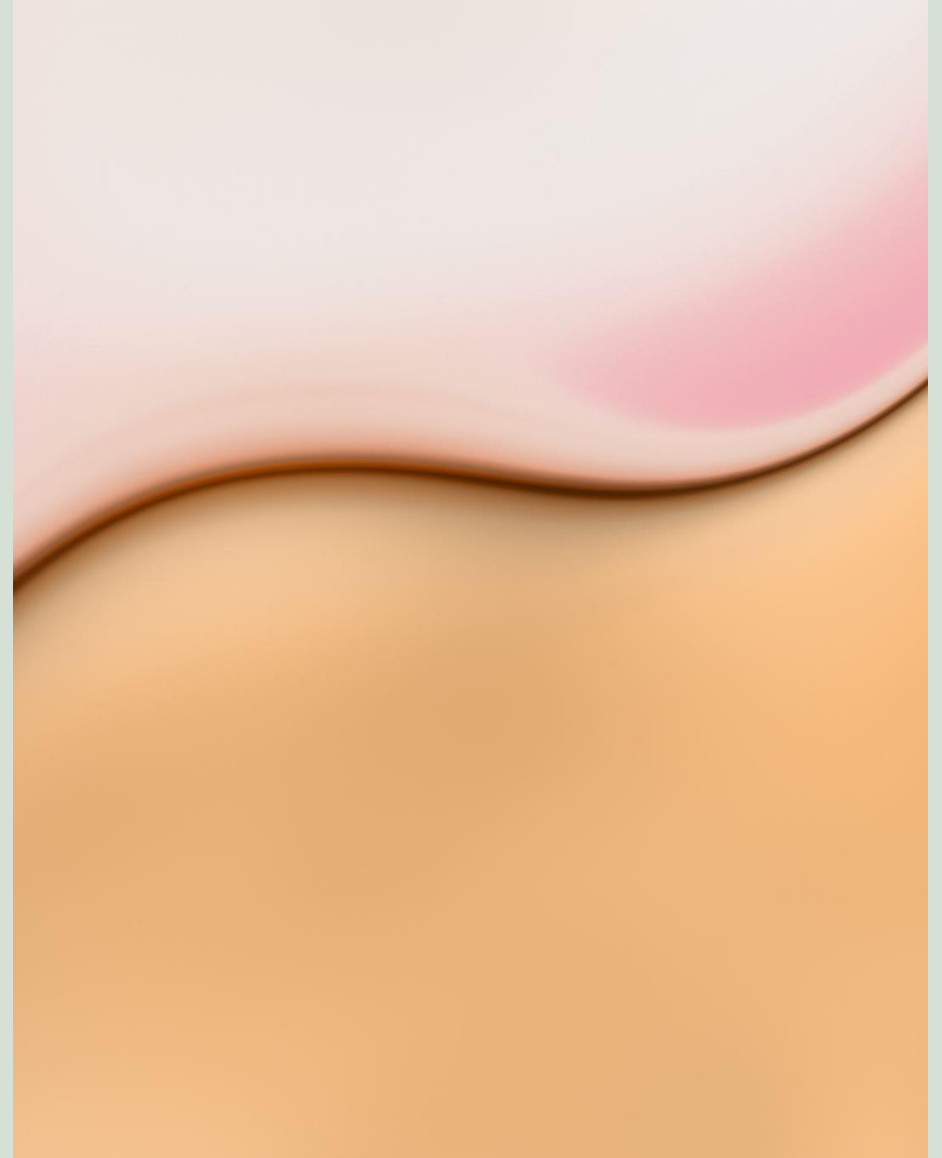

FISCAL POLICY FOR STRIKING RIGHT BALANCE BETWEEN DRINKING MODERATION AND REVENUES

SUBHASH CHANDRA GARG

Economy, Finance and Fiscal Policy Strategist and

*Former Finance and Economic Affairs Secretary,
Government of India*



Alcohol Use is Widespread

16 crore Indians reported to be 'current users' (14.6%)

Of these 5.7 crore were 'problem users' and 2.9 crore 'dependent users'

Females also drink (1.6% of females) but more than one-fourth of males in the age group of 10-75 were found to be consuming alcohol

There are states where more than 50% of the male population was found to be drinking (Chattisgarh 57.2%, Tripura 62.1% and Punjab 51.7%)

In six states, more than 25% of the population (10-75 age group) was found to be drinking

Populous states had also widespread drinking prevalence (UP: 23.8% of all and 45.2% of males)

States Receive Substantial Excise Duty Revenues

2019-20 (Actual)

Rs. 1,61,833 crore (13.2% of States' Own Tax Revenues of Rs. 12,23,993 crore)

2020-21 (Revised Estimates)

Rs. 1,74,916 crore (14.9% of States' Own Tax Revenues of Rs. 12,41,117 crore)

2021-22 (Budget Estimates)

Rs. 2,17,968 crore (13.67% of States' Own Tax Revenues of Rs. 15,94,665 crore)

Constitutional Mandate is for Striking a Balance

- States have full executive power and legislative competence for 'Intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors". (Entry 8 State List)
- States also have similar taxation power and competence for levying 'Duties of excise on following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in India:- (a) alcoholic liquors for human consumption; (b) opium, Indian hemp and other narcotic drugs and narcotics;" (Entry 51 State List)
- States are also bound by the Directive Principles of State Policy. Article 47 of the Constitution enjoins: 'The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, 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 health'.

