





## ***DRUG ABUSE IN PUNJAB: A BATTLE AGAINST NARCOTERRORISM***

Punjab, well known as the land of five rivers, was once renowned for being the bread basket of the nation. Regarded as one of India's most prosperous and finest states, it was well-known for its utter beauty, water streams, the luxuriant and fertile green lands and was home to abundant resources. However, an overwhelming rise in the drug problem in the state has changed the entire scenario. The growing problem has resulted into the state getting trapped in Narcoterrorism. The problem, which has surfaced recently, is not new but what is disturbing is that a whole generation of young people is being lost to recreational drugs.

Punjab was the state which suffered the most during the 'Divide' of India. The bloodshed during the partition was one of the most disturbing events in the state. The state first got divided on the basis of religious lines in 1947 and this was followed by the second division of the state on linguistic basis in 1966, which gave birth to the states of Himachal Pradesh and Haryana. The state then gained the title of 'food basket' of India. The success of Green Revolution ensured per capita rise in the income and rise in the standard of living of its residents. Another setback was suffered by the state as a result of increasing terrorist activities in the 1980s. All these factors led to the shaping of the present day Punjab. However, the state was the worst affected with the people of the state falling into the clutches of drug abuse and Narco-terrorism. This is the biggest threat that is posed to the state, so much that drug abuse has now become even a key poll issue.

The situation is alarming and the seriousness of the issue can be gauged by the fact that near border areas, the rate of heroin abuse among 15 to 25 year olds is as high as 75% and it is 73% in other rural areas throughout the region. The Department of Social Security Development of Women and Children suggested that as many as 67% of rural households in Punjab will have at least one drug addict in the family. There is at least one death due to drug overdose each week in the region. Despite a tough stance being taken by the authorities in this respect, the drugs continue to flood into Punjab because of the high profits attracted by the trade in drugs and the rampant corruption. The smugglers also get a huge market to exploit as a result of the high appetite for the drug locally.

It is also assessed that four out of ten men in the state are addicted to some or other drug and the fact that 50% of those are young farmers is adding to the misery of the state. While 15% of those are addicted to poppy husk (known as bhukki), 20% are addicted to synthetic drugs churned out by pharma companies in neighbouring Himachal Pradesh. The reason for the involvement of farmers is specific to the success of Green revolution in Punjab which has led to a food surplus. This means that young people have been left with nothing to do as there is not the same urgency to till the land as it was before. It is also easy for young generation to begin experimenting with substance abuse because of the ease with which they can get their hands on poppy husk. This plant grows wild in the region and it is difficult to prevent young people from using it.

A report prepared by the Narcotics Control Bureau adds insult to injury because of the fact that Punjab alone has registered 50% of the total drug-related cases in the country. These statistics are sufficient to point out the massive problem of drug abuse in Punjab and constant failure on the part of the authorities to deal with the same. The scale of drug abuse in the state became public in 2009 through a submission made to the Punjab and Haryana High Court at Chandigarh which revealed that more than two-thirds of the state's rural households have at least one drug addict, a proportion that may now be even higher considering the current trend.

Punjab serves as the medium of smuggling the drugs to the rest of the continent. This fact is evidenced by frequent seizures of illegal drugs by the authorities. Just before the Lok Sabha polls in 2014, Rs 800 crore worth of drugs, liquor and other narcotics were seized by poll authorities. What aids in the flourishing of the market of this menace is easy and open sale and availability of drugs. Children as young as 12 years of age are seen to be involved in the trade. The growing popularity of brown sugar, smack, and heroin can be attributed to the fact that Punjab is in close proximity to the Golden Crescent region which involves the countries, viz., Afghanistan, Pakistan and Iran. These three countries are, collectively, the world's largest producers of opium. People living in the region believe that this supply of narcotics is Narco-terrorism, which is a weapon used against the state to demolish it and to destroy its productivity by exploiting the youth. Punjab shares a 553 km border with Pakistan, which is used as an entry point to smuggle narcotics into India.

Besides dealers, one of the biggest sources of drugs in Punjab are local chemists, who sell over-the-counter prescription drugs. The drug addicts purchase these drugs from chemist shops making them as the chief suppliers of narcotic substances. Growing demand and profitability in the drug trade has led to chemist shops cropping up all over Punjab. A considerable number of these shops, especially in rural areas, are unlicensed and sell drugs to users without prescriptions. The unfortunate part is that it is not only the people from the fringes of the society, but children from good families are often caught in the toils of drug addiction.

