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A Critical Analysis of Prohibition Law in U.S.A., Russia, Canada, Scandinavian Countries and West Asiatic Countries

S. SRINIVASA SATHYANARAYANAN¹

ABSTRACT

The Prohibition Law being the subject matter of the topic, the essay is about the critical analysis exercised in the name of the greater good for preventing consumption. The four given countries such as the U.S.A, Russia, Canada, and Scandinavian and West Asian Countries have a concrete history of legal governance in alcohol and also had their backfired moments. But why is it important? When it comes to law and finance, History always tends to repeat itself.

The study is on the perspective of bringing a better connotation, such as whether the nature of the probation law is aimed at a health perspective or moral perspective. Or, is the prohibition law the root cause for the subjection and suppression of violence as a crime? And the list goes on.....

For the critical study, some materials are significant to be pondered upon. The main materials are mostly the authored book written by Law, Alcohol and Social Order written by Mark Keller, and academic research papers which will be mentioned along with their data.

The first part talks about the Summary wherein the overall understanding of the Prohibition law will be discussed as to what the prohibition is all about. The Analysis part is where the critical analysis is discussed to create a layout of the efficacy of the so-far enacted governance and its positive and negative impact. The Critical Analysis is also being discussed from the viewpoint of the shortcomings of the nations given for the study. Then comes the conclusion, wherein the overall idea of what the author is trying to achieve will be discussed, and the personal conjecture and findings will be laid out with a recap of the so far discussion made in the context.

Keywords: Prohibition Law, Critical Study, Alcohol Ban.

I. INTRODUCTION

Every act and action made by an Act for legal governance has a strong historical impact on its genesis. So is the Prohibition Law. The underlying meaning of the prohibition law was all about

¹ Author is a student at SRM School of Law, India.

the abolition of alcohol in the past and its reason and need will be discussed in the historical impact itself.

What Happened in the past?

The history of alcohol started with a fruit kept in the Sun which got fermented and was consumed by accident. What started as an accident became a habit as the habit was about the accidental pleasure given by alcohol. Soon the earlier period started to have more violence and disruption as alcohol, when valued, wasn't valued for its shortcomings.

And it gave way to the Prohibition laws. At that time, it wasn't called Prohibition laws. The laws were simply passed with severe effect to cut down alcohol consumption to make sure that people are active to react in times of need. There were famous cases which are laid down below briefing the participation of countries in passing Prohibition laws.

- i. Hammurabi as always expected, didn't disappoint the anthropologists in showing shrewd warnings for those who touch alcoholic beverages. No one can have a day when the God-given law is so articulate about the authority over alcohol.
- ii. The second was in the period of a popular ruler of Egypt known as Hakim (996 A.D.), who made sure that the export and import of alcohol never happened on the soil of Egypt.²
- iii. The case of Israel in alcohol consumption was pretty much chaotic as they couldn't stop the flow of alcohol. Therefore, they made the consumption of alcohol a ritualistic one so that people will consume alcohol during religious occasions.
- iv. The model enactors of the prohibition law were the rulers of China who went a step beyond the Hammurabi Code and made the brewing and consumption of alcohol a beheading punishable offense. For more than six centuries, the Chinese rulers made sure that liquor never came into their country, and people made sure that their heads never rolled into the ground. They even started to banish liquor manufacturers.
- v. The Romans also made a stringent law limiting alcohol consumption by drawing an age limit and status. (Kyvig & Mills, 1985)

This level of History is enough to talk about the rivalry between the rulers. And thanks to these rulers who were ignorant about the Black Market, many bootleggers, smugglers, and organized cartels started to bring illicit liquor into society.

² Kyvig, D. E., & Mills, E. (1985, September 16). Law, Alcohol, and Order: Perspectives on National Prohibition: Vol. No. 110. Greenwood. <https://doi.org/10.1604/9780313247552>

That being said, the book is all about the historical perspectives and screw-ups done in the name of good governance. But in reality, the Prohibition law invited more trouble, just like the consumption of alcohol creating trouble intentions. Does the critical study question the nature of the Act as in what the intended protection promised under the Prohibition Law? Is it a moral one or a legal one? Does it amount to suppression or have a fair view of consensus? Etc. The Critical Study tries to establish the local fallacies to understand where the authority of the sovereign went wrong and what constituted the creation of a negative command.

