth should be protected against exploitation and against moral and material abandonment. In accordance with the aforesaid provisions in the Directive Principles of State Policy which stipulate that the tender age of the children should not be abused and children should be given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and the childhood and youth should be protected against exploitation and against moral and material abandonment.

The United Nations has made a declaration on the rights of the child and the said declaration contains the idea that the mankind owes to the child the best it has to be given. The problems of juvenile delinquency had attracted the attention of the United Nations and, therefore, in September, 1985, the United Nations Congress on the prevention of crimes and treatment of offenders adopted the standard minimum rules for the administration of juvenile justice system.

In the case of *Sheela Bansa and Anr. v. Union of India and ors.*, AIR 1986 SC 1773, the supreme court had suggested that instead of each State having its own Children's Act different in procedure and content, it would be desirable if the Central Government initiates a Parliamentary Legislation on the subject to bring in uniformity in regard to the various provisions relating to juveniles in entire country. In accordance with this observation of the Supreme Court, the Central Government enacted the Juvenile Justice Act, 1986, to deal with the problem of juvenile delinquency in India. In the aforesaid case *Bhagawati, C.J.* had observed, after noticing the provision of Art .39(f) of the constitution of India:

“If a child is a national asset, it is the duty of the State to look after the child with a view to ensuring full development of the personality. That is why all the

statues dealing with children provide that a child shall not be kept in jail. Jail is hardly a place for a child should be kept. It is no answer on the part of the State to say that it has not got enough number of remand homes or observation homes or other places where children can be kept. It is the atmosphere of the jail which has a highly injurious effect on the mind of the child, which will impose a hatred in the minds of the children towards the society”.

That is why the learned Judge had observed prior to enforcement of the Juveniles Justice Act and because of the observations of the Supreme Court in the aforesaid case, the Parliament has come forward by enacting the Juvenile Justice Act in the year 1986. The entire object of the aforesaid Act is to give a separate treatment to the juvenile offenders so that they will not be allowed to mix with hardened criminals in a regular jail and thereby instead of reforming themselves they will develop an attitude of the criminals.

Thus on the one hand the Juvenile Justice Act is a reformatory measure to deal with the juvenile delinquents so that they will not become hardened criminals by remaining inside jail. Whereas the Narcotic Drugs and Psychotropic Substances Act is a deterrent measure to deal with the drug trafficking offences and by amendment, stringent measures have been taken as an attempt to curb the drug trafficking which has been found to be badly affecting the society. The N.D.P.S. Act is a penal statute and has to be construed strictly.

But for children the laws should be reformatory. It should not be stringent. The embargo contained in Section 37 of the N.D.P.S. Act with regard to the release on bail of an accused involved in commission of an offence under the N.D.P.S. Act should not be attracted to Juveniles as it will violate their basic human right to live with dignity. They are young and their minds are ignited. So special care should be given to them and they should be shown the right path to differentiate between right and wrong.

Specially the children who lives in slum areas should be given the right to education and should be given the confidence that the society is not against them but with them. The parents of the privilege society or the high- profile society should give their children proper care instead of thinking about their self-interest.

Lastly the basic right to live with dignity will come when the society will teach the children to live with high self-esteem.

According to Jean Piaget's theory there are four

stages of development: the sensorimotor stage, preoperational stage, concrete operational stage, and the formal operational stage.

What is to be point out in this paper is the formal operational stage where the stage is characterized by the ability to formulate hypotheses and systematically test them to arrive at an answer to a problem. The individual in the formal stage should be able to think abstractly and try to understand the form or structure of a mathematical problem. If children are left to consume drugs or any of the narcotic or Psychotropic Substances then this stage would not be developed and we can see a huge fall of personality development in the child behavior. It will also hamper their education. That may be the reason

why we see huge rate of school dropouts.

### 3. Conclusion

A society will grow when the mind, body and soul of a child will be pure and simple. A great nation is not built in a day. A nation will be free of corruption when the future generation will grow in a society when the society will be free of drug trafficking and child abuse. With education comes proper guidance and understanding the children where reformative punishment should be given for such heinous crime. Let us give them a healthy environment where their ability to think will grow with a good quality education.

As Mahatma Gandhi said: "Be the change you wish to see in the world."

### References

Bajpai , Asha. 2006. Child Rights in India- Law, Policy and Practice. Second Edition, Oxford University Press, New Delhi (India).

Khanna, S.K. 1998. Children and the Human Rights. Commonwealth Publishers, New Delhi (India).

Jain, M.P. 2010. Indian Constitutional Law. Sixth Edition, Reprinted 2013, Lexis Nexis Butterworth, Wadhwa Nagpur Brand (India).

Dr. Agarwal, H.O. 2011. Human Rights. Thirteenth Edition, Central Law Publications, Allahabad (India).

Bare Act:

1 The Narcotic Drugs And Psychotropic Substances Act, 1985.

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