

Alcohol And Crime: An Insight Into The Criminal Behaviour Of Chronic Alcoholic Offenders In India

Prof. (Dr.) Sonia Grewal Mahal^I, Prof. (Dr.) Manpreet Grewal^{II}

^I Professor in Law, Chandigarh Law College, Chandigarh Group of Colleges, Jhanjeri.

^I Professor and Principal, Chandigarh Law College, Chandigarh Group of Colleges, Jhanjeri.

ABSTRACT

Alcoholism in India has become a matter of grave concern as it has various adverse immediate and long-term consequences. Hazardous drinking is associated with increased risk of severe health problems. Alcoholism and drug abuse by people is coupled with serious risks: personal, health, academia, safety relationships, drug addiction to name a few. The most significant risk is the connection between alcohol, drugs and crime. Excessive alcohol intake is often associated with serious crimes like murder, rape, robbery, aggravated assault, burglary, larceny / theft, serious motor vehicle offences with dangerous consequences, arson, domestic violence etc. Alcoholism has played a potential role in the increased violence against women especially relating to sexual offences. There is a close and distinct relationship between alcoholism and the increasing tendency of criminal behavior amongst Indians. To effectively confront the grave problem of alcohol related crimes, a multipronged balanced approach needs to be adopted of public education, professional training, increased assessment and referral for treatment, expanded access to treatment, recovery housing and recovery support. State must also try its best to implement effectively the laws relating to curbing the menace of alcohol and related crimes. Stricter traffic laws need to be implemented in a serious manner. It is high time that India moves on the path to combat the monster of alcoholism and related crimes in the country.

Keywords: Alcoholism, Intoxication and Related Crime, Criminal Behaviour.

INTRODUCTION

The state of alcoholism in India is a matter of serious physical and psychological dependence which interferes with the physical and mental health and the social, economic and familial

^I Professor in Law, Chandigarh Law College, Chandigarh Group of Colleges, Jhanjeri.

^{II} Professor and Principal, Chandigarh Law College, Chandigarh Group of Colleges, Jhanjeri.

responsibilities not only of the person indulging in the frequent consumption of the alcoholic beverages but the people associated with him. This menace of alcoholism has been tremendously increasing in the developing countries like India since the 1980's. India has witnessed dangerous patterns of excessive alcohol intake leading to intoxication related higher levels of risks involved. The Global Status Report on 'alcohol and health', 2014, compiled data taking into consideration persons who consumed alcohol and who were above 15 years of age, released by the World Health Organization (WHO) revealed that the amount of alcohol consumption has risen in India between the period of 2008 to 2012.¹ An alarming revelation made was that over 11 percent of the population in India indulged in heavy or binge drinking while globally the figure stood at 16 percent. It was further brought forth that around 30 percent of the total population of India consumed alcohol in the year 2010. 93 percent of alcohol was consumed in the form of spirits, followed by beer with 7 percent and less than 1 percent of the population consumed wine. In terms of alcohol consumption, it was Kerala which led the Indian states followed by Maharashtra and Punjab. An average individual above the age of 15 years consumed over 8 litres of alcohol per annum. India was also rated 4 on a scale of 1 to 5 on the 'years of life lost' scale which is based on alcohol attributable years of life lost. This indicates that alcohol consuming population of India loses most of the years of their life due to drinking and its harmful consequences².

India has been identified as the third largest market in the world for its alcoholic beverages with high level of alcoholic contents due to its beaming population which has paved way for many multi-national liquor companies to invest in India. According to the Indian Alcohol Policy Alliance per capita consumption of alcohol in India has increased by 106.7 percent over the period of 15 years between the span of 1970 to 1996. The rate at which the sale of alcohol is growing is 6 percent per annum and it is estimated that shortly this rate is going to increase to 8 percent per year. Alcohol use among youth is increasing from 23-36 yrs in 1950 to 1960 to 19-45 yrs in 1980 to 1990.³ The reasons attributed towards this growing trend is changing social norms, urbanization, increased availability, high intensity mass marketing, relaxation of overseas trade rules along with poor level of alcohol related awareness.