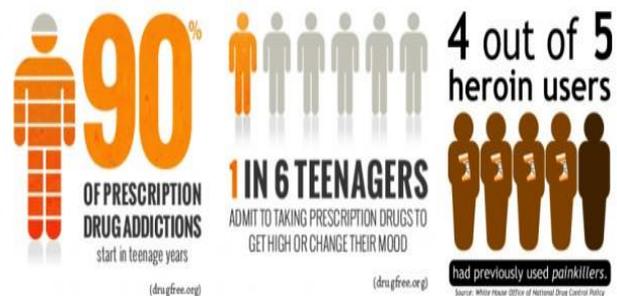


Unemployment and frustrated economic expectations feature among other prime reasons which are contributing to the spread of this menace in Punjab. According to the data released by the Ministry of Labour and Employment in 2013, 13.5% of those in the age group 15-29 are unemployed. Easy availability of narcotics in Punjab makes the unemployed more susceptible to drug use and addiction. If people find it hard to afford drugs, then some brands of toothpastes contain nicotine and reports have suggested that people give in to consuming excessive amounts of toothpaste to experience a nicotine high.

Further, official corruption has worsened the problem. A vicious nexus has been created with the involvement of high-profile government officials and political leaders along with the affluent business leaders and drug dealers who are managing the drug trade. This indicates political backing to the drug industry which also highlights the failure of the leadership in controlling the drug business in the state which is affecting the people of the state irrespective of whether they are rich or poor.

An overwhelming majority of addicts belong to the age group of 15 and 35, which is a harsh reminder about the risk of losing the entire generation to drugs. In recent years, there has also been a sharp increase in the rate of HIV infections in the state. This is because the rate of injectable drug users (IDUs) is far higher in Punjab than in other states. The national prevalence of HIV is 9% but in Punjab this number is in the region of 26%.

The families of these drug addicts find themselves miserable and helpless because of the unaffordable de-addiction treatments as a result of which the victims continue to consume drugs and are completely trapped in this vicious cycle without any ray of hope. Political parties that have formed the government in Punjab has failed its people by missing out on taking adequate steps to control the problem of drug abuse.



The government has to identify the need to intervene in this issue and resolve it with strong political will. There is a need for pressure groups and advocacy forums which can put this issue at the centre. The policy-making process is of great significance in this regard. As yet, there is no concrete proof of government putting any effort in this direction. Government must focus on the socio-economic variable while considering their impacts on increased number of drug crimes, opium cultivation etc. There is a need to put in efforts for conducting programmes on drug awareness, job opportunities, educating the people regarding the dangers of narcotic drugs for their families, communities, and societies as a whole. All this will help in creating a safe and successful future of the state and thus, the nation. The necessary steps should be taken by the government to provide best health care services to the citizens at affordable cost. Even children should be made aware about their rights and strategies to stay away from the evil of drug abuse. People should be made aware of their responsibilities towards their family so that a congenial environment is created within the family. The fact that Punjab is on the verge of losing an entire generation to drugs demands that this issue should be addressed urgently and it is high time for the government to act to resolve this issue before it is too late.

Contributions are invited for the further issues of the CASIHR newsletter. The last date of submission would be 15<sup>th</sup> of every month and it can be mailed on [casihr@rgnul.ac.in](mailto:casihr@rgnul.ac.in).

TRIVIA

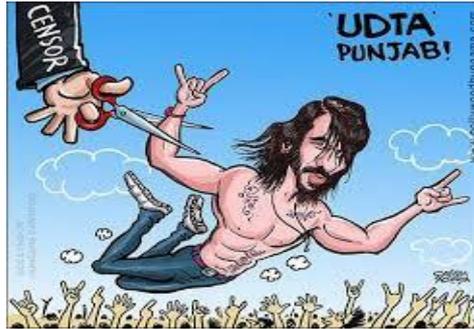
- By the 8th grade, 28% of adolescents have consumed alcohol, 15% have smoked cigarettes, and 16.5% have used marijuana.
- According to the National Survey on Drug Use and Health (NSDUH), approximately 27 million Americans, or 10.2% of the American population over the age of 12 reported using illicit drugs.
- Prescription drugs are becoming abused more commonly. Even when intended for valid medical or psychological issues, prescription drugs can be abused should they be taken differently than prescribed or taken by other individuals.

