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Uniformity in Legal Drinking Age Across India: A Necessity

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Alcohol is one of the highly taxed commodities, the tax rate varying between 18% and 28%, is also one of the most highly consumed commodities in India. Everyone is aware of the risks associated with the consumption of alcohol and other intoxicating drugs but what many people are unaware of, are the various alcohol laws in every state and union territory in the country, particularly the legal drinking age. Contrary to popular belief, India does not have a fixed and uniform legal drinking age. It varies from state to state. This article aims to shed light on what are the legal drinking age limits in different states, why there is a lack of uniformity among the legal drinking age of various states (and union territories), what are the de-merits of such variations, how is it against the constitution and suggested measures to ensure uniformity.

Keywords: *alcohol consumption, legal drinking age, lack of uniformity, commodity, tax slabs.*

INTRODUCTION

Alcohol, which was once regarded as a luxury, has now become a frequently consumed commodity. Every year, millions of Indians consume alcohol daily. The alcohol industry is a multi-million-dollar industry with a flourishing market in India. Recent studies have shown that alcohol consumption in rural parts of the country is higher than in urban parts. According to the National Family Health Survey-5, 2019-21, 1% of women aged 15 and above drink alcohol,

compared to 19% of men in the same age group¹. It is also one of the highly taxed commodities in the country, the reason being high taxes will reduce the amount of consumption. One might assume the tax levied on liquor is GST(Goods & Services Tax), however, it does not fall under the purview of GST as it contributes to an estimated amount of INR 90,000 crores every year to the various state governments and limits its consumption. A major amount of revenue to the state governments comes from the alcohol industry.

The taxes levied on liquor are Excise duty and VAT(Value Added Tax), the percentage of which varies from state to state. It is interesting to note that the legal drinking age in India also varies from state to state. While some states permit persons aged 18 to consume alcohol, other states require a person to be at least 25. There are also states which have completely banned the consumption of alcohol. In some states, there is also a distinction between the legal age to drink alcohol and the legal age to purchase the same. When the legal age to get married, get voting rights and even get a driving license is fixed, it begs the question of why there is no uniformity in the legal drinking age across the country. This is because as per the seventh schedule² of the Indian Constitution, alcohol consumption falls under the state list and states have the right to regulate the restrictions on alcohol consumption. Also, as per Article 47³, each state has been empowered to “bring out the prohibition of the consumption of intoxicating drinks and of drugs that are injurious to health, except for medicinal purposes.” This gives the states, powers to control the supply and consumption of alcohol as it is a drug that can be dangerous to human life.

ALCOHOL LAWS IN DIFFERENT STATES

Alcohol laws are governed by various Excise Acts enacted in every state. These acts also fix and regulate the legal drinking age in a particular state. This age limit can be broadly divided into 4 categories – states where the legal drinking age is 18; states where the legal drinking age is 21;

¹ ‘Alcohol consumption in India: trends across states, age groups’ (*The Indian Express*, 17 May 2022) <<https://indianexpress.com/article/explained/alcohol-consumption-in-india-trends-across-states-age-groups-7920871/>> accessed 08 December 2022

² Constitution of India 1950

³ Constitution of India 1950, art. 47

states where the legal drinking age is 25 and states where alcohol consumption is banned. Let's take a deeper look into these laws under each state –

Andaman & Nicobar islands, Himachal Pradesh, Mizoram, Puducherry, Rajasthan, and Sikkim are the states having a legal drinking age limit set at eighteen years. As per the excise rules of these states, no licensed seller or any of his employees is allowed to sell or deliver alcohol to anyone below eighteen, whether for their own consumption or for others. The majority of the states and union territories have chosen the age limit to be twenty-one. These states are - Andhra Pradesh, Assam, Dadra & Nagar Haveli, Daman & Diu, Goa, Jammu & Kashmir, Ladakh, Jharkhand, Karnataka, Madhya Pradesh, Chattisgarh, Odisha, Tamil Nadu, Telangana, Tripura, Uttarakhand, and West Bengal.

Some states have set the limit high at twenty-five years of age. Punjab, Meghalaya, Chandigarh, Maharashtra, and Haryana are the states where the consumption of alcohol or other intoxicating drugs by any person below the age of twenty-five is prohibited. Few states have completely banned the production and consumption of liquor and other intoxicating drugs. Such states are also called dry states. These bans are imposed with the intent to improve the standard of living and public health as stated in the DPSP(Directive principles of state policy) under Chapter IV of the Indian Constitution. There are five dry states in India, namely: Bihar, Gujarat, Lakshadweep, Manipur, and Nagaland. Kerala, the state with the highest literacy rate in India, has set the age limit for the consumption of liquor at twenty-three. The legal drinking age in the national capital is fixed at twenty-five. Although efforts were made to reduce it to twenty-one, the government has scrapped the policy.

WHY UNIFORMITY IS NECESSARY?

With every state having its alcohol laws, it becomes increasingly difficult for a regular citizen to keep up with the developments of these laws in every state. The lack of uniformity among these laws has certain de-merits which are discussed below.

Firstly, it creates confusion among the citizens, especially when a person travels from one state to another. India is a country with 28 states and 8 union territories and to keep a track of the

legal drinking age of every state/union territory is not something every prudent person can do. If a person who is 21, is carrying alcohol from the state of Rajasthan to Telangana, not knowing he is not legally eligible to consume the same drink in a different state and if he gets caught, he will most likely be prosecuted which creates a problem. On the other hand, people can also take advantage of this non-uniformity and smuggle alcohol from one state to another. In a raid conducted by the Excise Intelligent Bureau in Delhi, it was found that the majority of the illicit liquor smuggled to Delhi came from Haryana, its neighbouring state, where the excise duty is cheaper⁴.