ALCOHOLISM: A PEEP INTO ITS LONG-TERM CONSEQUENCES

Alcoholism in India has become a matter of grave concern as it has various adverse immediate and long-term consequences. Hazardous drinking is associated with increased risk of severe health problems. About 15 percent to 20 percent of traumatic brain injuries were related to alcohol use; 37 percent of injuries in a public hospital were due to alcohol; 7.6 percent of psychiatric emergencies were caused due to alcohol; 34 percent of those who attempted suicide were abusing alcohol. Excessive alcohol use can lead to development of chronic diseases and neurological impairments.⁴ About 20 percent of absenteeism and 40 percent of accidents at job place are related to alcohol. Annual loss due to alcohol was estimated to be 70,000 to 80,000 millions.⁵ It was also observed that 35 percent of men became violent towards their wife after consumption of alcohol. Alcoholism is a major factor in child maltreatment and neglect cases.⁶ Around 3 percent to 45 percent of the household expenditure is spent on alcohol. Engaging in alcoholism increases indebtedness and reduces the ability to sustain the family. Consumption of excessive alcohol also causes miscarriage and still birth among pregnant

woman and a combination of physical and mental birth defects among children which last throughout the life.

ALCOHOLISM AND CONSEQUENT CRIMINAL BEHAVIOUR

It is quite evident that alcoholism and drug abuse by people is coupled with serious risks: personal, health, academia, safety relationships, drug addiction to name a few. The most significant risk is the connection between alcohol, drugs and crime. Alcohol impinges on crime from several directions. Some offenses are defined in relation to alcohol, concerning the degree or manner of consumption permitted. Other offences are increased in frequency by the effect of alcohol on the perpetrator or in some cases, the victim⁷.

There are three types of alcohol or drug related criminal offences:⁸

1. Alcohol and Drug Defined:

These offences relate to violation of laws prohibiting or regulating the possession, use, distribution or manufacture of alcohol or illegal drugs. For example, alcohol or drug possession or use, providing alcohol to persons under the age of 21, cultivation, production, distribution or sales of illegal drugs.

2. Alcohol and Drug Related

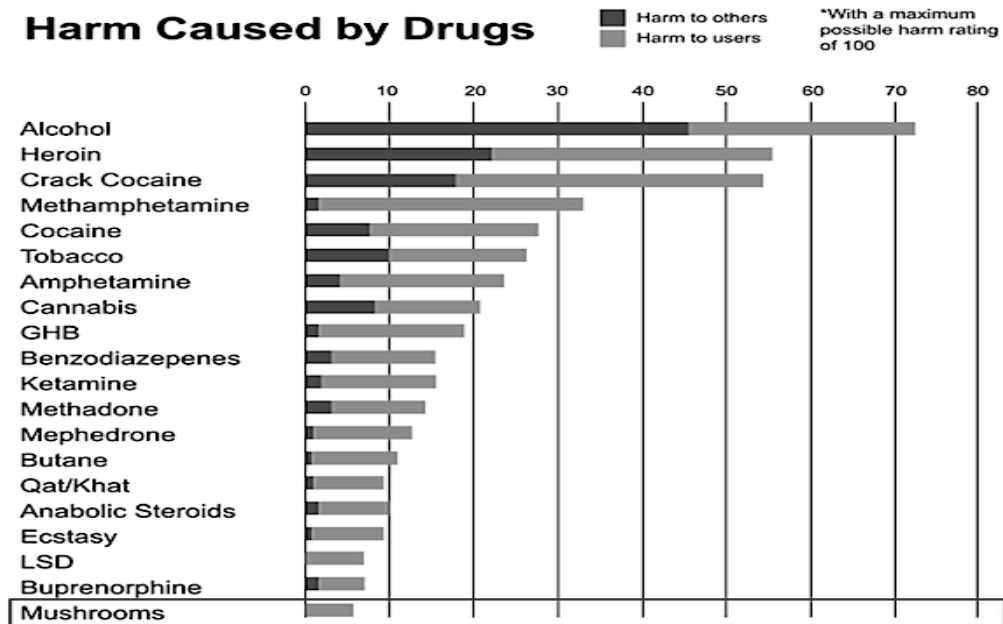
These offences relate to violation of laws as a result of being under the influence of drugs or trying to get cash by illegal means to pay for drugs. For example, criminal behavior resulting from the ill effects of alcoholism: fights, theft, vandalism, violence against family and friends and rival groups, sexual offences, drunken driving, accidental deaths etc.