DAYS OF MONTH

- World Environment Day – June 5
- World Day Against Child Labour- June 12
- International Day of Yoga
- International Day Against Drug Abuse and Illicit Trafficking- June 26
- Doctor's Day- July 1
- World Population Day July 11

DID YOU KNOW?

Alcohol can also be lethal in several ways, alcohol poisoning, leading to death, is most common in new (often younger) drinkers who binge drink, taking in more than the body can cope with or metabolize. According to the Centers for Disease Control, 79,000. Long-term drinking increases a person's risk of cancer, stroke, and liver disease, and can lead to Wernicke-Korsakoff syndrome or "wet brain."



*“Moderation is a fatal thing. Nothing succeeds like excess”*

-Oscar Wilde

**A VIEW TO A KILL: KILLING CREATIVITY**

Recently, harsh treatment was meted out to the production team of the movie ‘Udta Punjab’ for its detailed portrayal of substance abuse in the backdrop of one particular state. The Central Board of Film Certification (hereinafter Censor Board) claimed that the agenda of the film was to defame the state and the government machinery of Punjab by evidencing their involvement in continuance of the menace while debasing the public at large with grotesque information on drug addiction. The Board ordered thirteen cuts to the movie including the repetitive usage of cities of Punjab and hurling of abuses. The producers filed a case in the Bombay High Court [Writ Petition (L) No. 1529 of 2016] seeking a writ of mandamus and certiorari, stating that the intrusion of the Central Board in this particular manner was violative of their right to free speech and expression.

The Censor Board is a statutory authority constituted under the Cinematograph Act, 1952, being empowered to examine and certify cinematograph films prior to their exhibition. As per the “Guidelines for Certification of Films for Public Exhibition” the board is tasked with ensuring that the content of the film does not fall into any of the categories of “reasonable restrictions upon free speech” that are set out under Article 19(2) of the Constitution. Article 19(2), however, consists of a set of abstract phrases such as “public order”, “decency or morality”, “defamation”, and (as per the guidelines) the “human sensibilities are not offended by vulgarity, obscenity or depravity”- words also being found u/s 292 of the Indian Penal Code, 1860.

The Honourable Supreme Court addressed the distinction between the words obscenity and vulgarity in the case of *Samresh Bose and Anr. v. Amal Mitra and Anr*, stating that vulgarity arouses a feeling of disgust and revulsion and also boredom but does not have the effect of depraving, debasing and corrupting the morals of any reader of the novel, which is the case of obscenity.

In another case it was held that film must be judged in its entirety from the point of view of its overall impact. It must also be judged in the light of the period depicted and the contemporary standards of the people to whom it relates, but it must not deprave the morality of the audience. The Supreme Court further held that the guidelines are broad standards. [*Bobby Art International and Ors. v. Om Pal Singh Hoon and Ors*]

The case of *Ranjit D. Udeshi v State of Maharashtra* is imperative in this discussion as the Supreme Court highlighted the duty of the Censor Board which cannot be a blind following of exhaustive directions. It was stated that their regulatory power does not enable them to direct uncall for cutting and deleting portions of the work merely because they do not approve of an open and direct presentation. The test is that the work must be seen as a whole and viewed in entirety, and not to pick and choose isolated scenes or events or characters. The objective of film certification is to ensure that the medium of film remains responsible and sensitive to the values and standards of society, artistic expression and creative freedom are not unduly curbed film.

It is important to note the difference in the situations of the present case and the *AIB Roast* case, that being the reasons for the works creation and the desired impact. The judges of the Hon’ble Bombay High Court believed that Udta Punjab was aimed to bring to attention to all viewers the impasse of drug addiction and how non-intervention of the State machineries will ultimately lead to decay of India’s youth.

Although certain guidelines are in place to steer the Censor board, the identification of what is permissible to be viewed and what is indecent, obscene, horrifying or corrupting seems to be muddled. It is odd to note that a movie highlighting the conditions of addicts is scrutinized excessively yet those which revolve around lewd carnal puns go scot free!