II. ANALYSIS

The Prohibition Law though may be a budding legislation, was a great success at the budding stage, it soon started to show its colors as the withdrawal symptoms for the many alcoholics started to act up. It paved the way for many organized crimes, and soon the level of consumption of alcohol started to increase threefold than that before the enactment of the anti-alcoholic legislation.

Why Though?

The Act managed to bring with it political melodrama and moral dramas, without considering the subject matter of addiction and its medicinal effects and impacts on the human body.

There are many cases in many countries that paved for the introduction of speakeasies which destroyed the lives of teenagers and steins and whatnots, which were brought into the market. If we look closer at each of the model countries, we might understand the legal fallacy.

(A) What Happened with U.S.A

The Volstead Act, commonly known as the American Prohibition Law, was established in 1920 as a component of the US Constitution's 18th Amendment. Intoxicating liquors could not be produced, sold, or transported within the country unless it was for medical or religious reasons.

The temperance movement, which sought to lower American alcohol consumption, as well as numerous religious organizations that viewed alcohol as a morally repugnant substance, backed the Prohibition Law. Legislation rather than judicial theories were where Prohibition's most glaring impact on American law could be seen. Both the Volstead Act and the Eighteenth Amendment were audacious and ground-breaking attempts to enact reform through the legislative process. So, taking into account the judicial reaction to the new statutory restrictions is necessary to get a whole picture of how prohibition has affected legal theory. (Murchison, 1994)

One of the most prominent changes brought about by the Volstead Act was the provision calling for the seizure of any vehicles used to transport alcoholic beverages against the law. This chapter examines how the courts have interpreted that forfeiture clause. The approach reaffirms the significance of the background of prohibition for comprehending doctrinal developments.

If the activity charged was covered by both Section 26 and one of those acts, could those entrusted with enforcing prohibition still rely on the forfeiture provisions of both statutes? This was one issue that the Volstead Act did not explicitly address. Provisions of other laws that conflicted with the Volstead Act were abolished under Section 35 of Title 11, but "only to the extent of such discrepancy." Additionally, it stated that the Act did "not relieve anyone from paying any taxes or other charges imposed on the manufacture or traffic in intoxicating liquor" and that it should "be construed as in addition to existing laws" in terms of how it regulates those involved in the manufacture and trafficking of intoxicating liquor. However, the clause explicitly prohibited the issuance of any "revenue stamps or tax receipts for any illicit manufacture or sale" of alcoholic beverages.

The question of whether government prosecutors could use the more severe forfeiture provisions of the revenue and customs statutes in cases involving prohibition or whether Section 26, with its safeguards for innocent owners and lienors, was the only legal method for all liquor forfeitures, was not addressed by Section 35.³ Nothing in the legislative history suggested that Congress ever thought about a conflict occurring. The matter was consequently referred to the courts. The Supreme Court wrestled with it the whole time that prohibition was in effect since it was the primary doctrinal conundrum that the judiciary encountered in forfeiture cases.

Regardless of what pro-prohibition advocates intended or anticipated, the Volstead Act and the Eighteenth Amendment led to a wave of litigation that nearly overflowed the federal courts. The Constitution's guarantee of a jury trial was a major barrier to the effective processing of new cases, and defendants immediately recognized its value. One proponent of prohibition asserted as early as 1922 that defendants were engaging in a virtual conspiracy to thwart the legal system by claiming the right to jury trials.⁴

Nonetheless, the legislation was frequently broken, and alcohol manufacture, sales, and transportation were all unlawful. As a result, criminal gangs gained dominance over the black market for alcohol, which increased both organized crime and violent crime.

³ Murchison, K. M. (1994, November 15). Federal Criminal Law Doctrines: The Forgotten Influence of National Prohibition. <https://doi.org/10.1604/9780822315100>

⁴ *ibid*

The US Constitution's 21st Amendment, which was adopted in 1933, overturned the Prohibition Law and allowed for the lawful production, sale, and transit of alcoholic beverages once again in the country. Even now, there is disagreement about how effective and detrimental the law was during the Prohibition era, which is still considered a crucial period in American history.

(B) Russia

Although there have historically been national prohibition laws in Russia dating back to the 16th century, there aren't any today. Nonetheless, there are limitations on the sale and consumption of alcohol, including prohibitions on sales to minors, during specific hours, and in specific public locations. Likewise, with varied degrees of effectiveness, certain Russian regions have recently enacted regional prohibition legislation. (Barnes, 1932)

It was a brave move to forbid its manufacture and sale, even as a military measure, given the rumoured addiction of the Russian people to their vodka. Russia was the first christian nation to implement a total and widespread ban. The sale of alcoholic beverages was prohibited during mobilisation at the end of July 1914, and an imperial ukase on August 22, 1914, extended the ban to the entire duration of the war. The action was praised as a forward-thinking, progressive initiative implemented by a kind-hearted autocrat, especially in America. A longer view reveals that the measure's primary quality—and possibly its only one—was boldness.