3. Alcohol and Drug using life styles

These offences relate to violation of law as a result of living a life style where a person may not have an independent job or source of income and is imposed to individuals or situations which encourage crime. For example – The relationships developed through the use of alcohol, the individual has more opportunities to violate the law and learn criminal skills from other offenders.

There are various types of harm caused by intake of different drugs but statistics have evidenced that amongst them alcohol have caused the maximum harm. Excessive alcohol intake is often associated with serious crimes like murder, rape, robbery, aggravated assault, burglary, larceny / theft, serious motor vehicle offences with dangerous consequences, arson, domestic violence etc.⁹ Thus, alcoholism and criminality are closely linked.

Figure-1



Source : A study in 2010 asked drug-harm experts to rank various illegal and legal drugs. Alcohol was found to be the most dangerous by far.¹⁰

ALCOHOL AND CRIMINAL VIOLENCE: -

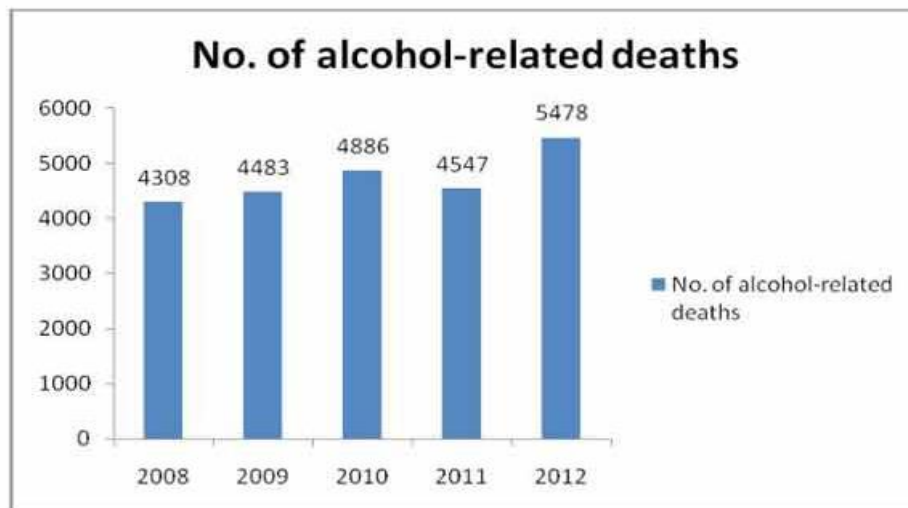
Alcoholic consumption is widely believed to be a precipitator of violent behavior as it impairs one’s decision-making capacity. The victims are often well known to the perpetrator which includes spouses, children and friends. When the victim is the spouse alcohol is a factor as much as 75 percent of the time¹¹. Alcohol consumption is cited also as a common correlate of violence committed by the teenagers. During the past few decades, violence committed by and against teens has become a serious problem. Violent intimidation of youths between the ages of 16 years to 19 years has been increasing since 1970’s. For all types of violent crimes, teenagers in this age group suffer higher rates of victimization than any other age group.¹² A wide range of factors contribute to the culture of violence faced by today’s teenagers. Amongst them environment, family structure, peer behavior and use of alcohol and drugs finds clear mention. The youth who drink are more likely to engage in risk taking behavior that can result in illness, injury and death according to (Harwood et.al, 1998)¹³ Individual under the age of 21 years commit 45 percent of rapes 44 percent of robberies and 37 percent of other assaults and it is estimated that 50 percent of violent crime is alcohol related.¹⁴ There are four adverse consequences of alcohol consumption that serve as indicators of violence: getting into trouble with the police or residence or other college authorities, damaging property or pulling a fire alarm, getting into an argument or fight and taking advantage of others sexually. Thus acute consequences of heavy drinking include culpable homicide, assault, grievous hurt, suicide attempts, sexual assaults, rape and vandalism.

