

## Analysis of Challenges in the Implementation of the Khyber Pakhtunkhwa Control of Narcotics Substances Act 2019

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### Abstract

The worldwide drug control system has acknowledged the requirement for state collaboration since its inception. It introduced the need for prevention, treatment, rehabilitation, and social reinsertion, as well as general obligations to combat drug usage in a coordinated manner. The State of the Islamic Republic of Pakistan is a signatory to many international, bilateral treaties and conventions on Narcotics, Drugs, and Psychotropic Substances. All these treaties and conventions bind the State of the Islamic Republic of Pakistan to take measures to realize the objectives envisaged by these international documents. The study's primary objectives were to assess the challenges in implementing the Khyber Pakhtunkhwa Control of Narcotics Substances Act, 2019, and to provide potential solutions. Data was collected using the interview technique while considering the study's objectives. Interviews were done with deliberately selected legal specialists. The study found various barriers to implementing the Khyber Pakhtunkhwa Control of Narcotics Substances Act, 2019, including a lack of subject matter expertise, antiquated equipment, and the government's interest in this field. It also found that a major impediment to this process is the lack of a connection between the general masses and police officials. The study suggests broad public education efforts about implementing the Khyber Pakhtunkhwa Control of Narcotics Substances Act, 2019 using all available media.

**Keywords:** Narcotics, Challenges, Porous Border, Khyber Pakhtunkhwa Control of Narcotics Substances Act, 2019.

### Introduction

There are many challenges to implementing the Khyber Pakhtunkhwa Control of Narcotics Substance Act, 2019 including the establishment of a formally trained force, the absence of a local testing laboratory, special Courts, malpractices by police officials, the absence of rehabilitation centers, and the absence of a mechanism for witness protection are rendering it less effective. As Pakistan is a federal state comprising four federating units hence, through constitutional provisions legislative powers are devolved onto these federating units. It was through the 18<sup>th</sup> constitutional amendments that the subject of regulating Narcotics Substances came under the legislative domain of provinces. Hence, a bill in this regard was presented in the Legislative Assembly of Khyber Pakhtunkhwa in the year 2017, by the Excise, Taxation, and Narcotics Control Department which was passed in the year 2019. This Act has borrowed provisions from the Federal Act with positive alterations (Adil, 2010). The Act extends to newly merged districts. Further, it also deals with ICE (Methamphetamine), the new outbreak of Narcotics Substances. A Narcotics Control Wing in the K.P. Directorate General of Excise, Taxation, and Narcotics is established to implement the Act. Offenses under the Act are made non-bailable and cognizable, which are tried by Special Courts to be established by the government. Historically speaking the intention of controlling the use of Narcotic Substances

came into being during the 19th century in China on a national level. During the early 1800s, controlling the use of narcotic substances was an important policy question before the then-government of China. However, controlling the illegal trade of Opium necessitated international assistance and cooperation. Hence, it was not earlier than 1909 when the then President of the United States of America Theodor Roosevelt offered helping hands to the government of China at a meeting of 13 nations, held in Shanghai by proposing an international investigation into the matter of Opium trade (Ray , 2017). An array of recommendations was proposed in that meeting by participants nations which later on, led to the happening of the first Opium Convention at Hague in the year 1912. This development was succeeded by several other treaties and conventions on the subject under the auspices of the League of Nations first and then the United Nations (Buxton, 2008). All the earlier conventions and treaties on Narcotics Substances control were comprehended later, in the shape of the Single Convention on Narcotic Drugs, in the year 1961. This is a comprehensive document bringing in all earlier treaties and conventions into a single one. The Single Convention on Narcotic Drugs, 1961 also anteceded the establishment of the International Narcotics Control Board. The efforts of the international community to control Narcotics drugs did not stop there. In the later years, two other treaties were added to the International Control Regime on the subject of Narcotics Drugs i.e.; the Convention on Psychotropic Substances,1971, and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (Musto, 1973).

### **Defining Narcotics Substances**

Narcotic is a broad legal term that has historically been used to describe a variety of mind-altering substances as well as a range of illicit narcotics. The term "narcotic" nowadays has more legal than pharmacological undertone. Initially, it was used to allude to any medicine that might induce sleep (narcosis). It was typically used for opiates. The term is currently alluding to illegal narcotics that are regulated by authorities (MENAFATF, 2011).

