

Economic Impact Analysis of Supreme Court Judgment¹ Prohibiting Sale of Alcohol on Highways

This Policy Brief is the summary output of a study conducted in select locations in UP, Delhi, Haryana and Rajasthan for NITI Aayog on the economic impact of the Supreme Court's judgment prohibiting sale of alcohol within a distance of 500 metres from highways, subsequently amended twice to ease the barrier.

The study did not show any reduction in drunken driving cases. On the other hand, it showed that retail outlets suffered economic and job losses due to reduction in sale of alcohol while state revenues contributed from the select locations did not register any significant negative impact.

In a stretch of 1000 kms of highways passing through locations with similar socio-economic backgrounds, we estimate the losses to be nearly INR 500 crores. It cannot be extrapolated to the whole country because of regional variances but the estimates of the hospitality industry are that nationally it has costed them INR 10,000 to 15,000 crores and job losses of 100,000.

In order to reduce accidents due to drunken driving, the apex court could have appointed an expert committee to examine the issue in depth and then taken action, as it has done in the case of road safety, etc. rather than rushing into such a drastic judgement.

INTRODUCTION

On December 15, 2016, the Supreme Court of India, in the case: State of Tamil Nadu Vs. K. Balu and Anr., passed a judgment prohibiting sale of alcohol upto 500 metres from the outer edge of National and State Highways across India to rein in accidents due to drunken driving. In the subsequent order on March 31, 2017, the distance for the outlets which fall within jurisdictions of local bodies with a population of less than 20,000 was reduced by the Supreme Court to 220 meters from the outer edge of highways.

Further, on July 11, 2017², the Supreme Court exempted highways under the municipal jurisdiction from the purview of the above judgment.

Since India is one of the fastest growing alcohol markets in the world, growing at a compounded annual growth rate (CAGR) of 8.8% and is

¹ State of Tamil Nadu Vs. K. Balu and Anr.

² Arrive Safe Society Vs. the Union Territory of Chandigarh & Anr.

expected to reach 16.8 billion litres of consumption by the year 2022³, any discontinuence in business is likely to cause significant disruptions.

This study looks at the economic impact of the above judgment and effect of the same on drunken driving in select locations, flanking select highways in four states namely Uttar Pradesh (Meerut and Ghaziabad), Delhi, Haryana (Rewari and Gurugram) and Rajasthan (Jaipur and Alwar)⁴. Due to time and budget constraints, a countrywide impact of the judgment could not be analysed.

With regards to the economic impact, there are mainly two components that have been analysed in each state. These are, '**Impact of the judgment on State Revenue**' and '**Impact of the judgment on retail outlets**' which mainly include vends, clubs, bars, restaurants and hotels, amongst others. The notional economic impact of the judgment is calculated for the retail outlets in the select locations through which the highway stretch passes.

The State Revenue analysis further focusses on two aspects, namely **Excise Duty** and **License Fee** as these are the two main revenue components for respective excise departments in the four states.

The study measures the impact of the aforementioned judgment from April, 2017 to September, 2017. The above period was chosen because the aforementioned judgment of December 15, 2016 allowed the existing licenses to continue up to March 31, 2017 and later revised the same to September 30, 2017. Further, hotels and restaurants were brought into the purview of the judgement on March 31, 2017. The study period also considers the impact of Supreme Court's order dated July 11, 2017 which exempted highways falling within the local bodies of 20,000 or less.

THE ANALYSES

The total economic loss of retail outlets (retail vends, hotels and bars) in the select districts through which the 362 Kms highway stretch passes is estimated to be approximately **INR 180 Crores**.

³ <https://www.businesswire.com/news/home/20171122005374/en/Indian-Alcohol-Consumption-Report-2017---Focus>

⁴ NH 58 passing through Ghaziabad and Meerut in Uttar Pradesh, NH 24 passing from Uttar Pradesh to Delhi, Highways passing through municipal areas of Delhi and NH 8 from Delhi, Haryana (Gurugram and Rewari) to Rajasthan (ending at Jaipur)