DRUNKEN DRIVING: ACCIDENTAL DEATHS AND TRAFFIC VIOLATIONS:

Drunken driving is a growing menace particularly amongst the youth which has led to increase in the number of road accidents and consequent injuries and deaths. In 2000, 69 percent of the

youth who died in alcohol-related traffic fatalities involved young drunken drivers. It is a matter of serious concern not only for the young drivers but also innocent victims. According to 2012, Report published by two experts in the IRACST (International Journal of Research in Management and Technology), India has the dubious distinction of having the most number of fatal road accident in the world, the Report discloses that “India account for about 10 percent of road accident fatalities worldwide”, and it further adds, “A major contributor to traffic deaths is drunk driving responsible for 70 percent of road fatalities.”¹⁵

Figure-2 Total Number of alcohol – related deaths in India



Source: NCRB

Table -1 Year on Year increase in the total number of alcohol – related deaths.

Year	2007	2008	2009	2010	2011	2012
Total number of deaths	4042	4308	4483	4886	4547	5478
Y-o-Y increase (%)		6.6%	4.1%	9.0%	-6.9%	20.5%

Source: NCRB

All cases of traffic violations including drunken driving are seriously dealt with generally with the help of the provisions of Motor Vehicle Act 1988 and the Indian Penal Code 1860. In cases of drink driving the vehicle is impounded and the driver is made to undergo a breath analyzer test. He is taken to a hospital where a doctor issues a certificate on his inebriated condition. The driver is challaned and he pays the penalty in court and redeems his vehicle while conceding that alcohol results in drunken brawls murder and accidents, they fell prohibition could lead to other problems. The habituated drinkers will find away to get their daily fix and this has led to thriving black market. The best way out is to make enforcement of traffic laws stricter, smart cards may be introduced in which violator by individual are recorded and on crossing the threshold, the violation shall loose his / her driving license permanently.

ALCOHOL AND SUICIDAL BEHAVIOUR

Alcohol is implicated in a large proportion of unintentional deaths and injuries caused by other forms of dangerous behavior than driving. Drinking not only increases one's risk of being involved in a traffic accident or suffering another unintentional injury, it is also implicated in deaths and injuries associated with violence and suicidal behavior. Frequent heavy alcohol use is associated with increased feelings of hopelessness, suicide ideation and suicide attempts. A survey in 2000, has revealed that 36 percent of homicides, 12 percent of male suicides and 8 percent of female of suicides took place involving people under the age of 21 years (i.e. a total of about 1500 homicides and 300 suicides).¹⁶ There is a high rate of suicide in alcoholics and other drug abusers. The reasons believed to cause the increased risk of suicide include the long-term abuse of alcohol and other drugs causing physiological distortion of brain chemistry as well as the social isolation. Another factor is the acute intoxicating effects of the drugs may make suicide more likely to occur. Suicide is also very common in adolescent alcohol abusers, with 1 in 4 suicides in adolescents being related to alcohol abuse.¹⁷

ALCOHOL: DOMESTIC VIOLENCE AND CHILD ABUSE

Focusing at the familial level, it is found that alcohol use has led to spousal abuse¹⁸. There are different shades of domestic violence: physical, mental economic and social in nature. Severe acts of physical domestic violence include wife battering – biting, kicking, choking, hitting, fisting or threatening with the use of deadly weapons.¹⁹ According to the report of Indian Alcohol Policy Alliance, “85 percent of men who were violent towards their wives were frequent or daily users of alcohol. More than half of the abusive incidents took place under the influence of alcohol. An assessment showed that domestic violence reduced to one tenth of previous levels after alcohol treatment.”²⁰ A study conducted by National Institute of Mental Health and Neuro Sciences, Bangalore and sponsored by World Health Organization shows that 20 percent of women reported domestic violence and 94.5 percent of women identified their husband's alcohol consumption as a risk factor in incidents of domestic violence.²¹

The children of the family are also at a risk of alcohol related violence. There have been frequent incidents of child abuse due to alcoholics. Parental alcohol consumption may have other negative ramifications for child's health. It has been further observed that the children of substance abusing parents are more likely to have behavior problems that may lead to psychiatric disorders, delinquency or violent behaviors in later child hood and adolescence. The alcohol consumption has a direct impact on parenting ability and the amount of time parents spend with their offspring and therefore adversely affects children's well being. However, the relationship between parental substance use and children's mental health may be a result of factors that determine outcomes such as parental psychiatric disorder, individual personality or home environment.