## ***HUMAN RIGHTS NEWS...***

### **JAMMU AND KASHMIR AUTHORITIES MUST ALLOW MEDICAL CARE FOR INJURED PROTESTORS**

Authorities in Jammu and Kashmir must ensure that people injured in shootings by security forces have access to medical assistance, and medical professionals can carry out their work without interference, Amnesty International India said in a report. The report also said that security forces must use live ammunition only as a last resort to protect against a threat to life, and not use pellet-firing shotguns against protestors. In the recent firing by the police, at least 23 people, including two children, have been killed in firing by security forces during demonstrations following the killing of a leader of the Hizbul Mujahideen, a banned armed group, on Friday and over 200 have been injured. A policeman was killed after his vehicle was pushed into a river by a mob in Anantnag district. The state police have reported attacks on police stations and other public property, and looting of weapons. It said that scores of policemen have been injured. Local newspapers have reported that injured people had been assaulted while on their way to or while being treated at hospitals.

### **INDIAN GOVERNMENT AND COAL INDIA SACRIFICE INDIGENOUS RIGHTS IN THE NAME OF DEVELOPMENT**

Mining operations by India's state-owned Coal India Limited, the world's largest coal producer, are shutting out indigenous Adivasi communities living in the area. Coal India subsidiaries, central government ministries and state government authorities in Chhattisgarh, Jharkhand and Odisha failed to ensure meaningful consultation with Adivasi communities on land acquisition, rehabilitation and resettlement, and the environmental impacts of mines, seriously affecting their lives and livelihoods. The government plans to nearly double coal production by 2020, and Coal India wants to produce a billion tons of coal every year. Yet both the company and central and state governments don't seem to care to speak or listen to vulnerable Adivasi communities whose lands are acquired and forests destroyed for coal mining. Abusive laws, poor enforcement of existing safeguards, and corporate neglect of human rights are now leading Adivasi communities to oppose the expansion of the very mines they once thought would bring employment and prosperity.

### **VIOLENCE ERUPTS IN JAMMU AND KASHMIR AFTER KILLING OF BURHAN WANI**

Burhan Muzaffar Wani was the commander of Kashmiri militant group Hizbul Mujahideen whose social media campaign had an outreach among a section of Kashmiri Muslim youth. He was killed in an encounter with the Indian security forces on 8 July 2016. After the killing of Burhan Wani protestors rose to arrests and many were killed and injured. The Government clamped curfew in large parts of Kashmir and the Amarnath yatra has been suspended. The State has also requested for 30 paramilitary companies from the Centre to control the situation. While phone services were snapped in large parts of south Kashmir, internet services remained suspended across the Kashmir Valley. All examinations and interviews have been cancelled and railway services suspended.

## ***AROUND THE GLOBE...***

### **TURKEY: AFTERMATH OF THE COUP ATTEMPT**

The attempted coup d'état in Turkey by elements in various parts of the military in July led to at least 200 civilian and police deaths as people tried to resist soldiers, scenes of tanks in the Istanbul and Ankara streets, and fighter jets bombing the Ankara Parliament. Mass popular opposition to military intervention in today's Turkey and the unity of all political parties in condemning the coup attempt are widely regarded as having played a critical role in the coup's failure. Prime Minister Binali Yıldırım announced the detention of 7,543 people, 6,038 of them soldiers allegedly involved in the coup attempt and also 755 judges and prosecutors. With the reported suspension of an additional 2,500 judges and prosecutors, about one-fifth of the members of Turkey's justice system have been suspended or detained. This has plunged the judiciary into yet more crisis after repeated purges over the past two years. At the request of the prime minister's office, about 20 news websites critical of the government have been closed down. Following the failed coup, some politicians have advocated reintroducing the death penalty, which Turkey abolished in 2004, after joining a binding Council of Europe treaty that prohibits it.

