

Bill No. 30 of 2023

THE NARCOTIC DRUGS AND PSYCHOTROPIC
SUBSTANCES (AMENDMENT) BILL, 2023

By

SHRI VISHNU DAYAL RAM, M.P.

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BILL

*further to amend the Narcotic Drugs and Psychotropic
Substances Act, 1985.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of
India as follows:—

1. (1) This Act may be called the Narcotic Drugs and Psychotropic
substances (Amendment) Act, 2023.

Short title,
and
commencement.

5 (2) It shall come into force at once.

Amendment of
section 31A.

2. In section 31A of the Narcotic Drugs and Psychotropic Substances
Act, 1985,—

61 of 1985

(a) in the marginal heading the word “death” shall be omitted; and

(b) in sub-section (1), the words “or with death” shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Section 31A was inserted into the Narcotic Drugs and Psychotropic Substances Act, 1985 to provide for capital punishment or 30 years of jail for repeat offenders on the discretion of the judge.

This section of the NDPS Act, 1985 has been of intense inquiry. It places judicial discretion as the highest form of authority in determining the extent of crimes of repeated offenders of drug trafficking. Drug trafficking does not fall into the narrow category of heinous crimes as stated in *Bachan Singh vs. State of Punjab* when juxtaposed against murderers, and thus, capital punishment is constitutionally impermissible and against Article 21 of the Constitution of India.

It positions India against the United Nation's Convention on Psychotropic Substances of 1971, and United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.

Research pertaining of implications of death penalty show no significant deterrence of crime/convicts. India has recorded 3,172 cases of drug trafficking in 2014-2022 as against 1,257 cases from 2006-2013, thus the insertion of Section 31A(1) has been unable to achieve the goal which it aimed to, deterring repeat offenders.

This section is unconstitutional and against the Right to Life and Liberty, it adds unnecessary attention to India's judicial system.

Hence, this Bill.

NEW DELHI;
January 16, 2023.

VISHNU DAYAL RAM

ANNEXURE

EXTRACT FROM THE NARCOTIC DRUGS AND PSYCHOTROPIC
SUBSTANCES ACT, 1985

[ACT No. 61 OF 1985]

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Death penalty
for certain
offences after
previous
conviction.

31A. (1) Notwithstanding anything contained in section 31, if any person who has been convicted of the commission of, or attempt to commit, or abetment of, or criminal conspiracy to commit, any of the offences punishable under section 19, section 24, section 27A and for offences involving commercial quantity of any narcotic drug or psychotropic substance, is subsequently convicted of the commission of, or attempt to commit, or abetment of, or criminal conspiracy to commit, an offence relating to,—

(a) engaging in the production, manufacture, possession, transportation, import into India, export from India or trans-shipment, of the narcotic drugs or psychotropic substances specified under column (1) of the Table below and involving the quantity which is equal to or more than the quantity indicated against each such drug or substance, as specified in column (2) of the said Table:

shall be punished with punishment which shall not be less than the punishment specified in section 31 or with death.

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further to amend the Narcotic Drugs and Psychotropic
Substances Act, 1985.

(Shri Vishnu Dayal Ram, M.P.)