### **The Genesis of the Term Narcotics**

The term narcotics has been originated from the Greek word *stupor* which originally referred to an extensive list of drugs that numbed the senses and reduced pain (Drug Fact Sheet, 2020). Narcotic substances generally, can be defined as substances that cause addiction, narcosis (state of euphoria or sleep), and analgesia (pain alleviation) (physical dependence on the drug). Some people also experience euphoria from drugs (a feeling of great elation). Narcotic medications include both illicit and legally prescribed forms of naturally occurring opiates (plant alkaloids originating from the opium poppy) as well as synthetic (man-made) and semisynthetic opioids (Britannica, 2019).

### **Narcotics from a Legal Standpoint**

The word "narcotic" has a very different meaning in the legal environment than it does in the medical context, where it refers to a substance that induces sleep. Legally speaking, opiate (a real narcotic drug) marijuana (which is not a narcotic), or cocaine (which is the exact opposite of a narcotic because it is a stimulant). Mind-altering substances like Lysergic Acid Diethylamide (LSD), Phencyclidine, Amphetamines, Barbiturates, Methaqualone, and designer pharmaceuticals are referred to as "psychotropic substances" (MDMA, DMT, etc.) (Lai, 2012).

### **Commonly Known Narcotics Substances**

- When the existence of such isomers, esters, ethers, and salts is possible within the specified chemical identification, opium, opiates, and their derivatives, including their isomers, esters, ethers, salts, and salts of isomers, esters, and salts, are included. Opium's isoquinoline alkaloids are excluded from this phrase.

- Poppy straw and poppy straw concentrate.
- Coca leaves, excluding coca leaves and coca leaf extracts that have had cocaine, ecgonine, and its derivatives or salts removed.
- Cocaine, its salts, as well as optical, geometric, and isomer salts.
- Ecgonine and its derivatives, as well as salts of isomers and isomer salts.
- Any mixture, preparation, or combination that contains even a small amount of any of the drugs mentioned (Team, 2020).

### **Tracing Out the History of Narcotic Drugs**

Narcotic substances have been used by men throughout history in varied forms. The purpose of utilizing Narcotics Substances remained mainly, to relieve physical pain and mental stress (Estes, 1996). Recorded history reveals that mankind has been using herbs and chemicals to change its mind since early ages (Eddy, 2002). The use of narcotic drugs has been common in almost all societies throughout the ages. An Alcoholic drink known as Mead is believed to have been used for the first time in 8000 BC. Similarly, wines made up of Berry and Beer are believed to have been used in 6000 BC. It is also believed that Sumerians started using Opium around 5000 BC. Egyptians are credited for using Alcohol as early as 3500 BC while Chinese are believed to have used Cannabis in 3000 BC. It has also been recorded in history that Greeks used to drink juice from Poppy in 300. Asian nations were using Opium in 1000 CE regularly (Whyte, Evolve Treatment Center, n.d.).

Sociologist Erich Goode (2008, p. 176) summarizes the history of drug use as follows:

"Humans have been ingesting drugs for thousands of years. Throughout recorded time, significant numbers of nearly every society on earth have used one or more drugs to achieve certain desired physical or mental states. Drug use comes close to being universal, both worldwide and throughout history."

Written history reveals that from 2,000 BC -1,000 to 1,000 BC -500 BC narcotic drugs such as Tobacco, Opium, Cannabis, and Alcohol were in use by mankind for different purposes such as religious, medicinal, and recreational purposes. There have been discoveries and developments by archeologists and historians in different parts of the world showing that the remains of humans contain Narcotics Substances (Whyte, Evolve Treatment Center, 2006).

According to Doce (2014), it is often believed that humans use Narcotics Substance such as Tobacco, Opium, Cannabis, and Alcohol for different purposes including religious, medicinal, and recreational. Archeologists and historians in various parts of the world have made discoveries and developments showing that the remains of humans contain narcotic substances. However, archaeological data provides ample proof of the fact that Europeans used to consume mind-altering substances in the prehistoric period. Ancient people used to practice intemperance with narcotic substances either for religious purposes or for pleasure seeking. There are references to psychotropic mushrooms in devotional songs of ancient Europeans and Asians. The habitation of Poppy in some areas of Spain, Greece, Egypt, and Africa is likely to be the oldest on this Earth. There is mention of juice extracted from the heads of Opium Poppies in Egyptian cryptograms as a sedative. One of its uses included keeping children from crying out loudly (Trickey, 2013). As to the cultivation of Poppy it is believed to have its origin in Europe and Asia. The usage of Cannabis dates back to antiquity in India. The subcontinent has undoubtedly encountered both opium and cannabis throughout its lengthy history. In the ninth and tenth centuries, traders from the Arabian Peninsula transported opium from the Mediterranean region to India and China (Windle, 2012).

