

# **Sikkim's Alternative Model to Tackle Drug Abuse**

**An Analysis of the Sikkim Anti-Drugs  
Act, 2006**

**This report is  
an independent, non-commissioned  
piece of work by  
the Vidhi Centre for Legal Policy,  
an independent think-tank doing legal  
research to help make  
better laws.**

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## I. Introduction

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Through a series of research studies, we investigate the impact that criminalisation of drug use has on people and drug use itself. Our first report made a case for decriminalising cannabis use in India. Our subsequent study on drug use in Mumbai argues that the application of the Narcotics Drugs and Psychotropic Substances Act, 1985 ('NDPS Act') targets the marginalized and exploits the very people it is supposed to protect.<sup>1</sup>

We now present a counter to the deterrence-based model that the NDPS Act embodies. We analyse the Sikkim Anti-Drugs Act of 2006 ('SADA'), which has decriminalised drug use and looks at drug abuse as a health issue. We trace the development of SADA, through its various amendments and look at how a health-based approach to drug abuse has ushered a positive change in Sikkim. We employ SADA to argue against the inefficacy of tackling drug abuse through deterrence and criminalization.

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<sup>1</sup> Neha Singhal, Naveed Ahmad, 'Criminalization Leads to Exploitation: The Mumbai Story No One Knows About' <<https://vidhilegalpolicy.in/research/criminalisation-leads-to-exploitation-the-mumbai-story-no-one-knows-about/>> accessed 15 September 2020.

<sup>2</sup> International Institute for Population Sciences (IIPS), 'National Family Health Survey (NFHS-3)' (2005–06) <[http://rchiips.org/nfhs/NFHS-3%20Data/sk\\_state\\_report\\_printed\\_version.pdf](http://rchiips.org/nfhs/NFHS-3%20Data/sk_state_report_printed_version.pdf)> accessed 20 July 2020.

<sup>3</sup> A. Goel, A. Chakrabarty, 'Prevalence and Socio-Demographic Correlates of Substance Use in a Rural Community in Sikkim, North East India: Results from a

## II. Drug Use in Sikkim: Evaluating the Need for a Special Law

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Sikkim has been struggling with alcohol<sup>2</sup> and drug abuse since the 1980s.<sup>3</sup> Recent data on Sikkim's drug problem also warns against an impending public health crisis; the National Survey on Extent and Pattern of Substance Use in India shows that Sikkim has a high prevalence of sedative, inhalant and injecting drug use.<sup>4</sup>

Illicit use of pharmaceutical drugs has been called the 'key to Sikkim's drug problem' and its use attributed to Sikkim's booming pharmaceutical industry.<sup>5</sup> Sikkim has been gripped by rampant misuse of prescription drugs like Nitrosun, cough syrups and Spasmo Proxyvon. This problem started in the 1980s and gradually got worse.<sup>6</sup>

The Sikkim Anti-Drugs Bill, 2006 was tabled as a response to Sikkim's unique problems with abuse and traffic of prescription drugs. Although the NDPS Act had been in force, the Bill asserted that a legislative vacuum

pilot population survey' (2010) 15(1) Journal of Substance Use 13.

<sup>4</sup> Ministry of Social Justice and Empowerment, 'Magnitude of Substance Use in India' (2019), p. 18. <[socialjustice.nic.in/writereaddata/UploadFile/Magnitude\\_of\\_Substance\\_Use\\_India\\_REPORT.pdf](http://socialjustice.nic.in/writereaddata/UploadFile/Magnitude_of_Substance_Use_India_REPORT.pdf)> accessed 20 July 2020.

<sup>5</sup> Sarita Santoshini, 'Why a Rich, Orderly Himalayan State has India's Highest Suicide Rate' (*India Spend*, 18 March 2017) <<https://archive.indiaspend.com/cover-story/why-a-rich-orderly-himalayan-state-has-indias-highest-suicide-rate-29569>> accessed on 18 July 2020.

<sup>6</sup> Information gathered during our interview with Mr. Udai Rai, who runs a de-addiction facility in Gangtok.

prevented Sikkim from dealing with its own distinctive problems.<sup>7</sup>

### III. Sikkim Anti-Drugs Act, 2006

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The objective of SADA was to control and prevent abuse of drugs and to deal with increasing abuse of medicinal preparations.<sup>8</sup>

SADA aimed at filling the legislative vacuum highlighted by the Bill, by vesting in the government of Sikkim the power to notify 'controlled substances'.<sup>9</sup> However, the NDPS Act continued to be enforced for all other narcotic drugs and psychotropic substances.