Maternal drug and alcohol consumption also has a direct impact on the child's health and behavior problems²² especially in early childhood. Maternal excessive alcohol consumption or on the other hand the cruel treatment meted out to her by the abusive alcoholic husband may sometimes create severe situations of child miscarriage too which is again made punishable under our India criminal law. The marital violence and consequent child abuse perpetrated by

excessive intake of alcoholism has seen an increasing trend which needs to be curbed strictly to safeguard the social pious fabric of Indian familial system.

ALCOHOL AND SEXUAL OFFENCES: -

Alcoholism has played a potential role in the increased violence against women especially relating to sexual offences 85% crime against women due to alcoholism. The Report further quotes that, "Alcoholism plays a major role in 70-85 percent of offences against women. The survey was recently conducted, based on national crime records bureau data, according to which 2,026 girls and women in 2014 were sexually exploited, 1423 were kidnapped, 1286 were raped, and 11206 faced several forms of violence and crime." Thus sexual violence and unprotected and unplanned sexual activity constitute another set of alcohol related problems. Most of the cases reported relating to data rapes, sexual assault amongst the youth are the consequences of alcoholic indulgence by the assailants and sometimes even the victims. Involving into unprotected sex, especially by the young and naive generation, under the influence of alcohol has severe repercussions in the form of unprotected pregnancies leading to illegal miscarriages, health related problems like contracting sexually transmitted diseases like HIV and their negligent spread which can also lead to public nuisance.

According to a survey relating to individuals under the age of 21 years they have committed 45 percent of rapes 44 percent of robberies and 37 percent of other assaults and it is estimated that 50 percent of violent crimes are alcohol related²³. Further a report by the National Center on Addiction and substance abuse (1994) found that 90 percent of the college rapes involve the use of alcohol by the assailant, the victim or both²⁴. It is also studied that 44 percent of men have been drinking when they committed a sexual assault.²⁵

We can witness the alarming revelation regarding sexual abuse like rape, sexual assault, molestation, indecent assault in the newspapers every day and a peep into most of them bring forth the fact that alcohol is one of the major precipitator behind these offences as it impairs the decision making power, self-control and sensibility of the assailant / perpetrator as reinforced by the observations of the National Institute of Mental Health and Neuro Sciences (NIMHANS) that only 32 percent of Indians drink relatively low, out of which 13 percent drink daily. But the problem is not the number of people involved in drinking but the way in which they drink which leads to such irreversible social blunders.²⁶

INDIAN LEGAL PROVISIONS CURTAILING THE MENACE OF ALCOHOLISM AND RELATED CRIMES

Alcohol is used as social lubricant and relaxation facilitator, which provides pharmacological pleasure but when the same alcohol is misused, it turns into an evil, which is sufficiently inflammable to bur the families, society and country.²⁷ The Indian Parliament from time to time has enacted various laws to curb the evil head of the monster of alcoholism which is eating into the vitals of the Indian Society. To name a few important legislations and concerned provisions under them: -

The Motor Vehicle Act, 1988 (MVA)

Sections 185, 188, 202, 203, 204 and 205 of the Motor Vehicle Act, 1988 have tried to arrest the growth²⁸ of accidental deaths and injuries occurring due to drunken driving. Section 185²⁹ of the Motor Vehicle Act, 1988 provides for punishment for driving under the influence of drinks and drugs. This provision states that if a person who is driving or attempting to drive a vehicle has been detected with alcohol content of 30 mg per 100 ml of blood or was unable to control the vehicle as was under the influence of a drug, shall be severely dealt with. While section 188 of the Motor Vehicle Act makes provision for the punishment of abetment of offences under section 185 of the Motor Vehicle Act. Further a police officer has been conferred with the power under section 202 of MVA to arrest without warrant any person who commits an offence under section 185 of MVA i.e. drunken driving, in his presence provided the person so arrested by such police officer shall be made to undergo a medical examination by a registered medical practitioner. If he is not subjected to the same, he shall be released from his custody. Further section 203 of MVA empowers the police officers to require any person driving a motor vehicle in a public place to provide for breath test and if there is found that there is reasonable cause to believe that there is presence of alcohol in his blood or urine the police officer may arrest without warrant. The procedure for laboratory test of blood and urine to be followed by the police officers in suspected cases of drunken driving has been laid down under section 204 of MVA. The suspected person will be required to produce a sample of his blood to the medical practitioner and in case of a female suspected; the same shall be given in presence of a female if the medical practitioner is a male. The result of the laboratory test shall be admissible as an evidence against the accused in the Court of Law. Section 205 of MVA further lays down that the refusal by a driver to submit himself to the breath test or to give his blood or urine sample for laboratory test under section 204 of MVA, without any reasonable cause will amount to a presumption by the prosecution of the driver's unfitness to drive. Stricter implementation of the above mentioned provisions of Motor Vehicle Act 1988, can go a long way in curbing the evil soaring graph of drunken driving and consequent crimes like accidental deaths, injuries, traffic violations etc.

