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Negative Effects of the ‘Alcohol Prohibition Act’ on Gujarat

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ABSTRACT

Gujarat has been under liquor prohibition law since 1960 i.e., since almost 60 years after the independence. This article studies the prohibition law and how it negatively affects Gujarat’s economy, polity, crime and control, judiciary and administration. The paper dwells into how alcohol ban is not suited for a modern world with international connections and shows what opportunities Gujarat foregoes due to the act. It focuses on how alcohol being the vice it already is, can be used as a tool to (1) manipulate the economy due to its large market size. (2) affect how and who wins elections (3) induce variations in crime and administrative proficiency as well as how it makes the judiciary take a lighter stance for the benefit of the society. Today alcohol has become a societal normal, and it is morally acceptable (even in India) to indulge in social drinking. Negative effects of prohibition on alcohol in Gujarat have been explained in their entirety. The paper shows the connection between law and other branches of studies in an effort to understand how Gujarat is not entirely correct in continuing the prohibition law.

Keywords: Gujarat; Prohibition; Negative effects.

I. HISTORY AND INTRODUCTION

The directive principles of state policy enshrined in the constitution of India mention,

“The State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health²”

This was based on Gandhi’s view of alcohol as a social evil, he advocated for nationwide ban on intoxicating materials like alcohol. Currently, Bihar, Gujarat, Mizoram, Nagaland and Lakshadweep have prohibition acts which ban the manufacturing, consumption, possession, purchase, sale, transport, import and export of alcohol and make them illegal acts³. The start of the temperance movement, before independence, was when prohibition started being

¹ Author is a student at Gujarat National law university, India.

² INDIA CONST. art. 47.

³ Indian express, ‘States With Total And Phase-Wise Prohibition Of Alcohol In India’ (2016) <<https://indianexpress.com/article/india/india-news-india/bihar-liquor-ban-states-having-total-prohibition-gujarat-kerala/>> accessed 27 November 2021.

advocated by revered and influential individuals. Mahatma Gandhi was a supporter of the temperance movement and thought of British rule as a barrier to national prohibition⁴. The prohibition act was officially enforced in Gujarat on 1st May 1960 when Bombay state was bifurcated to make 2 independent states- Gujarat and Maharashtra.

It was called the Bombay prohibition act of 1949 and it criminalised manufacturing, consumption, possession, purchase, sale, transport, import and export of alcohol in Gujarat. Prohibition in Gujarat led to huge production of homemade liquor – “hooch”. Hooch when not made correctly could lead to death. An estimated 122 people died from a single incident of wrongly made hooch. To counter this, the state govt. brought in the *Bombay Prohibition (Gujarat Amendment) act, 2009*, which prescribed capital punishment for the manufacture and sale of homemade liquor that resulted in fatalities. The prohibition act has been challenged by public interest petitions in the Gujarat high court on grounds of violation of freedom and privacy rights⁵, but the petition was quashed. For tourists and licenced individuals (on medical grounds) alcohol is available at 35 “permit rooms” across Gujarat at invariably high prices⁶.

II. THE PRESENT LEGAL SCENARIO

The latest amendment to the Bombay prohibition act, 1949 was introduced in 2017, its primary motive was to fast track the pending cases and to accelerate the process of the justice delivery system. The 2017 Amendment introduced more deterrent factors as compared to 2015, and gives more power to both the judiciary and the executive to deal with the accused. The higher penal costs also served to intimidate the offenders so that the number of crimes related to intoxicant substances can be curbed.

As per the Amendment, those who are found guilty of purchasing, manufacturing, selling or transporting liquor would face 10 years in jail, along with a fine of Rs. 5 lakhs. The Act previously provided for just 3 years of punishment for this illegal activity⁷ Further, the amendment states that people who harass or create a ruckus in an inebriated state, will face a

⁴ Jack S Blocker, David M Fahey and Ian R Tyrrell, 'Alcohol And Temperance In Modern History: An International Encyclopaedia' (2004) 42 Choice Reviews Online.

⁵ Ahmedabad mirror, 'Five Petitions Challenging Prohibition Law Filed In Court (2019) <<https://ahmedabadmirror.indiatimes.com/ahmedabad/others/five-petitions-challenging-prohibition-law-filed-in-high-court/articleshow/67577842.cms>> accessed 29 November 2021.