### **IRAN IS PUTTING POLITICAL PRISONERS' LIVES AT RISK BY DENYING THEM MEDICAL CARE**

Iran's authorities are callously toying with the lives of prisoners by denying them adequate medical care, putting them at grave risk of death, permanent disability or other irreversible damage to their health, according to a new report by Amnesty International. The report, provides a grim snapshot of health care in the country's prisons. It presents strong evidence that the judiciary, in particular the Office of the Prosecutor, and prison administrations deliberately prevent access to adequate medical care, in many cases as an intentional act of cruelty intended to intimidate, punish or humiliate political prisoners, or to extract forced "confessions" or statements of repentance from them. Prisoners access to health care is a right enshrined in both international and Iranian law. When depriving a prisoner of medical care causes severe pain or suffering and it is intentionally done for purposes such as punishment, intimidation or to extract a forced confession, it constitutes torture. The report details 18 appalling cases of prisoners who have been denied medical care in some form and are at risk of suffering permanent damage to their health.

### **EL SALVADOR REJECTS AMNESTY LAW IN HISTORIC RULING**

A decision by El Salvador's Supreme Court to declare the country's Amnesty Law unconstitutional is a historic and long awaited step forward for justice. By turning its back on a law that has done nothing but let criminals get away with serious human rights violations for decades, El Salvador has paved way for a better future. The Salvadorian army was responsible for a number of massacres in villages accused of supporting guerrilla groups. According to a UN Truth Commission, more than 75,000 people were tortured, unlawfully killed and forcibly disappeared during the internal armed conflict in El Salvador between 1980. Five days after the UN Truth Commission published its recommendations in 1993, authorities in El Salvador passed an Amnesty Law that has so far prevented

investigations into the human rights violations committed during the conflict.

#### **NOT-A-NICE-ATTACK**

On the evening of 14 July 2016, 84 people were killed and 303 injured when a 19-tonne cargo truck was deliberately driven into crowds celebrating Bastille Day on the Promenade des Anglais in Nice, France. The driver was Mohamed Lahouaiej-Bouhlel, a Tunisian resident of France. The attack ended following an exchange of gunfire during which police surrounded the truck and shot the driver, killing him. In response to the attack, the government announced three days of national mourning. It extended the state of emergency, declared following the Paris attacks, for another three months. Thousands of extra police and soldiers were deployed while the government called on citizens to join the reserve forces.

#### **LGBTI VOTE AT THE UN SHOWS BATTLE FOR HUMAN RIGHTS IS FAR FROM WON**

The world has edged closer to placing the same value on the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people as it does on human rights. Sadly, not all states, including many African countries, are on the same page.

The 47-member Geneva-based United Nations Human Rights Council has adopted a landmark resolution on "Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity". For the first time an independent monitor will be appointed with the mandate to identify the root causes of discrimination against people because of their sexual orientation and gender identity.

The expert will, like other special rapporteurs, be tasked with talking to governments to protect LGBTI rights. She or he will

have the power to document hate crime and human rights violations. The monitor, however, will not have a mandate to recommend sanctions.

The main initiative was taken by a core group of seven South American states – Argentina, Brazil, Chile, Colombia, Costa Rica, Mexico and Uruguay. Forty-one additional countries co-sponsored the text. A record 628 nongovernmental organizations from 151 countries supported the effort. Notably, some 70% were from the global South. But the resolution was adopted by a narrow margin: only 23 member states voted in favour, 18 against. Six abstained. African countries remained opposed or reluctant to take a stand. Ten of them voted against the resolution and four abstained.

#### **HUMAN RIGHTS BODY CALLS FOR ASEAN LAND REFORMS**

An international human rights umbrella says the Southeast Asian region faces the threat of growing conflicts over land between investors and local people unless legal and institutional reforms are put in place. The warning from the 180-member International Federation for Human Rights (FIDH) came against the backdrop of significant economic gains and growth across Asia supported by foreign and domestic investment.

The 10-nation Association of Southeast Asian Nations (ASEAN) is looking to spur growth through the ASEAN Economic Cooperation (AEC) and foreign investment alone reached \$136.3 billion in 2014. But the opening to investors seeking land to develop for factories and plantations has triggered conflict with local communities, especially where laws governing land registration and title are weak.

These land disputes, forced evictions and violence have risen as the regional drive for economic growth has accelerated.

### **WORLD ENVIRONMENT DAY**

World Environment Day (WED) is observed every year on 5 June to raise global awareness to take positive environmental action to protect nature and the planet Earth. It is run by the United Nations Environment Programme (UNEP). "World Environment Day (WED) is the United Nations' most important day for encouraging worldwide awareness and action for the protection of our environment. Since its beginning in 1974, it has grown to become a global platform for public outreach that is widely celebrated in over 100 countries. The Theme for 2016 is "to prohibit illegal trade of threatened" (GO WILD FOR LIFE). Angola is the host country of this year. From royal families to farmer, politicians to school children every individual has a role in protection of environment and hence this program try to provide platform for the same objective.