SADA was initially enacted to merely expand the scope of drug regulation in Sikkim and its provisions mirrored those of the NDPS Act. Reinforcing a purely deterrent approach, it continued to criminalize illicit drug use,<sup>10</sup> provide for strict punishments and categorized all offences as cognizable and non-bailable.<sup>11</sup>

Although SADA operated within the same paradigm as the NDPS Act, it did reflect a marginal shift in the state's perception of drug use. As enacted in 2006, SADA recognized the importance of a public health-based approach to drug use and provided for compulsory

detoxification, followed by rehabilitation of all those charged with drug use.<sup>12</sup> Unlike the NDPS Act, SADA, as it was originally drafted did not provide for any jail term associated with drug use and limited the penalty to a fine of ten thousand rupees.<sup>13</sup> Not including incarceration for drug use might have been an important first step in realizing the goal of a rational law.

### IV. Tracing the Amendments in SADA

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Over the years SADA has been amended regularly and quite substantively. Initially, the amendments to SADA provided for stricter punishments. In 2011, fines for various offences were increased substantially; for example, the fine for drug use was increased from Rs. 10,000 to Rs. 50,000.<sup>14</sup> However, the trend to enhance punishments reversed in subsequent years and the amendments that followed revealed an altered state policy towards illicit drug use. This change has been attributed to sustained campaigns by the Sikkimese civil society, which drew attention

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<sup>7</sup> Sikkim Anti-Drugs Bill 2006, Statement of Objects and Reasons.

<sup>8</sup> SADA 2006, Long Title.

<sup>9</sup> SADA 2006, s. 2(iii), as notified under 31/LD/2006 dated 15.04.2006, subsequently substituted by section 2(e) vide Notification No. 21/LD/2017 dated 19.09.2017.

<sup>10</sup> SADA 2006, s. 9(b), as notified under 31/LD/2006 dated 15.04.2006. Persons may be lawfully authorized to possess and consume controlled substances on a valid prescription. Sikkim Anti-Drugs Rules 2007, Rule 17.

<sup>11</sup> SADA 2006, s. 18, as notified under 31/LD/2006 dated 15.04.2006.

<sup>12</sup> SADA 2006, s. 9(b), as notified under 31/LD/2006 dated 15.04.2006.

<sup>13</sup> SADA 2006, s. 9(b), as notified under 31/LD/2006 dated 15.04.2006.

<sup>14</sup> While the NDPS Act classified offences on the basis of quantity of substances seized, SADA distinguished offences committed by licensed dealers, drug users, state government employees, manufacturer etc. In 2011, the maximum imprisonment for a contravention by a licensed dealer was increased from six months to two years. Similarly, fine for using a mode of transport for committing an offence under the Act was increased from Rs. 1,00,000 to Rs. 2,00,000; See: SADA 2006, s. 9, as amended vide Notification No. 17/LD/P/2011 Dated 18.11.2011.

to the futility of tackling addiction through criminalisation.<sup>15</sup>

## **A. The 2017 Amendment**

SADA's amendment in 2017 is by far the most extensive. The amendment appears to be a conscious attempt by the legislature to extend protection to drug users and lay down an elaborate scheme for rehabilitation.

### ***i. Revision of the Quantification Method***

As enacted in 2006, SADA categorized offences committed by licensed dealers, state government employees, transporters, manufacturers and illicit drug users, irrespective of the quantity of controlled substances involved. In 2017, the offences and penalties under SADA were revisited to follow the model laid down under the NDPS Act. Offences were now classified on the basis of quantity of controlled substances. Three quantity groupings of small, large and commercial quantities were laid down.<sup>16</sup>

Unlike the NDPS Act, where small and commercial quantities are provided against all substances in weight,<sup>17</sup> SADA adopts three 'delivery formats' to determine quantity. All

substances with a common delivery format (such as a tablet) have uniform thresholds, irrespective of the component drug.<sup>18</sup> These delivery formats are: pills, capsules, tablets; liquid or syrup; and, injection vials.

This quantification method avoids the inconsistencies that arise out of measurement in weight or volume, because only the number of capsules, vials, tablets etc. are counted. This quantification method also avoids the dispute around calculation of 'pure drug content' or 'whole substance inclusive of neutral substance'. This dispute arose in 2008 when the Supreme Court held that to determine sentences, pure quantity of the drug must be considered irrespective of the neutral substance that may be present in a mixture.<sup>19</sup> However, in 2009, the Department of Revenue issued a notification mandating that weight of the whole substance should determine the sentence.<sup>20</sup> This notification changed sentencing patterns considerably, leading to addicts and users being tried as peddlers and traffickers.<sup>21</sup>

### ***ii. Recognition of Distinction between 'Peddlers' and 'Consumers'***

After the amendment in 2017, SADA defines and distinguishes between consumers<sup>22</sup> and

<sup>15</sup> Our interaction with various stakeholders in Sikkim suggested that involvement of the High Court, Health Officials and the Chief Minister further facilitated this.

