

Alcohol: A temporary prohibition needed in COVID 19

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Abstract

India is that the country of diversity however still, there's a presentative unity within the individuals. Being the involved democratic country within the world, it ordered down several duties and took decisive action to prevent corona for saving individuals from this threat of COVID 19 however, providing relaxation in sure things once the entire internment might cause apparent threat within the country at giant. As alcohol outlets are reopened by the government of the Republic of India once the strict internment within the whole country that accumulated large threats to the voters.

Currently, there's a matter before people that, whether or not luxurious life is a lot more necessary than the health of the person?

As a result of this report given by the World Health Organisation (WHO) shows that alcohol might adversely have an effect on the system of a body and as per the article 21 of the constitution of India "right to health" may be a basic elementary right of the person and government has to beware of it.

In India, the alcohol is inserted within the state list through 51st entry in schedule seven of the Constitution of Republic of India as per that, every state has the facility to form their laws, rules & laws associated with the age of drinking & getting, however, it's troublesome to trace the cohort that affects a lot of from. In such a condition there's exactly one choice offered to us, that's to impose a brief ban on alcohol merchandise apart from medication for a definite amount.

Keywords: alcohol, ban, COVID 19, the constitution of India, article 47, WHO

1. Introduction

In COVID 19 pandemic, the government of the Republic of India has taken varied steps to prevent the unfold of unwellness. At the same time, we tend to also be troubled to stay economically stable. For that, the government has reopened the general public market in several places everywhere in the country. During this method, the government is additionally permitting the mercantilism of alcohol within the market. Against this call, a PIL was conjointly crammed within the Hon'ble Supreme Court of the Republic of India.

The Hon'ble Supreme Court rejected PIL on eighth may 2020 to ban liquor's sale & aforesaid, "We won't pass any order however states ought to take into account indirect sell/home delivery of liquor to maintain social distancing." Once this a contemporary legal instrument petition (Ashwini Kumar Upadhyay v. Union of India & others) is crammed before the Hon'ble Supreme Court to ban alcohol thanks to its harmful effects on the body in COVID 19. In the Indian constitution, article 47 talks concerning the prohibition of intoxicating drinks that square measure harmful to health, and Hon'ble Supreme Court has cleared the state's position within.

2. Right to health beneath the constitution of India

Article twenty-one that talks regarding 'Right to Life' conjointly covers the 'Right to Health', and parliament should look out for the health and immunity of the folks for preventing them from diseases. The Constitution of the Republic of India has given such power to the Government within the kind of duty. Article 47 of the directive principles of state policy exactly makes a requirement on the state to boost public health, securing justice, human condition of

works, the extension of illness, old age, bad condition and maternity edges, and conjointly contemplated. Further, the State's duty includes the prohibition of consumption of intoxicating drinking and drugs are injurious to health. But DPSPs are persuasive.

Although, In the case of *Bandhua Mukti Morcha v. Union of India*^[1]

Supreme Court interpreted Right to Health and brought it into the ambit of Right to life by observing that:

"It is the fundamental right of everyone in this country, assured under the interpretation given to Article 21 by this Court in Francis Mullin's case to live with human dignity, free from exploitation. This right to live with human dignity enshrined in Article 21 derives its life breath from the Directive Principles of State Policy and particularly clauses (e) and (f) of Article 39 and Articles 41 and 42 and at the least, therefore, it must include protection of the health and strength of the workers, men, and women, and the tender age of children against abuse, opportunities and facilities for children to develop in a healthy manner and conditions of freedom and dignity, educational facilities, just as humane conditions of work and maternity relief. These are the minimum requirements that must exist to enable a person to live with human dignity, and neither State nor the Central Government has the right to take any action which will deprive a person of the enjoyment of these essentials".

While endorsing what has been said above, we would refer to Article 47 in Part IV of the Constitution. This Article has laid stress on the improvement of public health and the prohibition of drugs injurious to health as one of the primary duties of the State.

Along with this, hon'ble Supreme Court in case of *Consumer Education & Research Center V. Union Of India*

[2] held that right to health was an integral factor to lead a meaningful life and for the right to life under part III of the constitution.

3. Alert issued by who

Whereas, the World Health Organization has also passed a tenant for acknowledging the public about the adverse effect of alcohol in this difficult time of corona by saying that 'Alcohol has a harmful result on your system and cannot stimulate immunity and virus resistance. Avoid alcohol altogether so that you are not undermining your own system and health and don't risk the health of others [3].