#### **-CASIHR COMMITTEE-**

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**Mr. Himanshu Rathore**

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**Mr. Rohit Jacob Varghese**

**Ms. Apoorva Agrawal**

**Mr. Vishwajeet Shekhawat**

## STATE OF RAJASTHAN VS. JAG RAJ SINGH @ HANSA



### Facts:

State of Rajasthan filed an appeal in the Apex court against the judgment of the Rajasthan High court that acquitted the accused from the charges under Section 8/15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act'). The judgment of the high court put aside the judgment and conviction order by which the accused were sentenced to undergo 12 years rigorous imprisonment with fine of Rs. 1,20,00/- each.

### Issue Raised:

The issues raised in the case were:

- Whether the High Court committed error in acquitting the accused?
- Whether there was sufficient material to show non-compliance of Section 42(1) and 42(2) of the NDPS Act
- Whether section 43 was applicable for the present case?

### Judgment:

According to the findings of the high court, it was observed that there was non-compliance of mandatory sections 42(1) and 42(2). It was also held that section 43 was not applicable for the present case and in that scenario, non-compliance with Article 42(1) and 42(2) greatly prejudiced the victim. The Supreme Court analysed the judgments and reasoning of both, the Sessions judge, Hanumangarh and the hon'ble High Court to reach a judgment that is just and free from bias. The Apex Court held the judgment of the High court to be valid that put aside the conviction by which the accused were sentenced to undergo 12 years rigorous imprisonment with fine of Rs. 1,20,00/- each. The bench relied

heavily on previous judgments to bring out the necessity of complying with Article 42(1) and 42(2) of the Act so as to prevent an innocent citizen from getting convicted.

### Analysis:

The Hon'ble court, to reach the judgment, relied upon the object of the NDPS act which talks about making stringent provisions for control and regulation of operations relating to those drugs and substances. It also seeks to avoid harm to innocent persons and avoid abuse of the provisions by officers. To this end, certain provisions certain safeguards are to be strictly followed. The court, in the matter of *State of Punjab vs. Balbir Singh* provided that "these provisions make it obligatory that such of those officers mentioned therein, on receiving an information, should reduce the same to writing and also record reasons for the belief while carrying out arrest or search as provided under the proviso to Section 42(1). To that extent they are mandatory. Consequently the failure to comply with these requirements thus affects the prosecution case and therefore vitiates the trial."

Section 42(2) requires that a copy of the information taken down by the officer must be sent to his immediate senior. The court held that there was slight discrepancy between the report made by the officer and the sent to his senior. This is where there was a breach in section 42(2). The judgment by the Sessions judge in the case was struck down as the High Court and the Supreme Court took into consideration the mandatory provisions contained in the Act. The decision reached by the High Court and held valid by the Supreme Court clearly shows that the procedure that is to be followed while dealing with the elements of NDPS Act is of paramount importance. The learned Sessions judge held that the information received by Station House Officer was recorded and sent to Circle Officer, Nohar. It was also held by the learned judge that the vehicle being to transport passengers was covered within the ambit of the term 'public place'. Therefore, there is no need of any warrant or authority to search. This was used by the hon'ble sessions judge to hold that there was compliance with Section 42(1), 42(2) and 43. Further, section 43 was relied upon by the Special Judge for holding that there was no necessity to comply with Section 42.

The hon'ble court, in the case, demonstrated the importance and need of compliance with the strict provisions enshrined in an act. The case dealt heavily with the need of complying with the proper procedure set out by law and reiterated that incase of non-compliance with the set procedure, the entire case is vitiating.

"State of Rajasthan v. Jag Raj Singh @ Hansa, 2016 SCC OnLine SC 619"

## ALCOHOL PROHIBITION

Throughout the course of history, mankind has undertaken several endeavours to improve the state of its community. Several initiatives have been taken to reduce crime and corruption, solve social issues, improve health and hygiene etc. Chief among these is the attempt to curb the availability and usage of alcohol. Almost like a motif, this practice is spread across the globe with its effects and consequences affecting each country in a slightly different way.