In a country with the level of disarray that was Russia in 1914, enforcement was impossible from the start. While the following comment made in 1916 by Professor Ozerov is simple to comprehend for Americans today, the peasants turned to samogon, vodka brewed at home:

“Drunkness continues, the illicit sale of liquor continues undisturbed in the private rooms of luxurious restaurants. The distilleries are unable to satisfy the demand for liquor. Dealers make incredible profits. Chemistry is resorted to in the home, to rectify methylated spirit, varnish and eau de Cologne. Consumption of alcoholic liquor flourishes especially among the wealthier classes. The State has merely renounced the taxation of alcohol and has not succeeded in suppressing its consumption.”

The effects of prohibition on the Russian Empire's finances were far more significant. As vodka production and sales in Russia have been a governmental monopoly for a number of years, the revenue from them has grown to represent a significant part of the budget. This income abruptly vanished, leaving the Treasury with a tremendous loss. There were several attempts to replace it with higher land and income taxes, but prohibition was largely to blame for the financial

hardship of the next few years, which would prove crucial on both the domestic and military fronts.⁵

In 1917, when the Imperial Government was overthrown, the prohibition regime was still in place. The industrial, financial, and intellectual groups, which had argued vociferously in favour of the initial order, were heavily represented by the moderate liberals who came to power in February. The Communists took over in November. There was no consideration of such action at the time, regardless of the urgency of the reasons they ultimately abandoned prohibition. In several locations, Soviet troops opened fire on mobs that were utilising the chaos of the revolution to plunder locked wine businesses. Special squads of Red troops in the big towns were sent to destroy the massive wine stocks in captured cellars. (Barnes, 1932)

Samogon was the preferred beverage among the peasants in the early stages of the conflict, but as the civil war, starvation, and the start of compulsory grain requisitions progressed, vodka distillation at home grew in importance. The most practical and advantageous way for the surplus harvest of the peasant to be sold was in liquid form because grain prices were fixed and open market transactions were prohibited.

In an effort to provide food for the city workers, Soviet authorities issued severe penalties against the production of samogon and strictly enforced them, but to no avail. With no manufactured things to spend the money on, the only option available to the peasant was to deliver his grain at set prices payable in a depreciating currency.

The peasants of Russia made no hesitations. The new regime's economists were equally astounded to learn that making one vedro of samogon required 2.5 times as much grain as producing the same amount of vodka using conventional industrial techniques. In addition, whereas large-scale distilleries could employ potatoes since they are less expensive and produce a useful waste after distillation, peasants exclusively used rye or wheat for distillation.

Six months after the New Economic Policies official release, in August 1921, the first action towards the economic easing of prohibition was taken. Beer was added at the start of 1922 after wine with an alcohol concentration of up to 14% was initially approved. A year later, it became permissible to make spirits with an alcohol level of up to 20%; by the end of 1924, this restriction was increased to 30%. It was a battling retreat, much like the New Economic Policy itself. On October 4, 1925, the government finally approved the production and distribution of

⁵ Barnes, J. (1932, September). Liquor Regulation in Russia. *The ANNALS of the American Academy of Political and Social Science*, 163(1), 227–233. <https://doi.org/10.1177/000271623216300124>

grain alcohol with a 40% alcohol content, making the classic vodka used prior to the war once again legal. (Barnes, 1932)

The abrupt and dramatic decline in labour productivity was undoubtedly the most serious impact of the repeal of prohibition on the Soviet leadership. Soviet authorities concur that there was a noticeable rise in intoxication in the cities following the return of alcohol to the open market, particularly among workers. After the revolution, the slow process of improving labour discipline and efficiency has been significantly slowed. It was obvious from indicators like a lack of Monday attendance, a high worker turnover rate, and a decline in labour productivity that the return of alcohol posed a significant challenge to Soviet industry. The breadth of alcoholism's growth was widely reported in the Soviet press in 1927 and 1928. Alcohol was sold to the workforce by the Ural Collaborative Society in 1927, accounting for 18% of the district's total pay cost.