### **History of Narcotics Control at the International Level**

The adverse effects of Narcotics Substances both on human health and social life have made mankind mindful of controlling and regulating their use. Realizing that the use of Narcotics Substances can cause diseases and many other social problems, men have devised different methods to regulate the use of these Psychotropic Substances (Naz, 2012). However, the means and purposes of prescription/prohibition varied over time, i.e., in ancient times, the ban on

using Psychotropic Substances was through rituals and for religious purposes (Crocq, 2007). Hence, throughout history, there have been multilateral efforts at different forums by men to devise a control system for Narcotics Substances used at various times. A meeting of the world community was held in Shanghai at the International Level, about 100 years back with the assistance of the Shanghai Opium Commission. It was the first attempt at the International Level to counter the global problem of drug use and trade (Mccoy, 2004). Following the meeting, the International Community entered the first International Drug Convention in 1912, in Hague, titled the International Opium Convention. International Opium Convention and some other succeeding conventions adopted under the auspices of the United Nations bind the signatory States to take and adopt the legislative, policy, and administrative measures to fulfill international obligations (Waddell, 1970). The worldwide drug control system has acknowledged the requirement for State collaboration since its inception. It established the need for prevention, treatment, rehabilitation, and social reinsertion, as well as general obligations to combat narcotics use in a synchronized manner. As a result, the current legal framework only mentions general obligations about reducing drug demand and does not establish a specific mechanism or procedure for action, except that measures taken could be based on the recommendations of qualified international organizations (Bioster, 2018). The 1987 Comprehensive Multidisciplinary Outline was urged to serve as the foundation for national, regional, and international initiatives targeted at combatting all facets of drug misuse and illicit trafficking, including in particular.

### **Historical Background of Narcotics Control in Khyber Pakhtunkhwa**

Following its independence, Pakistan depended on the Drug Act of 1940, which governed the subcontinent's drug import, export, and distribution. However, the Drug Act of 1940 had to be amended to include the following three rules due to advances in science and technology:

- The Drugs (Regulation, Permits, and Advertisement) Regulations, 1976.
- Rules for Importing and Exporting Drugs, 1976.
- The 1986 Drugs (Labeling and Packing) Regulations.

Notable changes were brought about by the Narcotics Act of 1976, which outlawed the selling of narcotics on the streets and made it hard to sell them without a license. It also sanctioned the creation of a Drug Court with two professionals from the medical and pharmaceutical professions and a chairman, who functions as a High Court Judge. In 1995, The Anti-Narcotics Force (ANF) was founded to handle the illegal drug supply and demand that was pouring in from the borders of neighboring Afghanistan and Iran. The ANF has five regional directorates in Rawalpindi, Peshawar, Quetta, Lahore, and Karachi. Its headquarters is located in Rawalpindi. Additionally, ANF maintains seven Control of Narcotics Substances (CNS) courts nationwide to handle anti-narcotics matters in addition to its 28 police stations. The Control of Narcotics Substances (CNS) Act of 1997 created a National Fund of Control for Drug Abuse, which would be used to support drug control and rehabilitation initiatives, as well as particular court guidelines, sanctions, and addict rehabilitation programs. The CNS Act of 1997 gave provincial governments authority over rehabilitation, but ANF also made a significant contribution in this area by creating Model Addiction Treatment & Rehabilitation Centers (MATRCs), which offer drug users free support. The Control of Narcotics Substances (CNS) Act of 1997 created a National Fund of Control for Drug Abuse, which would be used to support drug control and rehabilitation initiatives, as well as particular court guidelines, sanctions, and addict rehabilitation programs. The CNS Act of 1997 gave provincial governments authority over rehabilitation, but ANF also made a significant contribution in this area by creating Model Addiction Treatment & Rehabilitation Centers (MATRCs), which offer drug users free support. The NWFP Drug Rules, 1982, which were based on the Drugs Act of 1976, were replaced by the KP Drug Rules, 2017. The new regulations strengthen the enforcement of the DRAP 2012 licensing, storage, and sale regulations by guaranteeing the continuous presence of experts who only distribute medications upon presentation of a

/prescription from a physician. This Act replaced the Control of Narcotic Substances Act, of 1997. To comply with the 18<sup>th</sup> Amendment anti-drug authority from the federal organization ANF has been transferred to the Narcotics Control Wing, led by the Excise, Taxation, and Narcotics Department. Moreover, The Chief Justice Peshawar High Court may establish special courts with permission of the provincial government under the Anti-Narcotics Act 2019. these courts have the authority to issue warrants and impose penalties by relevant legislation. The creation of an Anti-Narcotics Academy in Peshawar is also mentioned which will help with staff training and capacity building in the Narcotics Control Wing.