<sup>16</sup> The NDPS Act, lays down quantity thresholds for small and commercial quantities, while those falling in between have been treated as 'intermediate quantities'.

<sup>17</sup> Under the NDPS Act, small quantity of Diazepam is 20gm and the Commercial Quantity is 500gm, while the small and commercial quantities for Loprazolam are 5gm and 100 gm respectively, even though both can have the same delivery format such as a tablet.

<sup>18</sup> Schedule to the Sikkim Anti-Drugs Act, 2006.

<sup>19</sup> *E Micheal Raj v Intelligence Officer, Narcotics Control Bureau*, [2008] 5 SCC 161.

<sup>20</sup> Notification No.S.O.2942(E) dated 18.11.2009

<sup>21</sup> Neha Singhal, Arpita Mitra, Kushiki Sanyal, 'From Addict to Convict – Working of the NDPS Act in Punjab' (2018) < <https://vidhilegalpolicy.in/research/2018-8-23-from-addict-to-convict-the-working-of-the-ndps-act-1985-in-punjab/>> accessed 30 July 2020. The Supreme Court has recently upheld this quantification method. See *Hira Singh v UOI*, CrI App. 722 of 2017

<sup>22</sup> SADA 2006, s. 2(d), as inserted vide Notification No. 21/LD/17 dated 19.09.2017. A 'consumer' is defined as

peddlers<sup>23</sup>; an important distinction not recognized by the NDPS Act. Anybody caught with small quantities of controlled substances is a ‘consumer’, while those caught with larger quantities are categorized as ‘peddlers’.<sup>24</sup> Although differentiating between ‘consumers’ and ‘peddlers’ merely on the basis of quantity of the substance might lead to users being arrested as peddlers,<sup>25</sup> recognition of this distinction enabled SADA to channelise health services so that they reach their most vulnerable. The Amendment to SADA in 2017 extended the benefits of release on probation to all ‘consumers’ which was hitherto limited only to ‘addicts’. Today, all ‘consumers’ have the right to be released on probation for medical treatment, instead of being sent to prison.<sup>26</sup>

### ***iii. Scheme of Punishments and Rehabilitation***

After the 2017 amendment, SADA continued to provide for strict punishments to manufacturers, sellers, purchasers etc. Contraventions involving large and

commercial quantities, attracted a minimum jail term of seven and ten years respectively and minimum fines of fifty thousand and one lakh respectively.<sup>27</sup>

But the law treated illicit drug use differently from other contraventions. Within drug users, SADA categorized students, state government employees, and the general public differently. The law applied its own version of the three strikes rule. For students, the first two drug use offences did not carry any imprisonment. On first offence, the law mandated a compulsory psychiatric evaluation. This was followed, if necessary, by detoxification and rehabilitation.<sup>28</sup> The second offence would entail compulsory detoxification and rehabilitation.<sup>29</sup> A third offence of consumption led to a minimum imprisonment of two years.<sup>30</sup> For state government employees, the first drug use offence attracted imprisonment for up to six months.<sup>31</sup> However, before the imprisonment, SADA mandated a compulsory psychiatric evaluation, followed, if necessary, by

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“Consumer means in relation to any person who manufactures, possesses, sells, purchases, transports, imports inter-state, exports inter-state or uses controlled substances in “small quantity” without valid prescription or license.”

<sup>23</sup> SADA 2006, s. 2(k), as inserted vide Notification No. 21/LD/17 dated 19.09.2017. A ‘peddler’ is defined as “Peddler in relation to any person means who manufactures, possesses, sells, purchases, transports, imports inter-state, exports inter-state or uses controlled substance of quantity more than “small quantity” without valid prescription or license”.

<sup>24</sup> The quantities have been laid down in the Schedule to the SADA, as inserted vide Notification No. 21/LD/17 dated 19.09.2017, subsequently amended vide notification 20/LD/18 dated 24.10.2018.

<sup>25</sup> Quantity based distinction between ‘consumers’ and ‘peddlers’ does not consider the possibility of drug users and addicts turning to peddling to support their addiction

and that such categorization might subject them to harsher punishments.

<sup>26</sup> SADA 2006, s.19, as substituted by Notification No. 21/LD/187dated 19.09.2017. The NDPS Act also provides that addicts and small quantity offenders may be released on probation. NDPS Act 1985, s. 39.

<sup>27</sup> SADA 2006, s.9(1)(b), as inserted vide Notification No. 21/LD/187dated 19.09.2017.