In such circumstances, it was simple for the Soviet Union's ardent prohibitionists, led by individuals like Krupskaya, the widow of Lenin, Karl Radek, Semashko, the then-commissar for health, and Maxim Gorki, to demonstrate that alcohol was costing Soviet industry more money than it was making for the government. Beginning in 1929, a reversal in party policy was declared, partially as a result of this and partially in response to the attacks of the Trotsky opposition. The Central Executive Committee passed new schedules stabilising output at less than half of the pre-war per capita quantity as opposed to the plans adopted in the Five Year Plan, which sought to expand production of spirits to the pre-war level. Shortly after, limitations on the sale of beer and vodka were put in place, and a comprehensive education campaign against intoxication was launched.

The Communist only views them as the perverse outcomes of a perverse system, which is why. Recently, a thorough investigation of the money spent on alcoholic beverages in Leningrad was conducted. According to the findings, a worker earning an 80-ruble salary spent 8% of it on alcohol, followed by a person earning a 40-ruble salary at 19% and a worker earning a 16-ruble salary at 32%. Such numbers weren't necessary to support the Communists' belief that oppression and poor living conditions inevitably lead to intoxication. In the end, they want to achieve temperance by eradicating the societal conditions that they believe are unfavourable, notwithstanding their belief that education and control are important for the use of alcohol.

(C) Canada

Early in the 20th century, Canada enacted its own version of Prohibition, which was essentially a provincial initiative rather than a federal one. Between 1901 and 1916, the provinces of Prince

Edward Island, Quebec, Ontario, Manitoba, and Alberta all enacted prohibition laws at various stages with the intention of lowering alcohol use and the social issues it was linked with. These restrictions were later repealed or eased because they were mostly unsuccessful.

How did Canada go from using alcohol as an unfair negotiating tactic to attempting to outright outlaw the drug nationwide?

For more than a century, indigenous communities have fought to outlaw the sale of alcohol. It wasn't until overconsumption began to have an impact on white Canadians' lives that it was recognised as a problem.

Water contamination was a major issue in the 19th and 20th centuries, especially in urban areas. Cities were a biohazard before sewer systems were put in place, with human and animal waste piling up on the streets, in dumps, and in abandoned mines. Rain would mix garbage with clean water above and below ground, giving city dwellers the choice of either drinking alcohol or boiling the water to make tea and coffee. The bourgeoisie of Canada initially took the helm of the temperance campaign. Because they were dependent on lower-class labour, the upper class perceived alcohol as a threat to production. This was at the same time when evangelicals became increasingly numerous in Canada and adopted a mindset that personal responsibility could save oneself—a very different way of life from what the more established churches were advocating. This movement would have faded away if the working class had not taken up their cause, as the bourgeoisie and evangelicals were unable to keep it alive on a national scale.

The working class became crucial to the economy. To meet the enormous demand, jobs were created. More money was in circulation than ever after industrialization, notably the second wave, which started a few decades later. More money gives workers the ability to take part in politics and the economy. White women began to campaign for the right to vote in the early 20th century. The Suffragettes' movement, which included a call for prohibition, was fueled by mother feminism. They said that drinking puts women, kids, and embryos at danger. The same year that prohibition became a legal practice, white women in Manitoba, Alberta, and British Columbia gained the right to vote. (Canada's Boozy History – Cranbrook History Centre, n.d.)⁶

These elements by themselves were not always sufficient to implement prohibition. The general public was compelled to support the temperance movement by World War I. There was a tiny group of people who supported temperance before the Great War, but under the Canada Temperance Act of 1878, temperance was only a local concern. Prohibition became a federal

⁶ Canada's Boozy History – Cranbrook History Centre. (n.d.). Canada's Boozy History – Cranbrook History Centre. <https://www.cranbrookhistorycentre.com/canadas-boozy-history/>

issue ultimately due to the belief that civilians on the Homefront should remain "dry" in support of the military. (Canada's Boozy History – Cranbrook History Centre, n.d.)

During prohibition, bootlegging and running rum were dangerous activities. In British Columbia, bootlegging was starting to become a significant issue. All around Canada, bootlegging was taking place. People across the country were smuggling alcohol into the US for profit. Bootleggers were initially able to cross reasonably unnoticed and without too much difficulty. The largest unguarded border in the world and most undetectable is the one between Canada and the United States. Once the R.C.M.P. started to take on, bootlegging became a lot more perilous, and a few major names were able to convert it into a professional company. Emilio Picariello was a well-known bootlegger in Canada. (Canada's Boozy History – Cranbrook History Centre, n.d.)