⁶ Economic times, 'Tourists To Get E Permit For Liquor In Gujarat' (2015) <<https://economictimes.indiatimes.com/news/politics-and-nation/foreign-tourists-to-get-e-permits-for-liquor-in-gujarat/articleshow/45987780.cms>> accessed 29 November 2021.

⁷ Hindustan times, “Alcohol ban: Gujarat govt notifies rules for new prohibition law”. (2017). <<https://www.hindustantimes.com/india-news/alcohol-ban-gujarat-govt-notifies-rules-for-new-prohibition-law/story-qBmx1OWQ6xWN0WpRtOvu9K.html>> accessed on 7 October 2021.

jail term of up to 3 years but not less than 1 year. Whether this new amendment has created an obstacle in the business of tipplers or bootlegger in the long run, is a matter of discussion. With this amendment Section 65AA was introduced which stated that unless the quantity mentioned by the state government by notification in the official gazette, the convicts should be punished with imprisonment which may extend up to 3 years, along with the fine⁸.

Initially, the judiciary faced troubles in adopting this new clause, as the position regarding the jurisdiction of the courts as per the quantum of liquor seized was not specifically mentioned in the amendment, and therefore left the courts confused about, whether to charge the convicts under section 65AA or 65(e). The position of sessions court and magisterial court was also unclear as both were confused regarding what prohibition cases fell under their jurisdiction; Section 65(e), which deals with liquor seized in huge quantities, establishes jurisdiction of Sessions Court over it, instead of Magisterial Courts.⁹ These cases were either heard by the magistrate-level courts, which was against the rules, or were kept on the shelves which led the already pending cases to further pile up, and a backlog of around 35000 cases was created (later, the Gujarat High Court directed the courts to follow the provisions of the older acts till any further notification from government is received).¹⁰

After a number of directions from the courts, the state government in 2019 determined the quantum of liquor seizure which determined whether the offence will attract more stringent punishment or a milder one.¹¹ The resolution said that if a person is caught with less than 20 litres of liquor, it would be a minor offence and if the amount exceeds it then the case will be ruled as per stringent provisions.¹² These stringent provisions have been amended by the 2017 Act, which states that for a person caught for the first offence will be sentenced to imprisonment, minimum of 2 years and a fine of Rs.1 lakh; for the second offence, incarceration for minimum 3 years and fine up to Rs. 2 lakh; for subsequent offences, the imprisonment will be minimum for 7 years and fine of Rs. 5 Lakh.¹³ The new resolution (changing the quantity from 10 to 20 litres) had adopted a softer stance towards petty

⁸ <https://lpd.gujarat.gov.in/assets/downloads/acts_15032017_03.pdf> accessed on 30 April 2020.

⁹ Times of India, "Gujarat: Gujarat cops at loose end over tightened liquor law" (2018), <<https://timesofindia.indiatimes.com/city/ahmedabad/gujarat-cops-at-loose-end-over-tightened-liquor-law/articleshow/62576162.cms>> accessed on 9 October 2021.

¹⁰ Ahmedabad mirror, "Prohibition cases pile up as courts wonder who'll hear them." (2018), <https://ahmedabadmirror.indiatimes.com/ahmedabad/cover-story/prohibition-cases-pile-up-as-courts-wonder-who'll-hear-them/articleshow/66503208.cms> accessed on 9 October 2021.

¹¹ Times of India, "Milder action for seizures of less than 20 litres of liquor." (2019), <https://timesofindia.indiatimes.com/city/ahmedabad/milder-action-for-seizures-of-less-than-20-litres-of-liquor/articleshow/70064411.cms> accessed on 21 November 2021.

¹² <https://home.gujarat.gov.in/upload/SKM_28719071715261_170719.pdf> accessed on 21 November 2021.

¹³ Gujarat Prohibition (Amendment) Act, 2017, No. 24, Acts of Bombay, 1995. (Gujarat)

bootleggers, inadvertently benefitting those for whom this is the sole source of income.