Detailed Estimated Impact on Retail Outlets						
Sr. No	Particulars	Uttar Pradesh	Delhi	Haryana	Rajasthan	Total
Estimated Impact on Retail Vends						
1.	Foreign Liquor	24.28	-98.56	-59.26	38.62	-94.92
2.	Country Liquor	NA	NA	-2.10	-3.82	-5.92
3.	Beer	6.49	NA	-63.24	13.95	-42.80
	Total (In INR crores)	30.77	-98.56	-124.60	48.75	-143.64
Estimated Impact on Hotels and Bars						
Impact on Procurement						
1.	Foreign Liquor	-0.08		-0.05	-1.11	-1.24
2.	Beer	-0.78	NA	-0.12	-0.21	-1.11
	Total	-0.86		-0.17	-1.32	-2.35
3.	Impact on Revenue*	-3.70	-23.24	-4.80	NA	-31.74
4.	Impact on Revenue (in %)	-20-30%	-25-50%	-30-40%	-20-30%	-20-40%
5.	Estimated Job Loss in Hotels and Bars	30	225	103	N.A.	30
Aggregate Estimated Impact						
		26.21	-123.80	-129.58	47.43	-179.74
Estimated Impact on State Revenue						
	Impact on State Revenue	-0.38	-62.96	78.21	37.66	52.53
Source: CUTS Analysis						
*Based on data provided by Federation of Hotels and Restaurant Association of India (FHRAI) and field survey conducted						

Hence, for every 1000 kilometer of similar highway stretch which passes through contiguous regions with similar socio-economic and cultural backgrounds, the notional negative impact on the business for the period from April to September, 2017 could be estimated to be around INR 496 Crores.

Aggregate Estimated Impact on Select Districts in Four States		
1. Aggregate Estimated Impact in select districts	In INR Crores	-179.74
2. Notional Impact per kilometre of highway	In INR Crores	-0.496
3. Estimated Impact per 1000 Kms of highway	In INR Crores	-496.54
<i>Source: CUTS Analysis</i>		

From the evidence provided in the study, it can be concluded that significant adverse economic impact was felt at the retail outlet level. Whereas, the state revenue did not see any significant negative impact except in Delhi. In Delhi, considerable excise duty was forgone with respect to only 97 retail outlets. In other words, Delhi has a total of 1773 retail outlets, 97 of which were adversely affected and the findings suggest that in Delhi when a retail outlet is shut, there is no excise duty collection as well.

Revisions in components like Excise Duty and License Fee help to keep the state revenue afloat. Even in a state like Maharashtra, revenue from excise for 2017-18 saw an increase despite a fall in consumption of alcohol⁵.

The impact of the judgment could vary from region to region. Hence, a nation-wide impact of the judgment would be difficult to estimate without a granular study like the above. However, the hospitality industry, which came into the purview of the judgment on March 31, 2017 which clarified that the order applies not only to shops but also to bars, hotels and restaurants, stated an estimated impact of the judgment to be nearly INR 10,000-15,000 Crores and job losses of 100,000. Even NITI Aayog CEO, Amitabh Kant, tweeted that the ban will adversely impact the whole tourism sector and thus the job losses maybe in the range of one million⁶.

Further, ambiguities in the judgment such as lack of clarity on how to measure the distance of 500 metres or 220 metres (as the case may be), have raised questions on implementability of the judgment. This is because the judgment did not clarify whether the distance of 500 metres or 220 metres was motorable or aerial distance. As a result,

⁵[Liquor sale in Maharashtra drops and state revenue increases by 9%](#)

⁶[Liquor ban impact estimated to be INR 65K Crore foregone by state and Hospitality](#)

there have been varied interpretations of the measurement of the distance in order to comply with the judgment. In other words, in many instances the location of a vend has remained the same while the distance to the vend from the highway has been increased to 500 metres or 220 metres (as the case may be).

Overall, the evidence (based on official data as well as primary survey) suggests that there is no significant reduction in drunken driving cases subsequent to the judgment.

Further, the evidence suggests that policing is an ineffective *ex ante* mechanism to rein in drunken driving incidence due to several limitations. Besides, it is also difficult to identify the role of intoxicants other than alcohol in accidents on highways.

THE NEED FOR A SCIENTIFIC IMPACT ASSESSMENT

These facts raise a serious question about the effective implementation of the judgment and therefore it is recommended that when an issue concerns a substantive social as well as economic dimension, the courts in India will do well to assess the impact before making any recommendations.

This could be done by setting up an expert committee under the directions of the Court which may look into the problematique and implementability of the proposed solutions in addition to assessing economic costs. The Supreme Court had established such expert group committees for cases in the past like Supreme Court Committee on Road Safety under the Chairmanship of Justice K.S. Radhakrishnan in 2014 and Justice Lodha Committee set up in 2015 for reforms within Board of Control for Cricket in India (BCCI), amongst others.

In all, the research shows that cases which involve substantial social and economic dimesions need to be studied in detail to assess whether they are implementable in the first place and whether the loss to economy outweighs the gains envisaged. This could be done if Courts set up expert committees to study these aspects which can also engage economists to analyse the cost/benefits before a judgment is pronounced.