### **Contemporary Trends in Khyber Pakhtunkhwa**

Law enforcement officials are worried about drug misuse and increased rates of drugs, among Peshawar students, particularly ice and opiates. The UNODC carried out the most recent drug user study in Pakistan in 2013. Given the possibility that many cases remain unreported, it is reasonable to assume that the number of drug users has increased dramatically during the past eight to nine years.

### **According to UNODC data from 2013:**

The intensity of drug dependence is highest among opioid users in Balochistan and Khyber Pakhtunkhwa (KP). With 10.9% of the population reporting illegal drug usage in 2012 alone, Khyber Pakhtunkhwa (KP) has the highest rate of drug use in the nation. The highest rate of prescription amphetamine use was seen in Khyber Pakhtunkhwa (KP). Khyber Pakhtunkhwa (KP) has the highest prevalence rates of cannabis, opioids, and tranquilizer use, at 4.7%, 5.8%, and 2.4%, respectively. One-fourth of the population uses opiates; 140,000 use heroin, and 84,000 use opium.

### **Challenges in Implementation of the Khyber Pakhtunkhwa Control of Narcotics Substances Act, 2019 and Recommendations**

Mohammad Yousaf Orakzai Advocate (Personal communication, 2022, September 02) stated that the Act of 2019 is constitutionally valid; neither did he find it in conflict with fundamental rights nor with any Constitutional provisions. So far as the competency of the KP provincial assembly to legislate the law on the subject is concerned; it is too protected in black and white by Article 142 (b) of the Constitution of Pakistan, 1973. So far, the burning query is concerned as to whether in the presence of the Control of Narcotics Substances Act, 1997 still KP assembly was still competent to legislate it. Fairly speaking, yes, for the reason that there are three layers of government in Pakistan, federal government Article 90, Provincial Government Article 129, and local government Article 140A; they are required to do their business following the law and within the constitutional framework. KP assembly did its business constitutionally right neither there is any conflict nor repugnancy inter-se KP Control of Narcotics Substances Act, 2019 and Control of Narcotics Substances Act, 1997; so, the question of Article 143 is out of context. So far as the doctrine of occupied field is concerned, it has been finally settled by the August Peshawar High Court in the **Noor Daraz Khan case reported PLD 2016 Peshawar 114 (5-members bench)** when the vires of **KP Ehtesab Commission Act, 2014** was called into question. Yet there may be another ground with “left” to question the legitimacy of the KP Control of Narcotics Substances Act, 2019, that is the principles of republican or democratic government but again, with profound respect, it purely relates to morality and nothing else as held in **Imrana Tiwana case reported in 2015 SCMR 1739**. But still and still the Parliament has the power to amend the constitution as stipulated in Article 239. The parliament could amend Article 142 (b) and say goodbye to concurrent fields i.e., Criminal law, criminal procedure, and evidence; and push them to the Federal legislative list. The tools belong to the man who could use them Napoleon Bonaparte; so, there are no grey areas in the existing law. The wisdom of legislature cannot be called into question in any manner. What seems to us the "Grey Areas" are deliberately left out spots for in his opinion,

no doubt lack of legal knowledge of investigation agencies and technical acquittals are the prime hurdles in implementation, but what is more alarming is the lack of interest of the government and especially of high chairs. A public awareness project is essential in this regard. To educate the investigation agency legally and scientifically the prosecution department should be empowered to supervise the process of investigation legally. Frankly speaking, on paper 100% okay but not in reality, as the repealed Act, of 1997 and KP Control of Narcotics Substances Act, of 2019 are at par. KP Control of Narcotics Substances Act, 2019 is a sound and reasonable law, but the legislatures are required to amend the law of evidence regarding its application to Narcotics substances fairly. The government should every month arrange awareness programs in schools, colleges, and universities. Special Courts are doing their Jobs following the law. Procedurally sound but the legislature is required to bring amendments in the existing law of evidence for its application on KP Control of Narcotics Substances Act, 2019 and guidance shall be taken from the Book "**Judge in Democracy**" written by **Justice Aharon Barak**.