III. POLITICAL ASPECTS

The political aspect of the prohibition act is interesting, to say the least. On one hand the government won't go on anti-prohibition stance to appease the urban middle class families while the amount of alcohol being used to buy votes in rural areas is increasing by the day, this is due to the fact that "urban middle class families" and "rural lower-class families" (which form the two biggest demographic dividends in Gujarat¹⁴) are not eye to eye on the issue of prohibition. Urban middle class families take alcohol as a vice which brings with it crime and violence, while rural lower-class families use it as a way of recuperation and to gain numbness from their physical labour. The two ironic stances have been further explained below:

(A) Vote buying

The state of Gujarat has been the model on which prime minister Narendra Modi took on his role at the centre. Gujarat, although being a pinnacle in infrastructure development, has its own shares of problems in the political scene. Caused mainly due to the prohibition act being in force. The prohibition act makes alcohol (not "hooch") a scarce resource and something which is difficult for the common man to obtain. Many politicians use this as an opportunity to appease the people and effectively "buy votes" by distributing alcohol. In the 2019 general elections, the total amount of "distribution alcohol" seized by the election commission was worth 44 million dollars, Gujarat amounted for 6.5 million of it and came out on 6th position from among other states on the national list of alcohol seizures.¹⁵

The instances of vote buying with alcohol have been increasing tremendously over the years and it is estimated the demand for illegal Indian made foreign liquor (not "hooch") and its prices in the black market go up by a staggering 55% and 40% respectively.¹⁶ The Gujarat government, replying to an RTI information pretention said that there have been a total seizure of 252 crore's worth of alcohol in the last two years which includes Indian Made Foreign Liquor (IMFL) costing Rs 231 crore, beer worth Rs 17.79 crore and country-made liquor amounting to Rs 3.12 crore.¹⁷ The fact that in a "dry state", around the time of national election,

¹⁴ 'Gujarat State Portal, "State Profile, Demography" (*Gujaratindia.gov.in* 2011) <<https://gujaratindia.gov.in/state-profile/demography.htm>> accessed 1 November 2021.

¹⁵ Reuters Graphics, 'Drugs, Gold, Cash and Alcohol Counting the Gifts That Were Meant to Buy Votes' <<https://graphics.reuters.com/INDIA-ELECTION-SEIZURES/010091DS1ZW/index.html>> Acc 16 Nov 2021.

¹⁶ All Answers Ltd, 'Prohibition of Alcohol in Gujarat' (UKessays.com, May 2020) <<https://www.ukessays.com/essays/social-policy/prohibition-alcohol-gujarat-9536.php?vref=1>> accessed 21 November 2021.

¹⁷ 'Liquor Worth Rs 252 Cr Seized In Two Years In 'Dry' Gujarat' (*India Today*, 2019) <<https://www.indiatoday.in/india/story/liquor-worth-rs-252-cr-seized-in-two-years-in-dry-gujarat-1626963-2019-12-10>> accessed 22 November 2021.

alcohol worth 252 crore is being caught in itself a slap on the Gujarat government's face and its methodology to counter contrabands. It's also the duty of the election commission of India to ensure that no unfair election practices are being used to influence the election. The administrative and bureaucratic situation in the state needs to be worked on for the prohibition to truly be a success.

(B) Appeasement of the conservative masses

As already mentioned, Mahatma Gandhi was a supporter of the prohibition act while also being a proponent of the temperance movement which sought to enforce alcohol prohibition. It is also well known that the Gujarat prohibition is kind of like a homage to the Mahatma and banning alcohol makes Gujarat more of a family centred state. Gujarati people are known to be conservative and family centric which leads to them being pro-prohibition and thus to make them happy and to appease them, the govt doesn't take an anti-prohibition stance. The conservatives have become so used to the alcohol not being readily available that they are unwilling to move to a more progressive lane, with relaxed laws. They view it as the perfect environment for growing up children and away from vices like alcohol¹⁸.

IV. ECONOMIC ASPECTS

(A) Alcohol is the perfect commodity for sales tax revenue due to it having inelastic demand.