<sup>28</sup> For a minimum period of one month extendible to six months. SADA 2006, s. 9(3)(i)(a), as inserted vide Notification No. 21/LD/187dated 19.09.2017.

<sup>29</sup> For six months, in addition to a minimum fine of Rs. 20,000. SADA 2006, s. 9(3)(i)(b), as inserted vide Notification No. 21/LD/187dated 19.09.2017.

<sup>30</sup> With imprisonment extendible up to five years, and a minimum fine of Rs. 50,000 extendible upto Rs. 1, 00,000. SADA 2006, s. 9(3)(i)(c), as inserted vide Notification No. 21/LD/187dated 19.09.2017.

<sup>31</sup> Or with fine which extended to Rs. 50,000, or both.



detoxification and rehabilitation.<sup>32</sup> On a subsequent offence, after a compulsory detoxification for six months, the person could be imprisoned for a minimum of two years extendible upto five years.<sup>33</sup>

In case of the general public, for a first drug use offence, SADA provided for a compulsory psychiatric evaluation and if necessary, followed by detoxification and rehabilitation for a period of one-month, extendible upto six months. This was followed by imprisonment extendible upto six months or with fine of upto Rs. 50,000 or both.<sup>34</sup> A subsequent offence of drug use, would lead to psychiatric evaluation followed by compulsory detoxification and rehabilitation. This was then followed by imprisonment extendable to three years or a fine which may have extended to Rs. 1,00,000, or both.<sup>35</sup> For third and subsequent offences of drug use, SADA excluded compulsory psychiatric evaluation or detoxification and provided for a minimum jail term of three years, which may extend to seven years and a fine of not less than Rs. 1,00,000.<sup>36</sup>

## **B. Sikkim Anti-Drugs (Amendment) Act, 2018**

SADA was amended again in 2018. Although it retained most of the provisions inserted by the 2017 amendment, it revised the scheme of rehabilitation and punishments for students, employees and the general public. The amendment now made an all-embracing provision for psychiatric evaluation and deaddiction of all addicts, users and small quantity offenders. SADA's 2018 amendment also decriminalised drug use.

### ***i. Mechanism of Decriminalisation***

After the amendment in 2018, contraventions under SADA were limited to manufacture, possession, sale, purchase, transport, import and export of controlled substances.<sup>37</sup> 'Use', earlier classified as a contravention, was excluded.<sup>38</sup> While any of the contraventions may still lead to imprisonment and fine,<sup>39</sup> illicit drug use does not attract any penalty.

By not associating any criminal or administrative penalty with illicit drug use, SADA forges ahead of many foreign jurisdictions where illicit drug use has been decriminalised. SADA's effort is a step beyond

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<sup>32</sup> For a minimum period of one-month, extendible upto six months. SADA 2006, s. 9(3)(ii)(a), as inserted vide Notification No. 21/LD/187dated 19.09.2017.

<sup>33</sup> With fine, which may extend to Rs. 1,00,000. SADA 2006, s. 9(3)(ii)(b), as inserted vide Notification No. 21/LD/187dated 19.09.2017.

<sup>34</sup> SADA 2006, s. 9(iii)(a), as inserted vide Notification No. 21/LD/187dated 19.09.2017.

<sup>35</sup> SADA 2006, s. 9(iii)(b), as inserted vide Notification No. 21/LD/187dated 19.09.2017.

<sup>36</sup> SADA 2006, s. 9(iii)(c)(i)&(ii), as inserted vide Notification No. 21/LD/187dated 19.09.2017.The

government could after a period of ten years from the commission of last offence and on evaluation and assessment of such person restore such benefits.

<sup>37</sup> SADA 2006, s. 9.

<sup>38</sup> SADA 2006, s. 9(1), as amended vide Notification No. 20/LD/18 dated 24.10.2018.

<sup>39</sup> Any contravention involving large or commercial quantities, may lead to a minimum sentence of seven and ten years respectively, whereas contravention involving small quantities, leads to a sentence of a minimum of two years.

Czech Republic's downgrading of sanctions for personal consumption<sup>40</sup> and Brazil's alternative penalties, such as warnings & community service.<sup>41</sup> Similarly, SADA goes beyond the much-celebrated Portuguese law where consumption and possession for consumption are categorized as administrative offences.<sup>42</sup>

Decriminalisation under SADA was however accompanied by reduction of threshold quantities. The thresholds laid down after the 2017 amendment were fairly liberal and maintained a clear distinction between 'consumers' and 'peddlers'. However, the thresholds were revised in 2018. The large quantity threshold for drugs with tablet or capsule as the delivery format was reduced from 100 tablets to 20 tablets. Similarly, the large quantity threshold for drugs with liquid as the delivery format was halved from 1000 ml to 500ml.<sup>43</sup> Although this reduction of thresholds might seem innocuous on first glance, it may result in prosecution of 'consumers' as 'peddlers', rendering decriminalisation merely symbolic. By bringing down thresholds for large and commercial quantities, SADA risks 'widening the net': bringing more people into the criminal justice system and imposing harsher punishments on addicts and users.