Indian Penal Code 1860 (IPC)

It has been clearly brought forth that alcoholism has a direct and distinct relationship with the criminal behavior of the assailants. The acute consequences of drinking can be seen in the soaring graph of serious crimes like culpable homicide (Section 304 of IPC), death due to rash and negligent Act (Section 304 A of IPC), hurt (Section 323 of IPC), grievous hurt (Section 325 of IPC), assault (Section 351 of IPC), suicide attempts (Section 309 of IPC), rape (Section 376 of IPC), sexual assaults (Section 354 of IPC), public nuisance (Section 268 of IPC) and vandalism. Therefore, intoxicant driven culprits must be severely punished for these offences. In the case of Dasa Kandha Vs State Of Orissa³⁰, the plea of the accused that under the influence of liquor, he could not have formed the requisite intention to commit the murder of the deceased and thus offence be treated as culpable homicide not committing to murder was not accepted. It was further held that the normal presumption is that a man intends the natural consequences of his act unless rebutted by the accused by giving such evidence of drunkenness as might have affected his faculty of understanding to form the requisite intent. In the present

case, the plea was not accepted because of the clear and enough prosecution evidence which established the guilt of the accused.

Further in the case of Sarthi Vs State of Madhya Pradesh³¹, the deceased was made unconscious by the rough handling by the three accused in the state of intoxication. These drunken men had caused grievous hurt to the deceased. The accused apprehended that the person being dead in order to evade any evidence against them hanged him from the ceiling fan without going in to the fact of him being dead or alive. The reckless and gross negligence on the part of these accused under a state of intoxication made these drunken accused liable for culpable homicide. Recently in Salman Khan's Hit and Run Case³², It was found after the blood tests that 62mg alcohol was found in Khan's blood sample which was above the permissible limit and indicated that the actor had taken drinks before the accident which killed a pavement dweller and injured four others. As such the actor charged under IPC Section 304(II) - which attracts a 10-year jail sentence, sections 279, 337, 338, 427, and under Motor Vehicles Act, 1988 and Bombay Prohibition Act, 1949. On 6th May, 2015, the Additional Sessions Judge, Sh.D.W. Deshpande, pronounced the verdict against Salman Khan. Other fatal case which come to light because of drunken driving are that of section 304 A of IPC in the recent BMW Hit and Run case³³. 34-year-old Sanjeev Nanda, grandson of former Naval Chief S M Nanda, had mowed down six people, including three policemen, with his BMW in 1999 under the influence of alcohol.

Another recent case worth mentioning to bring forth as to how alcohol can reduce the strength of mind and how its harmful effect on the mind can lead a person to commit heinous crimes is that of Jessica Lal Murder Case³⁴. On 29th April, 1999, Manu Sharma was at a party in Qutub Colonnade restaurant in South Delhi. Jessica Lal refused to serve him at the bar and Manu Sharma in an intoxicated state fired at her at point blank range with his .22 pistol and killed her. Manu Sharma was arrested and charged for murder, destruction of evidence and other offences. He pleaded the defence of intoxication. In December, 2006, the Delhi High Court ruled Manu Sharma guilty of murder of Jessica Lal and sentenced him for life imprisonment and denied the defence of intoxication to him.. Further on appeal, the Apex Court upheld the conviction. In another leading case of Basudeo Vs State of Pepsu³⁵, Basudeo a retired military jamadar was accompanied by a 15 or 16 years boy to marriage party. The appellant became totally drunk and asked the boy to step aside and give him a convenient seat. On being refused by the boy, in rage and in the state of intoxication he pulled out the licensed pistol in his possession and shot the boy in his abdomen, killing him on the spot. The Apex Court held the appellant liable for murder under section 302 of IPC.