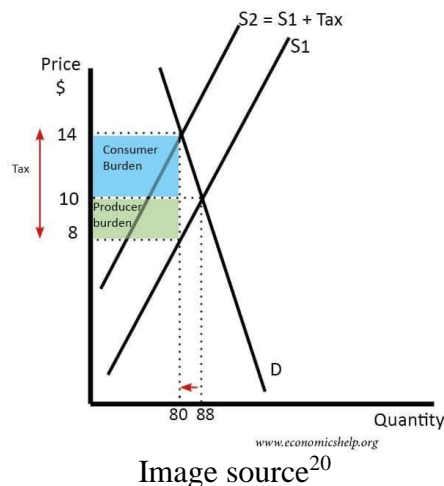
Alcohol is one of such products which can produce the highest amounts of tax revenue for states in India. Around 10 to 15 % of government revenue of states like Haryana, Tamil Nadu and Punjab comes from alcohol tax¹⁹. This is due to liquor being a commodity with "inelastic demand" which in layman terms means that increase in price does not result in decrease in demand of the commodity. It is an essential commodity for those who consume it and thus its demand stays constant or decreases by very small amounts. Unlike other commodities, whose tax rates the govt cannot manipulate due to them being:

- (1) essential commodities like food and medicine
- (2) commodities with elastic demand,

¹⁸ Ibid. 16.

¹⁹ Haryana-Budget-Analysis, 2018-19, (*PRSIndia*, 2019) <<https://www.prindia.org/parliamenttrack/budgets/haryana-budget-analysis-2018-19>> accessed 22 November 2021.

The govt can freely manipulate tax rates on alcohol as it's neither essential nor has elastic demand. This makes alcohol the perfect source of tax revenue as the govt has the freedom to increase and decrease tax rates based on necessity while not affecting the demand. Thus, it can be concluded that the freedom to change tax rates based on economic situations in the state while not affecting demand is a boon, which the Gujarat govt has knowingly tossed away. Manipulating alcohol tax rates to increase total tax revenue can be used to get out of adverse situations, economic collapse etc.



(B) The Opportunity Cost of Prohibition is High

The alcohol consumption market across India is huge, the government uses this to achieve a high sales tax revenue from Indian made foreign liquor. Gujarat has yet not monetized this and is therefore losing a huge amount every year to the prohibition act. Since smuggled items do not fall under the exorbitantly high excise duty, the price of smuggled liquor is sometimes even lower when compared to its legalized counterparts in other states.²¹ There is also the problem of personnel of various forces (who are allowed to buy certain quota per month at subsidized rates) selling liquor to civilians for profit.²² So the point to be taken into consideration here is that, sale of alcohol is illegally happening and the state govt is neither effectively able to stop it nor is it monetizing it in form of tax revenue by repealing the act.

Every year, the Gujarat government (on a very conservative estimate) loses out on at least 10000 crore rupees as tax revenue every year which can be put to good use for development.²³

²⁰ Economicshelp, "Inelastic Demand" <<https://www.economicshelp.org/wp-content/uploads/2008/05/tax-on-inelastic-demand.jpg>> accessed 19 November 2021.

²¹ Diwanji, A. K., "Prohibition - Gujarat's worst kept secret". (2002), <<https://www.rediff.com/election/2002/dec/11guj4.htm>> accessed on 11 October 2021.

²² India, T. O. "Army changes liquor policy to curb bootlegging in Ahmedabad". (2019), <<https://timesofindia.indiatimes.com/city/ahmedabad/army-changes-liquor-policy-to-curb-bootlegging-in-ahmedabad/articleshow/69577406.cms>> accessed on 17 October 2021.

²³ 'Gujarat To 15Th Finance Commission: Compensate Rs 9,864 Crore Revenue Lost Every Year Due To

Pan India, states make huge tax revenues from alcohol, some of the highest grossing have been shown below to help understand the quantum of the revenue being forgone.

States	Revenue from alcohol
Tamil Nadu	Rs 29,672 crore
Haryana	Rs 19,703 crore
Maharashtra	Rs 18,000 crore
Karnataka	Rs 15,332 crore
Uttar Pradesh	Rs 14,083 crore
Andhra Pradesh	Rs 12,739 crore
Telangana	Rs 12,144 crore

Source of table: India today statistics²⁴

Population wise, Gujarat is pretty similar to the states earning the highest amount of tax revenue from alcohol²⁵. Thereby, it can be concluded that Gujarat is forgoing a huge amount of revenue by sticking to its prohibition policy.