Asif Saeed Advocate (personal communication, 2022, September 02) opined that Pakistan has strict drug laws, and penalties for drug offenses can be severe, including the death penalty for certain offenses. The country is also a major transitpoint for illegal drugs being smuggled from Afghanistan to other parts of the world. The government has implemented various anti-narcotics measures, such as interdiction, crop substitution, and law enforcement operations, to try to combat the drug trade. However, the problem of drug abuse and trafficking remains a significant challenge for Pakistan. First, the definition of what constitutes a "narcotic drug" or "psychotropic substance" under Pakistani law is relatively broad, which can lead to confusion and inconsistencies in enforcement. Second, the judicial process for drug offenses in Pakistan can be slow and overburdened, leading to prolonged detention for suspects and a high rate of acquittals. Third, the traffickers and smugglers of drug cartels have been able to use their wealth and influence to evade prosecution and maintain their operations. Fourth, law enforcement agencies have been criticized for using excessive force and human rights violations while carrying out anti-narcotics operations. Lastly, there are concerns that the harsh penalties provided in the law are not effective in reducing drug use and trafficking and that a more comprehensive approach that addresses the underlying social and economic factors driving drug abuse is needed. Implementation of the Khyber Pakhtunkhwa Control of Narcotics Substances Act may face several challenges, including a Lack of resources and funding: Implementing the law effectively requires significant resources, including personnel, equipment, and infrastructure, which may be in short supply in some areas. Resistance from drug traffickers and users: The act targets individuals and organizations involved in the production, trafficking, and use of illegal drugs, and they may resist its implementation through violence, corruption, or other means. The limited capacity of law enforcement agencies: The law enforcement agencies tasked with enforcing the act may not have the capacity or expertise to effectively investigate and prosecute drug-related crimes. Lack of public support: The act may be met with resistance from the public, particularly if it is perceived as overly harsh or if it disproportionately affects certain communities or individuals. Insufficient coordination and cooperation: Effective implementation of the act requires close coordination and cooperation between various government agencies and departments, as well as with international Partners. Source-economic issues: Socio-economic issues such as poverty, unemployment, and lack of education and awareness are also major challenges in the implementation of the law. To address the challenges in the implementation of the Khyber Pakhtunkhwa Control of Narcotics Substances Act, several types of projects may be needed, including Law enforcement training and capacity building: Projects that provide training and capacity building for law enforcement agencies, including the police, border patrol, and customs officials, can help improve their ability to effectively investigate and prosecute drug-related crimes. Community-based programs: Projects that focus on educating and raising awareness among the general public about the dangers of drug use, as well as programs that provide support for individuals and

families affected by drug addiction, can help reduce demand for illegal drugs and build public support for the act. Drug treatment and rehabilitation: Projects that provide treatment and rehabilitation services for individuals struggling with drug addiction can help reduce the harm caused by drug use and improve public health. Alternative livelihood programs: Projects that provide alternative livelihoods for individuals and communities that are currently involved in the drug trade can help reduce the supply of illegal drugs. Infrastructure and equipment: Projects that provide necessary infrastructure and equipment such as vehicles, communication equipment, forensic labs, and other necessary equipment to law enforcement agencies can help them in their efforts to combat drug trafficking and use. Coordination and cooperation: Projects that facilitate coordination and cooperation between various government agencies and departments, as well as with international partners, can help ensure that the act is implemented effectively and efficiently. Socio-economic development: Projects that focus on socio-economic developments such as poverty reduction, education, and job creation, can help reduce the underlying factors that contribute to drug use and trafficking and improve the overall well-being of the people. To effectively enforce the Khyber Pakhtunkhwa Control of Narcotics Substances Act, several administrative reforms may be suggested, including Establishing a dedicated drug enforcement agency: A dedicated agency with the authority and resources to investigate and prosecute drug-related crimes can help ensure that the act is enforced effectively and efficiently. Strengthening inter-agency coordination: Coordination and cooperation between various government agencies and departments, such as the police, border patrol, customs officials, and the courts, is crucial for the effective enforcement of the act. Enhancing intelligence and information sharing: By sharing information and intelligence between various agencies and with international partners, law enforcement can be better able to identify and target drug traffickers and other criminals. Improving the capacity of law enforcement agencies: Providing training and resources to law enforcement agencies can help improve their ability to effectively investigate and prosecute drug-related crimes. Establishing a system of monitoring and accountability: Establishing a system of monitoring and accountability can help ensure that the act is being enforced fairly and consistently and that any misconduct is identified and addressed. Addressing corruption: Strong measures to prevent and address corruption among law enforcement officials and other government employees can help ensure that the act is enforced fairly and without undue influence. Implementing a comprehensive approach: A comprehensive approach that addresses not just the enforcement of the act but also the socio-economic factors that contribute to drug use and trafficking is necessary for long-term success. Building public support: Public education campaigns, community-based programs, and other efforts to build public support for the act can help ensure that it is enforced effectively over the long term. The effectiveness of the act would depend on various factors such as the level of resources allocated for its enforcement, the level of public support, and the ability of law enforcement agencies to effectively investigate and prosecute drug-related crimes. It is important to note that the drug problem is complex, and addressing it requires a comprehensive approach that addresses not only law enforcement but also socio-economic factors such as poverty, unemployment, and lack of education, as well as public health issues related to drug addiction and treatment. There are several ways in which the existing Khyber Pakhtunkhwa Control of Narcotics Substances Act could be replaced with a more vibrant law: Review and update: Regularly reviewing and updating the existing law to ensure that it is relevant and effective in addressing the current drug situation. Incorporating new technologies: Incorporating new technologies such as DNA testing, digital forensics, and other advanced techniques can help law enforcement agencies more effectively investigate and prosecute drug-related crimes. Comprehensive approach: Adopting a more comprehensive approach that addresses not just law enforcement but also the socio-economic factors that contribute to drug use and trafficking, such as poverty, unemployment, and lack of education. Public health-based approach: Incorporating a public health-based approach that focuses on reducing the harm caused by drug use and addiction, by providing treatment, rehabilitation, and harm reduction