Even it might be dangerous for the individual moreover as for the people that enclosed him. Even it could be dangerous for the individual as well as for the people who surrounded him. The news headlines that came out when reopening of liquor retailers were worrisome, folks supposed to follow instructions for reducing threat however compromise has been shown on their half alongside this in Feb 2020, associate degree ignominious call was adopted by WHO government board that known international burden alcohol.

4. Liquor Laws in Indian Territory

As we have an idea that in India, the alcohol is a part of state list given beneath 51st entry of the 7th schedule of the Indian Constitution, the Indian Constitution, that permits every state has power to create their laws associated with the age of drinking and buying however this diversification in every state doesn't make any sense, as a result of this diversification isn't likely to assist the state's government to save lots of the general public from COVID 19.

In one of the recent study done by the International Institute of Population Sciences, Mumbai metropolis gave statics as per that hour of the overall corona patient belongs to the age bracket of 35-64 years regarding 2.3% of deaths are beneath fifteen years, 12.8% are within the 15-44 age bracket, 48.2% deaths are within the 45-64 age bracket and 36. 8% are in the 65 age bracket, during this state of affairs having an honest system of the body, is that the sole thanks to fight against COVID nineteen pandemic and alcohol beverages cause to cut back the strength of the body [4].

Within a previous couple of decades, a high boost has been noted down in no. of the drinkers in the Republic of India, majorly children have an enormous attraction towards these items. this can be cleared in an exceedingly survey done by leading non-governmental organization Community Against Drunk Driving (CADD) unitedly with the Old Delhi Police and National Crime Records Bureau, the survey comes at a time once the Old Delhi government is mulling to cut back the age from twenty-five to twenty-one, The survey found underage drinking has gone up by twenty two.5 % since 2012 within the age bracket of 18-25 years.

Despite it, there are over seventy million folks in the Republic of India who wish to have alcoholic beverages frequently or often. In such conditions reopening liquor retailers associate degree continues to sell alcoholic beverages even when an alert issued by the WHO is sort of a dangerous try.

5. Judicial Interpretation of Article 47 of the Indian Constitution

In the Indian constitution, article 47 talks about the prohibition of intoxicating drinks which are harmful to health, and the Hon'ble Supreme Court has cleared the

state's position in the respect of article 47 of the constitution of India in various cases.

In the case of *State of Bombay & another v. F.N. Balsara*, [5] it's the control that Article 47 of the Constitution, that contains one in all the directive principles of State policy, provides that "the State shall regard the raising of the extent of nutrition and therefore the normal of living of its folks and therefore the improvement of public health as among its primary duties and, especially, the State shall endeavor to create prohibition of the consumption, apart from healthful functions, of intoxicating drinks and of medication that square measure injurious to health".

This article has no direct bearing on the Act which was passed in 1949, but a reference to it supports to some extent the conclusion that the idea of prohibition is connected with public health, and to enforce prohibition effectively the wider definition of the word "liquor" would have to be adopted to include all alcoholic liquids which may be used as substitutes for intoxicating drinks, to the detriment of health.

In another case of

State of U.P. v. Synthetics & Chemical Ltd. & others, [6] Hon'ble Supreme Court held that the absolute prohibition on manufacturing & selling is permissible and the only exception is medical preparation. The Hon'ble court understood the judgment of the state of urban center v. F.N. Balsara and article 47 of the constitution.

In the present scenario, once prohibition is in want for the sake of health, the govt should use the facility delegated to them by the provisions of the constitution.

6. Conclusion

Article 21 provides the 'RIGHT TO LIFE' which incorporates 'RIGHT TO HEALTH' similarly. As per the cases and reports mentioned on top of, it's clear that alcohol is one in every of the foremost harmful substance for the health within the present scenario thereupon it's conjointly clear from the compass of article 47 of the constitution that, the government has power and duty to ban liquor for a certain period. Indian judiciary has interpreted article 47 in such a way that it will provide benefit public at large by keeping health condition and complications in mind. At present time luxurious life could set aside for enjoying basic rights first.

7. References

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2. Consumer Education & Research Center v. Union of India, SCC, (3) 42, 1995.
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6. State of U.P. v. Synthetics & Chemical Ltd. & others, AIR SC 614, 1980.