(C) Investment Potential is Getting Hindered

The investment potential of Gujarat also gets hindered due to alcohol being banned, outside investors don't want to invest in a place where basic necessities of modern life are illegal²⁶. No big finance city in the world has alcohol prohibition. If Gujarati cities like Ahmedabad, Surat and Baroda want to match cities like London, New York, Hong Kong, Tokyo, Singapore, Shanghai, Seoul or Mumbai then the prohibition act will have to be done away with. If Gujarat aims to become a global hub, it needs to open up and relax the prohibition laws. The state govt has taken progressive steps and are on the lines of relaxing liquor laws for the Gujarat

Prohibition' (*Ahmedabad Mirror*, 2018) <<https://ahmedabadmirror.indiatimes.com/ahmedabad/others/gujarat-to-15th-finance-commission-compensate-rs-9864-crore-revenue-lost-every-year-due-to-prohibition/articleshow/65108278.cms>> accessed 18 October 2021.

²⁴ Desk, 'See If Your State Is Among Top Ten Booze Revenue Earners' (*India Today*, 2020) <<https://www.indiatoday.in/india/story/booze-revenue-alcohol-economy-prohibition-tamil-nadu-bihar-supreme-court-345588-2016-10-08>> accessed 17 October 2021.

²⁵ Planning Commission of India, 'Population Demographics' (*Web.archive.org*, 2015) <https://web.archive.org/web/20180127163347/http://planningcommission.gov.in/data/datatable/data_2312/DataBookDec2014%20307.pdf> accessed 18 October 2021.

²⁶ MAHURKAR, 'The Price Of Prohibition' (*India Today*, 2014) <<http://indiatoday.intoday.in/story/illicit-liquor-business-thrives-in-gujarat/1/130913.html>> accessed 4 November 2021.

international finance tech city (GIFT city) in order to lead in international investments²⁷. This has been seen as a welcome change by leading economists to increase the reach of GIFT city and make it an international business hub. Such a progressive outlook when addressed state wide would be of immense help to bring in more investments and technology into the state.

(D) Tourism Potential is Getting Hindered

The World Health Organisation, in a study found that the per capita alcohol consumption in India has almost doubled between 2005 and 2016, increasing from 2.4 liters in 2005 to 5.7 liters in 2016²⁸. The demand for alcoholic beverages is increasing rapidly and has become an important parameter for tourists as well. Gujarat has a coast line of 1600 kms, which has many beautiful beaches. They have the potential to make Gujarat another Goa, but due to the alcohol ban the full tourism market stays untapped. Gujarat prohibition laws do allow for special permits for foreigners or tourists but the process to get one is cumbersome thus many tourists just pass while considering Gujarat for a visit.

As the alcohol ban in Gujarat has been since the 1960's, which is why it has been argued that it can never be known for certainty that tourism is being affected hugely by the alcohol ban. Therefore, an example of Kerala can be taken to put things into perspective and to invariably conclude that banning alcohol goes a huge way in hemorrhaging tourism revenue opportunities. Following the Gujarat model, Kerala govt introduced alcohol prohibition in the year 2014. In the following year, tourism growth rate dropped from 8.4% in 2014 to 5.7% in 2015 also leading to a revenue loss of 700 billion rupees.²⁹ Due to such devastating impact on its economy, the Kerala govt repealed the prohibition law in 2017 thereby ending the alcohol ban. Thus, it can be deduced that doing away with the prohibition act will help Gujarat get more tourism revenue as well as more investment opportunities.

V. CRIME AND CONTROL

(A) Crime rate

Consumption of alcohol has been found to increase aggressiveness in a person and make him/her more prone to commit a crime³⁰, And that increased alcohol consumption is directly

²⁷ DP Bhattacharya, 'Gujarat Government Plans To Relax Liquor Norms In GIFT City' (*The Economic Times*, 2015) <<https://economictimes.indiatimes.com/news/politics-and-nation/gujarat-government-plans-to-relax-liquor-norms-in-gift-city/articleshow/47931970.cms?from=mdr>> accessed 4 November 2021.

²⁸ World Health Organization, *Global Status Report on Alcohol and Health 2018* (World Health Organization 2019).

²⁹ 'Alcohol Prohibition A Significant Loss To Industries Like Tourism, Is The Ban Worth It?' (*The Financial Express*, 2018) <<https://www.financialexpress.com/opinion/alcohol-prohibition-a-significant-loss-to-industries-like-tourism-is-the-ban-worth-it/1512796/>> accessed 4 November 2021.