It is also observed that where in a state of drunkenness a person jumps into a well in an attempt to commit suicide probably in a state of frustration to end life, he would be made liable under section 309 of IPC as he was voluntarily drunk and he had not gone so deep under the influence of liquor that he was unaware of what he had attempted. It was in the case of Gian Kaur Vs State of Punjab³⁶ that it was held that 'right to life' does not include the 'right to die' under Article 21 of our Constitution. Thus, right to live with human dignity cannot be construed to include within its ambit the right to terminate natural life at before the commencement of the natural process of certain death. Therefore, section 309 of IPC was unconstitutional.

Another serious repercussion of intoxication is increased indulgence by the alcoholics in sexual offences like rape and molestation. The offenders who had brutally gang raped the 23 year

old physiotherapy intern in the bus in Delhi on the fateful night of 16th December 2012, confessed that they have been drinking continuously at home before that unfortunate incident took place after they hit the road. The reason behind quoting the above mentioned cases is not that alcohol alone is a cause of rape epidemic in India but to understand the co-relation of the drinking problem of India and the consequent ugly problem of increased sexual offences. It is a glaring truth that until and unless we find the factors behind the precipitator of the sexual crimes can we try to arrest their growth and in turn try to decrease the crime rate in our country.

Defence of Intoxication under IPC

Section 85³⁷ and Section 86³⁸ extends an excusable defence of intoxication to the accused of crimes under IPC. The early common law made no concession because of intoxication³⁹. This rigorous law prevailed upto the early 19th Century. But the authors of Indian Penal Code included these sections to extend the defense of intoxication to the accused. However, only involuntary drunkenness can be pleaded as a defense and not voluntary drunkenness. The general rule that merely to show that a man's mind was so affected by drink that he was more readily gave way to a violent passion is no defense⁴⁰This general rule has two exceptions:

1. Delirium tremens and alcoholic dementia which is a case of habitual drinking which occasionally leads to permanent change in the brain tissues as to be accounted as insanity⁴¹.
2. Involuntary drunkenness is a defence. In the leading case on this matter, *The Director Public Prosecution Vs Beard*⁴², a girl of thirteen years was passing by the gate of an old mill when Beard, the watchman of that mill attempted rape on her. When she tried to create alarm for help, the assailant put his hand on her mouth and pressed his thumb over her throat to prevent her from screaming. In this bid, he unintentionally killed her. He was made guilty of culpable homicide. The following principles⁴³were laid down:
 - i. Where a specific intent is an essential element in the offence, evidence of a state of drunkenness rendering the accused incapable of forming such an intent should be taken into consideration in order to determining whether he had infact formed the intent necessary to constitute the particular crime.
 - ii. Insanity whether produced by drunkenness or otherwise is a defense in a crime charged. Where the defence pleaded was that the accused was of unsound mind at the time of commission of the act and the evidence established that he was suffering from delirium tremens resulting from over indulgence in drink, then he would not be criminally responsible.
 - iii. That evidence of drunkenness which renders the accused incapable of forming the special intent essential to constitute the crime should be taken into consideration with the other facts proved in order to determine whether or not he had that intent.
 - iv. The evidence of drunkenness falling short of proved incapacity in the accused to form the intent necessary to constitute the crime, and merely establishing that his mind was affected by drink so that he more readily gave way to some violent passion, does not rebut the presumption that a man intends the natural consequences of his acts⁴⁴.

The leading English law authorities on this subject are R Vs Meade⁴⁵, Gallagher's case⁴⁶ and R Vs Lipman⁴⁷.

In the case of R Vs Meade the accused in a drunken state quarreled with his wife and attacked her and killed her by a blow with his fist. The assailant pleaded drunkenness in his defense. It was pointed out that if a man be too drunk to form an intention to kill or to cause grievous bodily harm he would not be guilty of murder but culpable homicide not amounting to murder. In AG for Northern Island Vs Gallagher, the accused was suffering from a psychopathic disease and his disease when aggravated by consumption of alcohol, and he more readily lost his self-control. When the assailant was sober he expressed his intention to kill his wife and later he purchased alcohol and after consuming the same attacked his wife with a knife and killed her. He raised the defense of drunkenness. Gallagher was committed for the offence of murder because he has formed the specific intent to kill his wife and then pursued his plan accordingly to get drunk and kill his wife.