'Net-widening', as a consequence of lowering thresholds, has internationally been held to adversely affect the number of people accessing healthcare services.<sup>44</sup>

## *ii. Detoxification and Rehabilitation*

SADA provides a mechanism for advancing healthcare and harm reduction services to drug users & addicts. It goes much further than the NDPS Act in creating an inclusive system that facilitates access to healthcare services. Under SADA, all 'consumers' and 'addicts' are entitled to a psychiatric evaluation and if needed, detoxification and rehabilitation.<sup>45</sup> This ensures that persons who may engage in small scale peddling merely to support their addiction are not excluded from the benefits of detoxification and rehabilitation. SADA further recognizes the role of psychiatrists and psychologists for diversion to detoxification and rehabilitation.<sup>46</sup>

Post the amendment in 2018, SADA does not force compulsory detoxification and rehabilitation and recognizes that involuntary and forced deaddiction might do more harm than good. This, we were told, stems from foreign experience, where studies conducted have linked involuntary drug treatment to non-fatal drug overdose<sup>47</sup> and highlighted human

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<sup>40</sup> Law of the Czech National Council on offenses, Section 30, categorizes personal consumption as a misdemeanor and provides for a fine.

<sup>41</sup> Law No. 11.343, Article 28.

<sup>42</sup> Law No. 30/2000, Article 2(1).

<sup>43</sup> Schedule to SADA 2006, amended vide Notification No. 20/LD/18 dated 24.10.2018.

<sup>44</sup> Ari Rosmarin, Niamh Eastwood, 'A Quiet Revolution: Drug Decriminalisation Policies in Practice Across the Globe' < [https://fileserver.idpc.net/library/release-quiet-](https://fileserver.idpc.net/library/release-quiet-revolution-drug-decriminalisation-policies.pdf)

[revolution-drug-decriminalisation-policies.pdf](https://fileserver.idpc.net/library/release-quiet-revolution-drug-decriminalisation-policies.pdf)> accessed 27 July 2020.

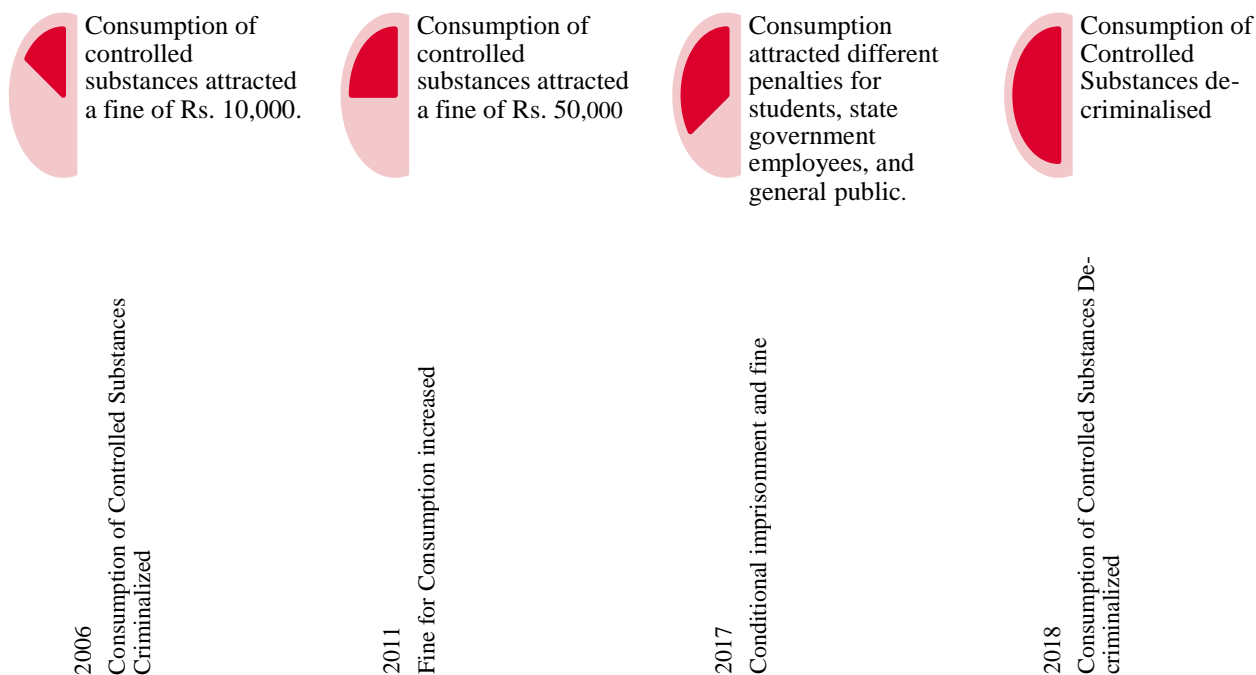
<sup>45</sup> SADA 2006, s. 9(3), as inserted vide Notification No. 20/LD/18 dated 24.10.2018.