Furthermore, studies have shown that a lack of uniformity promotes underage drinking. Underage drinking is a widespread issue in India. Especially in a metropolitan city like Delhi where the age limit is set high at 25, it encourages people to misrepresent their age, forces restaurants to be lax in monitoring or lose out on revenue, and presents young people with the option of travelling to watering holes in the neighbouring state of Uttar Pradesh, which allows drinking at 21⁵. While this is one side of the spectrum, on the other side, there is also a commonly observed culture in Delhi wherein parents of teenagers aged between 13-15 who come from affluent families encourage their children to drink at home. They say it is to prevent their children from secretly going to bars and liquor stores. The parents also wish the drinking age limit would be lowered to at least eighteen so that they need not worry about their children slipping into an alcohol addiction early on.

If this is the scenario in the national capital, we can only imagine the situation in other states. In the present generation, underage drinking is considered 'cool' and often teenagers end up in alcohol addiction mostly due to peer pressure. In a survey conducted by Community Against Drunken Driving(CADD) in November-December 2021 among 10,000 people in New Delhi, it was revealed that 89% of respondents had their first drink before 21 years, which is quite an

⁴ 'Haryana border turns into haven for liquor smuggling' (*The Hindu*, 04 August 2014) <<https://www.thehindu.com/news/cities/Delhi/haryana-border-turns-into-haven-for-liquor-smuggling/article6279283.ece>> accessed 09 December 2022

⁵ 'Old drinking age despite new excise policy in place' (*Hindustan Times*, 20 January 2022) <<https://www.hindustantimes.com/cities/delhi-news/old-drinking-age-despite-new-excise-policy-in-place-101642630447547.html>> accessed 09 December 2022

alarming sign. The survey also revealed an increase in alcohol consumption by the underage and unrestricted access to alcohol without any regulation being a key factor.⁶

Another de-merit is that while banning the consumption of alcohol in some states was done to improve the health condition of the people and reduce alcohol-related crimes, not everything happened according to the plan. Ban on alcohol further led to people illegally buying alcohol and consuming it, especially in the state of Bihar. Consumption of alcohol was banned by the Bihar government in 2016 and ever since then, nearly 4 Lakh people have been arrested for the same. A recent study shows that the consumption of alcohol is higher in Bihar compared to states like Uttar Pradesh and Maharashtra where there are laws to regulate the age limit for drinking⁷. Another proof of the same is the recent hooch tragedy that took the lives of nearly 70 people in the Saran district of Chhapra, Bihar.

‘Hooch’ refers to the locally produced spurious liquor which is manufactured illegally and is a cheap alternative for the otherwise, highly-priced branded liquor. It lacks in quality when compared to the original and is sold across various parts of the state in the black market. It is mostly consumed by the poor. The Chief Minister of Bihar, Nitish Kumar, who was also the Chief Minister when the ban was enforced (in 2016), said that no compensation would be provided to the families of the deceased as drinking liquor was prohibited in the state. But can the poor be blamed for the deaths? The government must properly implement the laws made and make sure that the citizens abide by these laws. What is also to be noted is that many other incidents of death as a result of consuming ‘hooch’ and similar spurious liquor have been reported across various districts like Nalanda, Banka, Madhepura, Bhagalpur, etc. This shows that not all laws are always effective and a complete ban on alcohol in a state like Bihar has done more harm than good. It is important to note that these laws are also discriminatory in nature

⁶ ‘Over 43% underage drinkers in Delhi have alcohol two to four times a week : Survey’ (*The Times of India*, 16 March 2022) <https://timesofindia.indiatimes.com/city/delhi/over-43-underage-drinkers-in-delhi-have-alcohol-two-to-four-times-a-week-survey/articleshow/90275921.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst> accessed 09 December 2022

⁷ Mayank Mishra, ‘Dry Bihar still on a high: Consumption of alcohol higher than UP, Rajasthan, Maharashtra’ (*India Today*, 17 May 2022) <<https://www.indiatoday.in/diu/story/consumption-of-alcohol-higher-in-bihar-than-up-rajasthan-maharashtra-1950625-2022-05-17>> accessed 10 December 2022

as they view residents of the same age in one state to be more mature than the residents of another state, which is a clear violation of Article 14⁸ of the Indian constitution which states that the “The State shall not deny to any person equality before the law”.

CONCLUSION AND MEASURES

A majority of 46% of alcohol consumers in India want a uniform legal drinking age of 21 years and above across the country, says a new study by WPP Group-owned research company Kantar and digital marketing research firm NFX⁹. People, especially those under the age of twenty-five, wish to become responsible drinkers but to make them wait for such a long time will only compel them to break the law and adversely impact their overall well-being. We have also seen that in the case of Bihar, making laws without proper implementation of the same, can lead to disastrous and devastating outcomes.

The subject of consumption of alcohol and other intoxicating drugs was brought under the state list to promote healthy and safe drinking. But when the main purpose itself isn't served, it begs for a change. In my humble opinion, to prevent further problems caused by the consumption of alcohol, the subject must be brought under the concurrent list wherein both the central government and the respective state governments can regulate these laws and a uniform drinking age limit must be set which must apply to the whole of India.

⁸ Constitution of India 1950, art. 14

⁹ Ratna Bhushan, 'Millennials eager to raise a toast at 21' (*The Economic Times*, 04 November 2019) <https://economictimes.indiatimes.com/industry/cons-products/liquor/millennials-eager-to-raise-a-toast-at-21/articleshow/71884021.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst> accessed 10 December 2022