services. Alternative livelihoods: Providing alternative livelihoods for individuals and communities that are currently involved in the drug trade can help reduce the supply of illegal drugs. Public engagement and education: Building public support for the new law through public engagement and education campaigns that raise awareness about the dangers of drug use and the benefits of the new law. Coordination with other stakeholders: Coordinating with other stakeholders such as international partners, NGOs, and community organizations, to ensure that the new law is implemented effectively and efficiently. Combating corruption: Implementing strong measures to prevent and address corruption among law enforcement officials and other government employees can help ensure that the new law is enforced fairly and without undue influence. It's important to note that the drafting, implementation, and evaluation of a new law require a lot of resources and expertise and is a complex process, it's crucial to involve all the relevant stakeholders such as law enforcement agencies, public health experts, and community representatives to ensure that the new law is effective, fair and achieve its objectives. There are several ways in which awareness about the Khyber Pakhtunkhwa Control of Narcotics Substances Act can be brought to the people of Khyber Pakhtunkhwa: Public education campaigns: Launching public education campaigns that inform people about the dangers of drug use and the benefits of the act, can help build support for the law and reduce demand for illegal drugs. Community-based programs: Implementing community-based programs that educate people about the act and the risks associated with drug use, can help raise awareness and build support for the law. Social media and digital campaigns: Utilizing social media and digital platforms to reach a large audience and educate them about the act, its provisions, and the risks associated with drug use. Coordination with local leaders and organizations: Coordinating with local leaders and organizations, such as community leaders, religious leaders, and NGOs, to help disseminate information about the act and build support for its enforcement. Public meetings and events: Organizing public meetings and events, such as seminars, conferences, and rallies, to raise awareness about the act and its provisions. Involving youth and student groups: Involving youth and student groups in awareness-raising activities and campaigns, as can be effective in reaching their peers and raising awareness among young people. Incorporating education in schools: Incorporating education on the act and the risks of drug use in schools and educational institutions, can help raise awareness among young people and prevent drug use. Coordination with media: Coordinating with the media, such as television, radio, and newspapers, to disseminate information about the act and its provisions, can help raise awareness among the general public. It's important to note that it's crucial to keep the language and approach culturally appropriate and involve the community in the process, as it can help ensure that the awareness-raising activities are well received and have a positive impact. The working of special courts under the Khyber Pakhtunkhwa Control of Narcotics Substances Act would depend on various factors, such as the specific provisions of the act, the resources allocated for the courts, and the capacity of the judges and other court officials. However, generally speaking, special courts established under the act could potentially have several advantages: Faster processing of cases: Special courts that are focused specifically on drug-related crimes may be able to process cases more quickly than regular courts, as they will have specialized knowledge of the laws and procedures related to drug offenses. Increased efficiency and effectiveness: Special courts can be designed to be more efficient and effective in handling drug-related cases, as they will have the necessary resources and expertise to handle complex cases. Improved consistency in sentencing: Special courts may be able to provide more consistent sentencing for drug-related crimes, as the judges will have specialized knowledge and experience in these types of cases. Greater public trust: Special courts may be able to earn greater public trust as they will be seen as more effective in combating drug-related crime and more likely to deliver justice. Addressing corruption: Special courts may be less susceptible to corruption, as they will have specialized personnel and be more transparent in their proceedings. It's important to note that this is based on the assumption that the special courts are well-funded, staffed with trained and experienced personnel, and have



