Drug Use - Narcotic Drugs and Psychotropic Substances (NDPS) Act

What is the issue?

- Bollywood actor Shah Rukh Khan's son Aryan Khan was recently arrested following a raid on a cruise ship by the Narcotics Control Bureau.
- This has brought focus to the Narcotic Drugs and Psychotropic Substances (NDPS) Act of 1985 and the problem of drug use.

What is the procedure of seizing narcotic drugs?

- The NDPS Act, 1985 is a stringent law where the death penalty can be prescribed for repeat offenders.
- Section 50 of the Act specifies the conditions under which search of persons shall be conducted.
- When officials come across a person carrying drugs during raids or a routine check, the drugs must be seized in front of a Gazetted Officer or a Magistrate.
- In cases of sudden development, the suspect is taken to the nearby Magistrate or the magistrate is brought to the spot and only then drugs are seized.
- If this is not adhered to, the court acquits the accused persons. Only then the next stage of investigation commences.
- The onus is on the accused to prove their innocence.

What are the challenges to NDPS Act implementation?

- Catching the persons involved from the point of source to the point of destination as drug transaction is an organised crime.
- Going beyond State jurisdiction, and finding the source of narcotic substances and destroying them.
- Catching the accused cultivating ganja in areas bordering the States and especially, in areas that are Maoist hideouts.
- Unless every vehicle is checked (which is unfeasible) with specially trained sniffer dogs, it is difficult to check narcotic drugs transportation.
- [Given these, most drug bust cases are made possible with specific information leads.]
- Securing conviction for the accused in drugs because -

    i. of frequent delays in court procedures
    ii. sometimes, cases do not come up for trial even after 2 years of having registered them
    iii. the accused go out on bail and do not turn up for trial. Bringing them back from their States to trial is quite difficult

Why should drug peddlers and end users be distinguished?

- The person using drugs in smaller quantities for personal use cannot be equated with the person producing narcotic drugs.
- A drug user needs to be seen as a patient.
- The Act as of now prescribes jail for everyone - the end user and the drug supplier.
- The Union Ministry of Social Justice and Empowerment has proposed certain changes in this regard:
    i. Decriminalise the possession of narcotic drugs in smaller quantities for personal purposes.
    ii. Persons using drugs in smaller quantities be treated as victims.
    iii. They should be referred to government-run rehabilitation centres instead of awarding jail terms and imposing fines.

Measures needed

- Address the acute shortage of psychiatrists and counsellors.
- Ensuring adequate de-addiction centre counsellors.
- Addressing street children who use whiteners, glue, painting chemicals, etc. as drugs

What are the long-term measures needed?

Social

- Examine why and how people are getting addicted to narcotic drugs.
- Addressing the growing hopelessness in society due to various factors.
- Adopting some of the best practices in the world such as Iceland that had a community-led approach to the drug use problem.
- Helping transform drug addicts and making the job of policing easier
- Parents have to act as confidants first. They must be able to talk to their children and assure them of all support should they face a problem.
- Teachers should keep an eye on school surroundings to ascertain whether anyone is selling addictive substances.

Legal and administrative

- Redefine and redesign the law so as to tackle what acts as a trigger for drug use.
- Making the implementation state-specific, depending on the level of drugs-related problems there.
- Setting up a national fund for rehabilitation.
- Not anybody and everybody connected to drugs cases should be sent to prison. Only repeat offenders should be sent to prison.
- Civil society and governments will have to work together to create an enabling environment to address the issue.
- Certain provisions of the NDPS Act could be changed to ensure a reformative approach towards addicts.

Reference

https://www.thehindu.com/todays-paper/tp-opinion/should-the-ndps-act-be-amended/article37223567

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