

1.4 The effect of illicit trafficking and use of Narcotic Drugs and Psychotropic Substances.

The illicit trafficking in Narcotic Drugs and Psychotropic Substances has led to drug addiction. The anguish of the Supreme Court of India was expressed in case "Durand Didier v. Chief Secretary, Union Territory of Goa⁶" in the following words:-

"With deep concern, we may point out that the organised activities of the underworld and the clandestine smuggling of narcotic drugs and psychotropic substances into this country and illegal trafficking in such drugs and substances have led to drug addiction among a sizeable section of the public, particularly the adolescents and students of both sexes and the menace has assumed serious and alarming proportions in the recent years. Therefore, in order to effectively control and eradicate the proliferating and booming devastating menace, causing deleterious effects and deadly impact on the society as a whole, the Parliament in its wisdom, has made effective provision by introducing this Act 61 of 1985 specifying mandatory minimum imprisonment and fine. The sentence of ten years rigorous imprisonment and the fine of Rs.1,00,000/ with the default clause, as modified by the High Court, does not call for interference."

1.5 However, inspite of enactment of the NDPS Act as amended in 1989, the menace of drug trafficking and drug abuse is on the increase and the conviction rate in cases under this Act is extremely low. From this it appears that either the innocent persons are being sent to the courts or there is some procedural defect or deficiency which benefits the accused to get acquittal from the courts. In view of the deep concern at the growing incidence of drug abuse occurring in different parts of the country to plug the loopholes in the law and procedure for combating illicit trafficking and, among others, to effectively deal with drug offenders the Law Commission has suo motu taken up the study of the following:-

- (a) to study the monace of the drug abuse and drug trafficking and its effect on youth in India;
- (b) to scrutinise the Directive Principles of State Policy enshrined in the Constitution of India and the provisions of International Conventions on Narcotic Drugs and Psychotropic substances;
- (c) to understand the magnitude of the problem of illicit trafficking and use of narcotic drugs and psychotropic substances via-a-vis the infirmities in the NDPS Act;
- (d) to examine the relevant provisions of the NDPS

Act and their interpretation by the Courts and
(c) to identify the amendments required for more
effective implementation of the NDPS Act.

1.6 In order to elicit public opinion on the subject, the Commission circulated a questionnaire on NDPS Act to the Registrars of High Courts, Presidents of High Court Bar Associations and District Courts Bar Associations, Home Secretaries of all States and Union Territories, Police officials and Chairmen of State Law Commissions, setting out various aspects of the subject under study. Comments received on the questionnaire are summarised in Annexure II. The Commission had also organised Seminar on "Criminal law and Narcotic Drugs Psychotropic Substances" in collaboration with the Government of Goa on 18th January, 1997 at Panaji, Goa and "National Seminar on Criminal Justice in India" at Vigyan Bhavan, New Delhi on 22nd & 23rd February, 1997. In the seminar, judges, jurists, advocates, law professors, magistrates, public prosecutors and police officers expressed their views on various aspects of the subject. The Commission while formulating this report has taken into consideration the views expressed at the seminars.