³⁰ Michael Conlin, Stacy Dickert-Conlin and John Pepper, 'The Effects Of Alcohol Prohibition On Illicit-Drug-

proportional to the number of violent crimes committed.³¹ Crime against women is a huge issue to be dealt with across India, it has been found that increased alcohol consumption specifically led to higher rates of violence against women³². Interestingly, Gujarat's substantively low rate of crime can be advanced on the prohibition on alcohol. Further, it also been found that alcohol prohibition effectively helps in reduction of substantive violent crimes.³³ Alcohol control in Gujarat is primarily justified for its contribution to helping reduce the number of crimes committed. Crime control is the basis of every argument on alcohol prohibition, so much so that the govt and the citizens are willing to forego huge economic profits. The crime rate in Gujarat is controlled due to alcohol prohibition, Gujarat is ranked 11 (with 1st having the highest crime rate) overall in crime in India, which is pretty fair due to the fact that all states which are similar to Gujarat in size and population are way above on the list and Gujarat is among the smaller states, which hereby concludes that alcohol prohibition has definitely helped the government to minimize crime in the state.

To analyze how much and how effectively alcohol prohibition can help reduce the crime rate, we must take the example of Bihar. Gujarat cannot be taken as an example as it has been under prohibition since 1960 therefore there is no precedent to compare it to. The number of murders and robberies declined by 20%, riots reduced by 13% and traffic accidents decreased by 10% in a year since prohibition was introduced in Bihar.³⁴ Thus with reference to the (1) above mentioned studies, (2) the Bihar example and Gujarat's crime record it can be understood and concluded that prohibition on alcohol in Gujarat does help minimise criminal activity in the state and thus provides people better quality of lives.

Now, taking into account the other side of the coin, it has to be noted that the difference made by alcohol in reducing crime rates is marginal and the reasons crime rate in Gujarat is low may be due to infrastructure development, better quality of life and staunch societal norms. Pan India, it has been found that only 6.4% motor accidents are caused due to alcohol while an astonishing 77% were found to have been caused due to over speeding and driver's fault³⁵. This

Related Crimes' (2005) 48 The Journal of Law and Economics.

³¹ Christopher Carpenter and Carlos Dobkin, 'The Minimum Legal Drinking Age And Public Health' (2011) 25 Journal of Economic Perspectives.

³² Dara Lee Luca, Emily Owens and Gunjan Sharma, 'Can Alcohol Prohibition Reduce Violence Against Women?' (2015) 105 American Economic Review.

³³ C. S. Carpenter, C. Dobkin and C. Warman, 'The Mechanisms Of Alcohol Control' (2015) 51 Journal of Human Resources.

³⁴ Geeta Anand, 'Alcohol Ban Succeeds As Women Warn, 'Behave, Or We'll Get Tough'' (*Nytimes.com*, 2016) <<https://www.nytimes.com/2017/04/15/world/asia/india-bihar-alcohol-ban-women.html>> accessed 18 November 2021.

³⁵ Sharma, 'Prohibition Bad For India's Health' (*Nikkei Asian Review*, 2016)

<<https://asia.nikkei.com/Economy/Prohibition-bad-for-India-s-health>> accessed 17 November 2021.

brings into context the marginality of cases in which alcohol as a catalyst can cause an accident. Further, the majority of alcohol related crimes are committed by the less privileged lower class people who anyway can't afford Indian made foreign liquor (IMFL) and thus drink country made liquor in defiance of the prohibition act can be found throughout Gujarat.³⁶ Therefore the alcohol ban is not doing a lot to tackle the problem of liquor related crimes.

(B) Increase In bribery and Bad Administration

While country made liquor is produced and consumed locally, IMFL includes branded liquor smuggled from neighboring states such as Haryana, Delhi, Rajasthan, Madhya Pradesh and Maharashtra where distilleries are situated. Since IMFL is smuggled from neighbouring states, its cost is invariably very high. The system is hands deep in the procurement and sale of IMFL, bribes are paid on all govt levels to ensure easy entry into the state. The government is not able to control the illegal sale of IMFL, which can be found throughout Gujarat. At this point, the bribery cases have been going on a record high (mostly connected with illegal alcohol) and the prohibition act is doing nothing but giving the administrators another way to indulge in bribery. The suspension of a police inspector in 2011 in the case of accepting bribe from a bootlegger is one such instance that brings to light the involvement of local police officers in this smuggling network.³⁷ This illicit liquor trade has become an important part of the state's alternate economy sustaining on corruption, police inefficacy, inefficiency of justice delivery system, and established power dynamics.