<sup>46</sup> Ibid.

<sup>47</sup> C.Rafful, R. Orozco et al, 'Increased Non-fatal Overdose Risk Associated With Involuntary Drug Treatment in a Longitudinal Study With People Who Inject Drugs' (2018) 133(6) *Addiction* 1056.

rights abuses within compulsory treatment settings.<sup>48</sup>In addition to this, SADA follows the NDPS Act and continues to provide for release by court on probation to all consumers and addicts.<sup>49</sup>

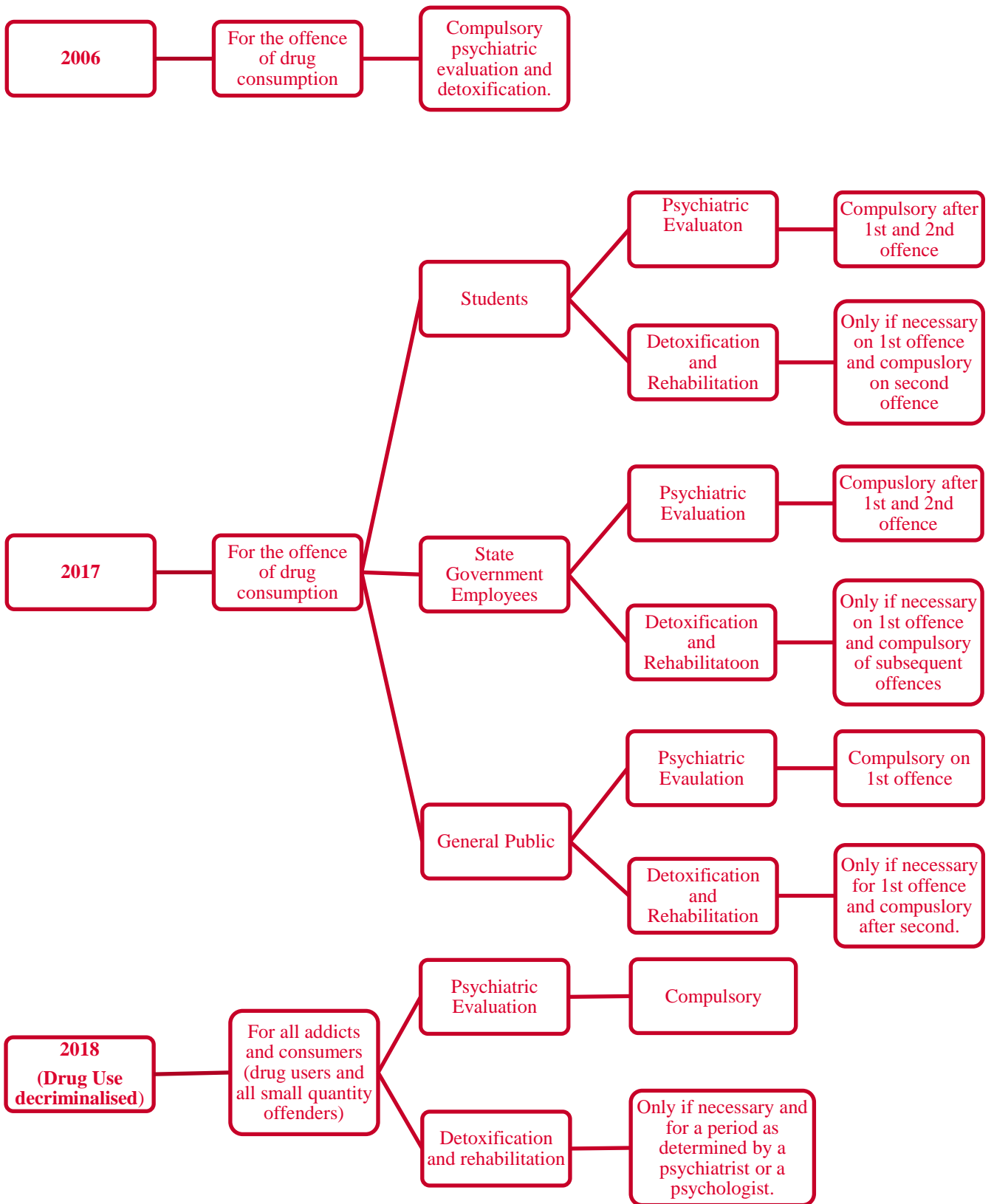
## Timeline for De-Criminalisation of Drug Consumption



<sup>48</sup> D. Werb, Kamarulzaman et al, ‘The Effectiveness of Compulsory Drug Treatment: A Systematic Review’ (2016) 28 International Journal of Drug Policy 1.