the necessary resources to conduct fair trials. As well as that, the special courts should operate independently from any political or other external pressures, to maintain the integrity and impartiality of the court. To improve the implementation of the Khyber Pakhtunkhwa Control of Narcotics Substances Act, several procedural reforms could be suggested, including Streamlining the process: Streamlining the process for investigating, charging, and prosecuting drug-related crimes can help ensure that cases are handled efficiently and effectively. Standardizing procedures: Standardizing procedures across law enforcement agencies and courts can help ensure that cases are handled consistently and fairly. Enhancing training: Providing training for law enforcement officials, prosecutors, and judges on the provisions of the act and the best practices for investigating and prosecuting drug-related crimes can help improve their ability to enforce the law effectively. Improving evidence gathering and analysis: Improving the process of gathering and analyzing evidence can help ensure that cases are built on a strong foundation and are more likely to result in convictions. Using technology: Utilizing technology such as DNA testing, digital forensics, and other advanced techniques can help law enforcement agencies more effectively investigate and prosecute drug-related crimes. Establishing a system of monitoring and accountability: Establishing a system of monitoring and accountability for law enforcement agencies and prosecutors can help ensure that the act is being enforced fairly and consistently and that any misconduct is identified and addressed. Addressing corruption: Implementing strong measures to prevent and address corruption among law enforcement officials and other government employees can help ensure that the act is enforced fairly and without undue influence. rights of victims of drug-related crimes can help ensure that they are treated with compassion and respect throughout the legal process. It's important to note that implementing these reforms requires a significant investment in resources, including personnel, technology, and infrastructure, and it requires a comprehensive approach to address all aspects of the problem. It also requires the participation of all the relevant stakeholders, such as law enforcement agencies, courts, and other government departments, to ensure that the reforms are implemented effectively and efficiently. Tahir Aurangzeb ASJ IX Peshawar (personal communication, 2022, October 03) There is no difference between the themes of the Act of 1997 and 2019. The jurisprudence requires that the law must address all the hypothetical situations and it is only possible when before legislation, different schools of thought, and different sections of society have discussed the pros and cons of legislation or law. Such type of scholarly work has not been done before the promulgation of this law. So, it is not effective to address the issue. There are four categories of accused, who face a narcotics trial. The addict, the paddler, the seller, and the investor. The law is applied and effective against the addict in most cases and does not address the other three sectors in an effective form. The reason behind the same is that the law is legislated in a hurry just to obtain monetary benefits from Foreign Non-Governmental Organizations. The intent of the legislator was not to address the core issues effectively but the situation was addressed for desired benefits. The way out is that all four categories of accused should be addressed separately and harsh punishment may only be provided for investors and sellers. The second 02 categories may be addressed with reformatory forms of punishment followed by an investment of obtained monetary benefits from NGOs in the creation of schools and hospitals practically and not in documents only. Each narcotic has its impact on society. In section 9 of CNSA, heroin and opium are dealt with the same punishment. This non-categorization of contraband is the main problem in granting the sentences, keeping in mind the sentence and dangerous factors of contraband, a judge settled standards of appreciation of evidence for opium which is equally applicable to the case of heroin. The non-availability of separate punishment for each contraband separately, the appreciation standard is relaxed which cannot be changed by the insertion of section 29, etc. regarding standards of appreciation but the punishments should be separated for each contraband. Badar Munir JMIC Peshawar (personal communication, 2022, September 2) Intent and Object behind enacting this KP CNSA 2019 is to control the creation, production, processing paddling, trafficking, and unauthorized use of