With the conclusion of World War I, prohibition did not last very long in Canada. By 1920, the majority of provinces had revoked their laws and permitted the continued sale and use of alcohol. Following the enactment of prohibition in the United States in 1920, this came just in time to meet the demand. For more than ten years, the nation was plagued by organised crime, illicit alcohol production, and racketeering, in large part because of Canadian initiatives.

(D) Scandinavian Countries

Although they do not have a comprehensive prohibition law, Scandinavian nations like Norway, Sweden, and Finland have a long history of alcohol regulation and restrictions. Except for Denmark, all Scandinavian nations enacted stringent alcohol laws at the beginning of the 20th century in an effort to lessen the negative effects of alcohol use. These rules included monopolies on the sale of alcohol, stringent licensing guidelines, and high alcohol taxes.

Certain Nordic nations loosened their alcohol laws in the 1960s and 1970s, increasing access to alcohol. The growth in alcohol-related issues, such as drunk driving, domestic violence, and public unrest, was the result of this, though. As a result, in the 1980s and 1990s, certain Nordic nations reinstated harsher rules, including shorter hours for alcohol sales and higher alcohol taxes.

Denmark, Norway, and Sweden are just a few of the Scandinavian nations that have a lengthy history with Prohibition. When temperance movements started to take off in the 1850s, Scandinavian Prohibition took its initial form. Due to alcohol's detrimental effects on society and public health, temperance groups demanded that alcohol consumption be reduced or even banned.

The manner in which Prohibition was enforced in Scandinavian nations and the United States was one of the main distinctions. The Volstead Act, a federal statute that outlawed the manufacture, distribution, and transportation of alcoholic drinks, served as the main enforcement tool for Prohibition in the United States. Nonetheless, a number of municipal and regional laws were used to establish Prohibition in Scandinavian nations. This meant that the way Prohibition was enforced differed from place to place and depended heavily on the sentiments of local leaders.

Scandinavian societies were significantly impacted by prohibition. The adoption of Prohibition legislation resulted in a complete prohibition on alcohol, notwithstanding the temperance movements' initial calls for alcohol consumption to be reduced. As a result, there was a boom in both organised crime and the production and sale of alcohol that was done so illegally. Due to the shutdown of taverns and breweries, the alcohol ban also had a detrimental effect on the economy.

Scandinavian nations started to loosen their prohibition rules in the 1920s and 1930s in response to Prohibition's detrimental effects. Prohibition restrictions were first repealed in Denmark in 1922, then in Norway⁷ in 1927, and finally in Sweden in 1955. Nonetheless, the effects of Prohibition are still evident in Scandinavian nations today. Despite the fact that drinking alcohol is legal, it is strictly controlled and subject to substantial taxes.

In conclusion, Prohibition had a substantial impact on society in Scandinavian nations, resulting in an increase in illicit activities and a detrimental effect on the economy. Notwithstanding the abolition of Prohibition legislation, Nordic countries still retain alcohol consumption rules that reflect Prohibition's legacy.

(E) Why was there a Prohibition law for West Asian Countries?

Alcohol production, sale, and consumption are strictly prohibited by law in several West Asian nations. Although the specifics of these laws can differ from one nation to the next, they typically represent the region's conservative religious and cultural norms.

For instance, alcohol consumption and possession are strongly forbidden in Saudi Arabia and Kuwait, and those who break the law may be subject to severe fines and even jail. Similar laws prohibit the production and consumption of alcohol in Iran, while there are certain non-alcoholic wines and beers on the market. Alcohol is legal in certain other nations, such as Qatar, Bahrain,

⁷ Norwegian Alcohol Prohibition; A Failure | Office of Justice Programs. (2013, January 1). Norwegian Alcohol Prohibition; a Failure | Office of Justice Programs. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/norwegian-alcohol-prohibition-failure-0>

and Oman, but only in hotels, restaurants, and bars that have licenses, and it is forbidden to consume alcohol in public areas.

III. CONCLUSION

Since we have seen from the country's point of perspective, it must be clear that the Prohibition Law is always a debatable one in practice. But the prohibition can be a relaxable one. The earlier laws were based on the purview that laws must be stringent to support the connotation of prohibition. The nature of prohibition, whether it had moral compassion or healthcare compassion to support people was debatable at that time. The base question of “What is the Prohibition law trying to cure in the society?” has to be answered. If not, then the same prohibition will be the trigger for the crime. And such prohibition will be noting but trouble.