<sup>49</sup> SADA 2006, s. 19. Similar provision exists under the NDPS Act, s. 39 where all those prosecuted for offences relating to small quantities and those arrested for consumption, can be released on probation.

## Scheme for Psychiatric Evaluation and Rehabilitation



## V. SADA's Effect on the Ground

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Our interaction with various stakeholders in Gangtok revealed that a sustained campaign by doctors, de-addiction centres and other members of the civil society have had an indelible impact on the writing of the law; the law in turn has impacted how people generally perceive drug use and addiction in the state. Decriminalising drug use has removed the stigma that comes inherently with the criminalisation of any activity. Since drug use is no longer a criminal offence, the police instead of registering cases and arresting drug users, ascertain the need for de-addiction and facilitate rehabilitation. On apprehension of any drug user, the police immediately informs a registered de-addiction centre, who then interact with the user and assess the need for institutionalization. The user's family is consulted and the drug user is dealt with according to his/her specific needs. The focus of law enforcement agencies now remains on large scale peddlers and all drug addicts have access to healthcare and rehabilitation facilities.

Prison authorities in Gangtok told us that the number of under-trials for drug offences had fallen dramatically after the 2018 amendment. In December 2019,<sup>50</sup> the number of under-trials

for drug offences at the Gangtok Central Jail stood at a mere sixty-six, a number that continued to concern them. Prior to the amendment, the jail housed more than two hundred under-trials for drug offences.

The success of SADA has a lot to do with Sikkim's demographic structure, nature of society and the exemplary co-ordination between various organs of the state. As per the census of 2011,<sup>51</sup> Sikkim's population is about 6.10 Lakh and the state comprises only four districts. It's size and population allows for administrative efficiency and better implementation of laws. With a high literacy rate of 81.42% and the third highest per capita Net State Domestic Product in the country of Rs. 357643,<sup>52</sup> dissemination of government policy, development of public discourse and involvement of civil society is easier and more vibrant. This has been a major reason behind SADA's success.

We were told that although the idea of decriminalising drug use was pushed by a small section of activists, the government was receptive and acknowledged its necessity. Within the government, co-ordination between the departments of health services, social justice and the police demonstrate a common resolve to address the issue of drug abuse. This is best reflected in the statement of the Chief Minister himself, who argued that

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<sup>50</sup> Interviewed prison authorities at Gangtok Central Jail on 13<sup>th</sup> December 2019.

<sup>51</sup> Directorate of Census Operations Sikkim, 'District Census Handbook; <

[https://censusindia.gov.in/2011census/dchb/1100\\_PAR\\_T\\_B\\_DCHB\\_SIKKIM.pdf](https://censusindia.gov.in/2011census/dchb/1100_PAR_T_B_DCHB_SIKKIM.pdf)> accessed 23 July 2020.

<sup>52</sup> Economic Survey (2019-20) <https://www.indiabudget.gov.in/economicssurvey/doc/Statistical-Appendix-in-English.pdf>. Accessed 15 September 2020.

criminalisation of drug use only leads to stigma and does not help in quitting the habit.<sup>53</sup> The Minister for Health has also pointed out that the problem of drug abuse requires a more compact, comprehensive, coordinated participation from society.<sup>54</sup> This belief has trickled down, with the bureaucracy asserting the need for sustainable solutions, instead of mere punitive action.<sup>55</sup>

Sikkim hasn't satisfied itself with just an enactment of a progressive law; it has continued to devise programs that would facilitate SADA in achieving its ends. The Department of Social Justice & Welfare spearheads a State Action Plan for Drug Demand Reduction (SAPDDR). This plan conducts awareness programmes, sports, music and other activities. These activities are meant to channelize the energies of children and youth to prevent their exposure to drugs.<sup>56</sup>

Similarly, 'Sikkim Against Addiction Towards a Healthy India' (SAATHI), an initiative of the departments of Social Welfare, Health and Human Resource Department, aims to eradicate substance abuse in schools through peer educators. The SAATHI model is based on

school-based peer learning; teacher, counsellor training and support, parental counselling and community outreach.<sup>57</sup> SAATHI has trained more than four thousand peer educators and five hundred teachers, by the year 2018.<sup>58</sup>

## VI. Conclusion

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After the series of amendments to SADA and with programmes such as SAPDDR and SAATHI, Sikkim now recognizes the public health concerns associated with drug abuse. It represents an important effort in creating a law that places an individual at the very core of law reform. This effort needs to be recognized and given space on the national plane, where thousands of persons are arrested every year for drug use and denied healthcare and harm reduction facilities.