Those who support alcohol prohibition point at the dangers of drinking, the lives it has destroyed and the misery it has caused. They no doubt have a point, but that only indicates that alcohol consumption should be regulated in the public interest, not that it be totally prohibited. Historical experience has shown that liquor bans are ineffective and even counter-productive, and only give rise to crime and deaths by consumers drinking illicit liquor. The Mafia arose in America in the 1920s and 1930s because of such a ban there. In Bombay it gave rise to the Bombay underworld and it also bred corruption among the police, excise officials and politicians.

A frequently used argument against the regulation of alcohol is that it hinders an individual's freedom of choice. A belief is that people should have the freedom to decide to drink alcohol or not, as long as that freedom does not infringe on the freedoms of other people. Another argument is that alcoholism is a victimless crime. Yes, the family and kin of an alcoholic are indeed affected by his action but the same cannot be said of the society as a whole. Therefore attributing alcoholism with the status of a crime may seem a step too far.

Experience has shown that bans seldom work. They just push the alcohol consumption underground which then brings the criminal element into the picture. In the US alcohol was prohibited by the Volstead Act from 1920 to 1933, an era known as Prohibition, which showed why the banning was never a solution. Instead of drinking legally, people started drinking illegally.

The situation in India is no different. Throughout the years several states have attempted a ban on alcohol but few have succeeded. As of now there are around four states with some level of alcohol prohibition in India. Gujarat, which observes the strictest prohibition norms of any state in India has, on more than one occasion been touted as the bastion of successful prohibition policies. But a closer look reveals a dark underbelly in the state's idealistic pursuit.

*"Gujarat was the first state to implement total prohibition in 1958, but alcohol consumption has been rampant ever since. So is the thriving business of supplying illicit liquor. Gujarat is surrounded by Rajasthan, Madhya Pradesh, Maharashtra and Daman and Diu, where there is no prohibition.*

*"Over the years, "thekas," or roadside shops, in the neighbouring states have developed strong networks with bootleggers who routinely smuggle liquor from these states bypassing the check-posts at their own risk or in connivance with officials."*

On the basis of the above, we can fairly confidently outline some features of prohibition. It is fundamentally a suppression of an individual's freedom of choice, it fostered the growth of organised anti-social elements, it disproportionately affects the poor and it results in the distribution of sub-standard alternatives to alcohol in addition to creating an entire economy for illicit liquor and its by-products.

In this context, it is important to bring forth the prohibition policy of the state of Kerala and the Supreme Court verdict which upheld the same. This development follows a recent trend wherein a subtler, more nuanced approach is taken for the enforcement of prohibition. Here, the state government decided that the best way to follow through on its idea of an alcohol free society is to close down all hotels and bars not accredited as five star or higher by the Ministry of Tourism.

A significant misconception amongst the public is that this ban on liquor sales from low end bars implies a mere rise in the prices of alcohol. The new policies put forth by the Kerala government is fundamentally different from a law raising the MRP of alcohol. The opposition to this law revolves around how it segregates those who have the financial capability and social status to make use of five star hotels from those who inherently do not.

Watching this scenario play out, it is quite clear that, apart from the usual consequences of prohibition such as a booming illicit liquor industry, rampant smuggling etc. there is also the threat of an unconstitutional classification within society. That is, a classification between persons who are socially and financially capable of availing the services of elite establishments such as five star bars as opposed to persons who do not possess those capabilities.

There is also the all-too-real danger of setting a flawed judicial principle. The Supreme Court in Kerala Bar Hotels Association and Anr vs. State of Kerala and Ors, upheld the prohibition policy of the state and in its judgement, offered no real reason as to why the stratification of society on the basis of money and status should be tolerated. The precedent set in this case is prone to misuse. That an acceptable legal and constitutional classification of individuals based on the wealth and social class/status of an individual exists is not compatible with the democratic principles of liberty, equality and fraternity.

This development presents clearly the ways in which prohibition policies are adapting to renewed social consciousness about their inefficacy. What, in essence started out as a suppression of the freedom of choice of an individual has morphed into a threat to one's right to equality. It is important that we keep note of the price we have to pay for our security and welfare in these times.