Is There a Good Argument for Prohibition ?

- Some people argue that drinking alcohol is bad for individual, family and social health; In addition, some argue that drinking is immoral.
- These people believe that if the state exercise its inherent powers- privilege, police power etc.- and prohibits production and consumption of intoxicating liquors, the people's health and their morals could be saved- if you don't have access to liquor, how would you consume it?
- While public health is state's concern, individual's and family's health is primarily their concern and responsibility. Sugar is bad for health, should sugar be banned? Why should state get into individuals' food and drink choices?
- Consumption of food or drink by anyone cannot, however, inconvenience or adversely affect any other person.
- Prohibition is a bad policy choice; regulation of sale and consumption of liquor is better

Prohibition is Neither Necessary Nor Effective in Controlling Drinking

- Consumption of liquor in public, driving automobiles while drunk, consuming liquor in excess can spill over in social space and cause injury to others. Such consumption is quite small and can be regulate. Prohibition is not necessary for achieving this objective.
- Rajasthan which does not have prohibition has 2.1% of population in age group 10-75 which drink. Gujarat which does have prohibition for decades has 3.9% of population which drink. Is prohibition necessary for low liquor use?
- Alcoholic drinks are numerous- with very low alcohol content to very high content. Prohibition is a blunt measure, which treats every drink same.
- Prohibition is impossible to implement effectively. Liquor sale in Rajasthan's districts bordering Gujarat is much higher per capita. Many Gujaratis come to cities and travel towns in Rajasthan for drinking. Exempted islands also spill.
- Prohibition invariably gives rise to smuggling and boot-legging. Also, to illegal brewing of liquors- mostly in more unsafe and risky conditions. Non-potable alcohol's consumption also takes place.
- Almost invariably, the prohibition fails.

Prohibition Eviscerate Revenues and Burdens State with Additional Expenditures

- The moment a state introduces prohibition, state's excise revenues evaporate. Gujarat's excise revenues were paltry Rs. 138 crore in 2019-20. So were Bihar's: Rs. -4 crore in 2019-20 and zero thereafter.
- Gujarat's neighbouring states of Rajasthan and Maharashtra had much higher excise revenues in 2019-20: Rs. 9,592 crore and Rs. 15,429 crore respectively.
- Likewise, Bihar's neighbouring states of Uttar Pradesh and Jharkhand had higher excise revenues in 2019-20: Rs. 27,325 crore and Rs. 2009 crore.
- While revenues evaporate, state's expenditure on enforcing the prohibition goes up sharply- on cracking down on smugglers, bootleggers and illegal brewers, on arresting, prosecuting and keeping the offenders in jail and so on.
- There is good evidence of courts also getting clogged up for trying such offenders.
- There is also cost in terms of losing tourist revenues, investments etc.
- The state has also to step up expenditure on treating problem and dependent users.

Judiciary Has Generally Struck a Good Balance

- Judicial pronouncements have struck a good balance on the issue.
- There is no fundamental right to manufacture and trade in liquors and spirits.
- State has complete privilege and authority in the matter- prohibit, freely permit or permit under regulated conditions.
- Once a state decides to permit manufacture, trade and consumption of liquors and spirits, it decide to do it itself, do it through its agencies or private agencies. But cannot organise the business in arbitrary manner violating Article 14.

- Sometimes, Courts have sometimes adopted moralistic and social reformist positions. Supreme Court's decision in the case of *State of Tamilnadu Vs. K Balu & Anr.* to ban sale of liquor within 500 meters of national and state highways was one such decision.
- This judgement caused major disruption in the conduct of excise policy and led to loss of revenues and also investments.
- As the judgement was based more on emotional considerations more than rationale, there were severe deficiencies which the Court had to rectify during the period the judgement remained in force.
- Still, the basic issue of what distance is 500 meters- by straight measure (as the crow flies) or the distance covered by a vehicle driving on the highway to reach to the liquor shop was never clarified.
- There was also no convincing nexus between purchase of liquor from a shop on the highway and drunk driving.

Regulation and Better Management of Intoxicating Liquors is a Better Option

- Prohibition is a bad policy.
- State's policy should leave the decision regarding consumption of alcohol to the judgement of individual and family concerned (social and religious leaders intending to promote abnegation of liquor should guide their followers).
- State should focus on regulating and controlling spill-overs of drinking into public spaces. No or regulated drinking in public, no drunk driving, no public brawl etc. The laws should prescribe appropriate criminal liabilities for such behaviour and actions.
- Such a regulated and managed regime for alcohol would not only control the abuses and adverse personal and social consequences of inappropriate drinking but would also not adversely affect fiscal revenues.

Thanks.

- 1. All data relating to alcohol use are from the report on **MAGNITUDE OF SUBSTANCE USE IN INDIA 2019** published by the Ministry of Social Justice and Empowerment Government of India*
- 2. All data relating to excise duty and states' own tax revenues are from RBI Report on State Budgets 2021.*

Subhash Chandra Garg
suchgarg60#@gmail.com