Data from the National Crime Records Bureau and findings from our study in Mumbai, indicate that a high proportion of the overall NDPS arrests comprise of arrests for drug use. In 2018, 81,778 persons were arrested under the NDPS Act across the country. 59% of these were found in possession of drugs for personal

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<sup>53</sup> 'Sikkim Will Soon Decriminalize Drug Use, Treat it as an Illness, Says Chief Minister Pawan Chamling' (*Scroll.in*, 09 August 2018) <<https://scroll.in/latest/889861/sikkim-will-soon-decriminalise-drug-use-treat-it-as-an-illness-says-chief-minister-pawan-chamling>> accessed 21 July 2020.

<sup>54</sup> Nikita Mukhia, 'The 1<sup>st</sup> Children's Parliament under the State Action Plan for Drug Demand Reduction was held at Manan Kendra' (*Sikkim Herald*, 25 November 2019) <[www.sikkimherald.info/the-1st-childrens-parliament-under-the-state-action-plan-for-drug-demand-reduction-was-held-at-manan-kendra/](http://www.sikkimherald.info/the-1st-childrens-parliament-under-the-state-action-plan-for-drug-demand-reduction-was-held-at-manan-kendra/)> accessed 20 July 2020.

<sup>55</sup> Shradha Chhetri, 'Sikkim's drug crisis, a societal problem' (*Simmim Chronicle*, 30 November 2019)

<[www.thesikkimchronicle.com/sikkims-drug-crisis-a-societal-problem/](http://www.thesikkimchronicle.com/sikkims-drug-crisis-a-societal-problem/)> accessed 20 July 2020.

<sup>56</sup> Government of Sikkim <[sikkim.gov.in/media/news-announcement/news-info?name=Press+Conference+on+Activities+under+State+Action+Plan+for+Drug+Demand+Reduction](http://sikkim.gov.in/media/news-announcement/news-info?name=Press+Conference+on+Activities+under+State+Action+Plan+for+Drug+Demand+Reduction)> accessed 20 July 2020.

<sup>57</sup> Sikkim Against Addiction Towards a Healthy India, 'SAATHI Model' <http://www.saathi-sikkim.org/saathi-model.html> accessed 20 July 2020.

<sup>58</sup> SAATHI's Three Years Report <[nebula.wsimg.com/4c382e8e9fcf7725669b6e69ce7a9d38?AccessKeyId=48190DA389D67F95C209&disposition=0&alloworigin=1](http://nebula.wsimg.com/4c382e8e9fcf7725669b6e69ce7a9d38?AccessKeyId=48190DA389D67F95C209&disposition=0&alloworigin=1)> accessed 20 July 2020.

use.<sup>59</sup> Similarly, in Mumbai, 97% of the arrests under the NDPS Act 2017 and 2018, were for drug use.<sup>60</sup>

A high number of arrests for drug use is a sure sign of a failed law and a failed policy.<sup>61</sup>

Findings from our Mumbai study further demonstrate how the law further fails its people by disproportionately arresting its most economically and socially vulnerable people.

Criminalising drug use hurts the fundamental premise of a public health-based approach to drug abuse. Across the country, only 12% of all drug dependent people have reported ever receiving help or treatment.<sup>62</sup> Since drug use under the NDPS Act is a criminal offence, all users, irrespective of whether they have received treatment or not remain vulnerable to arbitrary arrests.

Drug use can only be brought under control if drug dependent people are encouraged to approach healthcare services without any fear of prosecution and imprisonment. Decriminalising drug use, coupled with an institutionalized policy of rehabilitation, like the one Sikkim envisages can create a more humane system and put India's drug law on the right track for reform.

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<sup>59</sup>National Crime Records Bureau, 'Crime in India' (2018) Table 19A.3, p. 1183

<sup>60</sup> National Crime Records Bureau, 'Crime in India' (2018), p. 142.

<sup>61</sup> Steve Rolles, Niamh Eastwood, 'Drug Decriminalisation Policies in Practice: A Global

Summary' < <http://filesserver.idpc.net/library/Drug-decriminalisation-policies-in-practice.pdf>> accessed 28 July 2020.

<sup>62</sup> *Ministry of Social Justice and Empowerment* (n 4).

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