NCRB report in 2016 found that the state had only one conviction under the prohibition act.³⁸ Further, the number of people under trial stood at a whopping 291, which is the highest amongst all other states under similar laws. Primary reasons attributed to this are half-hearted investigations by police officers, or witnesses turning hostile later in most cases. Which further reiterates how the administration while not being able to control sale, transport, production of alcohol is also not effectively punishing those who are caught in the act.

Illegal IMFL comes into Gujarat through Rajasthan, Madhya Pradesh and Maharashtra and enters thorough checkpoints where the officers have already been "set" which basically means bribery. Illegal booze is pretty much available throughout Gujarat and this is possible only

³⁶ "Caught on camera: Bootleggers home-deliver alcohol in Gujarat" [Video] (NDTV 2014), <<https://www.youtube.com/watch?v=wBCR-2ClhIs>> accessed on 1 May 2020.

³⁷ "Tainted cop applies for bail" (Ahmedabad mirror 2011), <https://ahmedabadmirror.indiatimes.com/ahmedabad/cover-story/tainted-cop-applies-for-bail/articleshow/36678301.cms> accessed on 7 November 2021.

³⁸ Pachchigar, J. "Dry Gujarat jailed only one under Prohibition Act in 2016: NCRB". (Times of India 2019). <<https://timesofindia.indiatimes.com/city/vadodara/dry-gujarat-jailed-only-one-under-prohibition-act-in-2016-ncrb/articleshow/69717575.cms>> accessed on 7 November 2021.

because multi-level corruption being in place³⁹. Officers on various levels need to be bribed for alcohol to be available so easily. Thus, rises the question of whether the prohibition act is causing corruption levels to rise in the state. Which is pretty much answered by the amount of alcohol availability in Gujarat⁴⁰. Various leaders have pointed out Gujarat's problem with corruption arising out of the prohibition act. Congress(I) MP and trade unionist Chiman Mehta said, "The law exists only on paper and is the single biggest source of corruption in the police force." The bribery situation in Gujarat is a serious game due to the organized units developed behind it. Unofficial estimates say that the Ahmedabad police get Rs.80 lakh to Rs.1 crore as bribe from IMFL traders in the city also it is estimated that the Gujarat police makes about 100crores as bribe from these illegal traders.⁴¹ Criminal organizations mostly profit from prohibition which in turn promotes other crimes. Thus, it can be concluded that the prohibition act in Gujarat is not all that anti-crime and it itself is the cause of some of them.

(C) Increase In Hooch Production

Country made liquor, or "hooch" as it's called is the go-to drink for people who cannot afford smuggled, expensive and black-marketed Indian made foreign liquor (IMFL). The prohibition causes the price of smuggled IMFL to go up, due to which lower class people revert to low cost and inexpensive "hooch". Any kind of production, sale, transport of hooch is illegal, yet many people make it at their homes and this has been proven to be dreadful due to the Ahmedabad hooch tragedy which killed 122 people in 2009. Country made liquor is produced within slums and rural parts of Gujarat. There are specific areas where the product can be easily purchased; it is an open secret that everybody seems to be in on.⁴² The produce is then transported by bootleggers to other parts generally on bicycles or in auto rickshaws.⁴³ On an average, a bottle cost about Rs. 20-30.⁴⁴ It is then consumed by a large number of people from economically weaker sections who have become habitual users and addicts. The reason for such consumption

³⁹ Mitul Thakkar and Vishal Dutta, 'Liquor Prohibition: Is Gujarat Really A Dry State Or A Tippler's Paradise?' (*The Economic Times*, 2017) <<https://economictimes.indiatimes.com/industry/cons-products/liquor/liquor-prohibition-is-gujarat-really-a-dry-state-or-a-tipplers-paradise/articleshow/19296903.cms?from=mdr>> accessed 8 November 2021.

⁴⁰ "Tainted cop applies for bail" (Ahmedabad mirror 2011), <<https://ahmedabadmiraor.indiatimes.com/ahmedabad/cover-story/tainted-cop-applies-for-bail/articleshow/36678301.cms>> accessed on 2 December 2021.

⁴¹ Mahurkar, 'The Price Of Prohibition' (*India Today*, 2014) <<http://indiatoday.intoday.in/story/illicit-liquor-business-thrives-in-gujarat/1/130913.html>> accessed 2 December 2021.