narcotics. The narcotics are clearly defined in the Act. It is not exhaustive as all narcotics are not covered by the act. The flaw in the existing law is mainly of the execution through qualification, through designation is provided for the IO, etc., but what sort of equipment they must possess and what kit for the evaluation of the material would be used is not provided by the law. Furthermore, the Act does not exclusive list of contrabands. There is a multiplicity of laws on the subject. The IO is not provided with the main tools at the spot. They cannot differentiate between the two substances on the contraband and the other legal material if, at the same time, two samples of crystal meth and other material are captured, he can't differentiate. So, to remove such flaws a proper training and testing kit should be provided to the officers. All these sorts of cases are dealt with by one authority and in each district, there should be one roof project. It is effective but the agency enforcing the law is not a competent specialized force that will handle these sorts of cases should be constituted. If not the law, rather the person executing out on the ground matters law is good but the person in whose hands it lies is not proper. For awareness, conventional and non-conventional sources can be used police probation departments and the rehabilitation center can directly approach that affected person with the help of the university, and college authorities walk and other awareness programs can be arranged on TV and radio and the internet can be used for the awareness of the general public. Pakistan being a developing country does not have such resources to establish exclusive courts. The court already administering other laws is also given the responsibility which is an impediment in the administration of justice in content to the special law. If the exclusive and specialized court is established it will expedite the trial of such cases which will ultimately improve the situation. Shahid Mehmood ADJ VII Peshawar (personal communication, 2022, September 02) KP CNSA ACT 2019 is tremendous as compared to CNSA 1997 but if implemented in its true letter and spirit. Although numerous challenges are needed in the implementation of the KP CNSA Act 2019. however, some of its headlines are written as under. Entrustment of specific /limited cases for one month to a single I.O. who can properly investigate the same. Appointing high-rank-qualified police officers to take cognizance of narcotic cases instead of low-rank police constables. Shortage of case properties in special tasks till trial conclusion not within the police station Mal Khana. Special seminars and workshops School or college level education is important in this regard. Muhammad Ali Khan Advocate (Personal Communication, 2022, December 01) It's not a new creation but an amendment in existing federal law in CNSA 1997, an amendment is required to bring reforms in the existing law, while in the instant law KP CNSA, 90% of Lacunas still exist which are essentially required to amend further with due consultations with practicing lawyers. Furthermore, the existing law is not so affected by mother law. The law is only applied and effective against the addicted person, and a deterrent type of punishment is given to the addicted person only rather than reformative punishment. On the other hand paddlers, sellers, and investors are ignored. Lack of knowledge and practice/training in the investigation is a prime issue in the implementation of KP CNSA 2019. Awareness through Social, Print, and electronic media and checking the balance by the parents in a reformative way. The recoveries should be sent in a lump sum to the forensic labs, and if the said recoveries are from public places the statement of private witnesses should be recorded. KP CNSA is not effective due to the deterrent type of punishment and ignorance and absence of reformative or Rehabilitation punishments. The man behind the gun matters, if it is replaced with a better one and executive bodies/agencies are not trained then the replaced law is of no use. Seminars, conventions in High schools, colleges, and universities and can take help from social, print, and electronic media as well. Working of special courts are affected but little expensive on govt exchequer. In my opinion, the reforms mentioned in 3 United Nations treaties i.e. 1961 Single Convention on Narcotic Drugs, as amended in 1972, the 1971 Convention on Psychotropic Substances, and the 1988 Convention Against Illicit Traffic in NDPS shall be followed in its true letter and spirit. Zainab Advocate (Personal Communication, 2022, December 01) My analysis of the Khyber Pakhtunkhwa Control of Narcotics Substances Act, 2019 is that no one shall own,

manage, operate, or control any premises, place, equipment, or machinery for manufacture or production of cannabis, cocaine, opium derivatives, narcotics drugs. No special court is established under KPCNSA. The word special court needs further explanation and the word seizing officer is not clear. There are many challenges but worth mentioning is the overriding of both federal and provincial law. To arrange different seminars through digital social media wherein the main focus should be areas of cultivation. Administrative reforms shall be brought through the establishment of task forces. The KPCNSA is encouraging incorporating section 11 to curb ice. Sections shall be incorporated for the speedy trial of narcotics cases in the Act. Inspector Wajid Shah (Personal Communication, 2022, November 01) This is the first drug law that is more stringent. The truth and deception will be shown during the lawsuit. There is no confession of guilt because the punishment is harsh. Good tools and training are required. There needs to be a new department established. The severity of the sentence prevents the courts from imposing punishment. The legislation cannot be altered in any way. To raise awareness, plan media seminars. In this case, a decision must be taken quickly. Gul Sher ASI (Personal Communication, 2022, November 01) This law was quite successful in reducing the rising rate of drug use. Following the legislation, measures will be undertaken to stop smuggling as well as the sale and purchase of different kinds of drugs. It has been pledged to rid the country of drugs. Drug categories need to be specified separately. And the severity of the punishment will depend on how intoxicating they are. It should contain alcohol, an intoxicant. The value of the law is not realized when the accused are exonerated as a result of various forms of technical incompetence. Defects in the technology should be fixed. All of the officials, including the solitary policeman who serves as the primary witness of safe custody, should get training. The same authority should be granted to operations and investigations. Specialized training should be required for all officers and authorities. The law does not need to be changed like other laws; just revisions and improved investigative techniques are required. Training needs to be provided for the Narcotics Academy that is described in the Act. Law students, attorneys, judges, prosecutors, members of the press, police, and other classes ought to be included in this training. And many factors should be informed to them. In a situation, disregard any technical faults. The case's assets must be presented in court. It is necessary to change the accused's custody.

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