⁴² "Caught on camera: Bootleggers home-deliver alcohol in Gujarat" [Video] (NDTV 2014), <<https://www.youtube.com/watch?v=wBCR-2ClhIs>> accessed on 2 December 2021.

⁴³ Qureshi Z., "Bootleggers' Carnama." (*Ahmedabad Mirror* 2020) <<https://ahmedabadmiraor.indiatimes.com>> accessed on 3 December 2021.

⁴⁴ Johari A. "Why do poor Indian continue to drink deadly moonshine?" (*Quartz*, 2015), <<https://qz.com/india/433701/why-do-poor-indians-continue-to-drink-deadly-moonshine>> accessed on 3 December 2021.

may be anything from coping with stress, escaping problems, economic distress, social reasons etc. Some people who can afford IMFL still consume Hooch because of higher potency. Apart from health issues, such addictive consumption also results in socio-economic problems within the family. It adds to medical expenses and influences the life of each individual in the family of an addict. It may also lead to domestic violence, decreased efficacy or productivity at work, children placed in a risky environment, isolation of the person who consumes, emotional issues, road accidents etc.⁴⁵

VI. PRACTICAL APPROACH OF THE JUDICIARY

Even though the laws have been made stricter, the judges still analyse the conditions and family background of the accused before arriving at any decision. The Judiciary has decided to take a practical approach, recognising that the lower class even though making use of contrabands, is not the real criminal. The real criminal are the organised crime units who have developed systems of corruption through which they conduct illegal trade of various types of alcoholic drinks. In a case of an Ahmedabad court, the accused was convicted after admitting the guilt of roaming in the streets of the city in inebriated condition, the judge fined him only Rs.500 and made him to sit in the court for a day whereas the amended Gujarat Prohibition act provides the punishment of 1 year for such offence.

The court stated that if he were to be imprisoned, his family would starve, and if a hefty fine is levied, his family would suffer. Therefore, the court opined, that it would not be proper to impose such a heavy penalty on the convict. Moreover, the court also stated that the courts are flooded with “such types of cases”, and the High Court has been striving to reduce the number of pending cases. For this, special sittings have been organized in the courts and the High Court such cases must be spotted and disposed of expeditiously, with alacrity.⁴⁶

VII. CONCLUSION

Prohibition in Gujarat has been in force for about 60 years now and in 2020, alcohol is much more than just an intoxicating drink. prohibition is vaguely based on Gandhian principles and the directive principles of state policy. Not allowing alcohol is doing more harm than good In Gujarat. Politicians are using alcohol to buy votes and/or appease the voters to vote for them.

⁴⁵ National Institute of Mental Health and Neurosciences (NIMHANS), Bangalore. (2011). “*Patterns & consequences of Alcohol Misuse in India - an epidemiological survey.*”

<http://nimhans.ac.in/cam/sites/default/files/Publications/WHO_ALCOHOL%20IMPACT_REPORT-FINAL21082012.pdf> accessed on 3 December 2021.

⁴⁶ Tnn., ‘Liquor laws: Gujarat courts temper justice with mercy: Ahmedabad News’ (Times of India 2020), <<https://timesofindia.indiatimes.com/city/ahmedabad/liquor-laws-courts-temper-justice-with-mercy/articleshow/73062247.cms>> accessed on 4 December 2021.

This points toward the inefficiency of the election commission and how the prohibition act increases the depth to which the election commission has to work on. Not allowing legal alcohol into the state takes away crores of tax revenue from the states hand. This revenue if tapped into, could be used to further develop rural areas in the state. Tourism also takes a hit due to the non-availability of alcohol to the tourists, which in turn results in hindered tourism revenue.

Also, investment opportunities get limited due to investors not wishing to invest in a place where drinking alcohol might land them in jail. The crime rate gets reduced on a marginal scale due to ban on alcohol but, alcohol brings with itself its own criminal vices. Smuggling, organised crimes and production of “hooch” are some of the criminal activities which have their basis on the alcohol ban. The administrative system in Gujarat has been corrupted on a multilevel scale as the extent on which alcohol is available in Gujarat is unbelievable. The judiciary has also taken into account the lower class, who even though making use of contrabands, are not the real criminals. The real criminals are the organised crime units who have developed systems of corruption through which they conduct illegal trade of various types of alcoholic drinks.