Dr. H.S. Gour has summed up the law relating to intoxication as-⁴⁸

“Involuntary drunkenness, that is drunkenness caused without one's knowledge or against one's will is an excuse. Voluntary drunkenness is an excuse only as regards the intention. But voluntary drunkenness is no excuse for a crime where requires the mere presence of knowledge as distinct from intention. In any case though voluntary drunkenness is no excuse for knowledge it does not imply actual knowledge giving rise to the inference of particular intention.”

Right of Private Defence against an Act of an Alcoholic

Further the basic principle under lying section 98 of IPC is that the right of private defense does not depend upon the actual criminality of the aggressor but on the wrongful character of the act attempted. If the act is otherwise an offence, the right of private defence arises against the author of the act, even though he is not punishable by reason of his own incapacity to commit a crime or because he acts without the necessary mens rea,⁴⁹ whether the aggressor would be liable for what he has done or not one has the right of private defence against his unlawful act⁵⁰.

Misconduct in Public by a Drunken Person

Section 510 of IPC provides punishment for a drunken person who appears in a public place or trespasses a place where he has no right to be in and misconducts himself due to his intoxicant state and causes annoyance to any other person. It is the least punished section of IPC wherein the simple imprisonment for committing this crime by an intoxicated may extend to 24 hrs or with fine which may extend to ten rupees or both.

The Protection of Women from Domestic Violence Act 2005

The United Nations Committee on 'Convention on Elimination of the Discrimination against Women' had recommended that the state parties should act to protect women against violence of any kind especially that occurring within the family. The phenomenon of domestic violence in India is widely prevalent but has remained invisible in the public domains. The Civil Law does not address this phenomenon in its entirety. Presently,

where a women is subjected to cruelty by her husband or his relatives, it is an offence under section 498 A of IPC. In order to provide a remedy in the Civil law for the protection of women from being victims of domestic violence and to prevent the occurrence of domestic violence in the society, the Protection of Women from Domestic Violence Bill was introduced in the Parliament. The various remedies which the domestic violence law provides to the aggrieved person are protection orders monetary relief, custody orders, and compensation orders The Act further provides penalty for the respondent who violates the protection order which comprises of imprisonment which many extend to one year or with fine which may extend to twenty thousand or with both.

The Juvenile Justice (Care and Protection of Children) Act, 2000

With drastic shift in the cultural values and ethical base of Indian society, the youth of today try to ape the so called western modern life style which harps on satiation of personal desires to the extent that one fails to distinguish between right or wrong. As a result the young today indulge in excessive intake of various drugs especially alcohol. A review of the working of the The Juvenile Justice (Care And Protection Of Children) Act,1986, amended in 2000, indicates that much greater attention in required to be given to children in conflict with law or those in need of care and protection. Section 25of this Act punishes a person with imprisonment up to three years and who given to any child any intoxicating liquor in the public place. Further Section 27 of the said Act makes the offence punishable under Section 25 cognizable. These sections have been incorporated in Juvenile Justice Act as precautionary or preventive measures to discourage people who try to involve the youth in the vice of intoxication and thereby trying to push the future of the country in the dark.

COMBATING THE PROBLEM OF ALCOHOLISM: SOME REMEDIAL MEASURES: -

There is a serious impact of alcohol and drug use on crime across the nation. There is a close and distinct relationship between alcoholism and the increasing tendency of criminal behavior amongst Indians especially Punjabis. To effectively confront the grave problem of alcohol related crimes, a multifaceted balanced approach need, to be adopted. Public education forms an integral part of this approach. This awareness against the harmful effect of intoxicants and related drugs must be initiated right from the school and college. No liquor vend should be opened within a mile of any school, college, religious place and bus stop. Information in relation to ill effects of the intoxicants could be displayed across the different states of the country via boards, banners in public places for appropriate information. State must also try its best to implement effectively the laws relating to curbing the menace of alcohol and related crimes. So to say, stricter traffic laws need to be implemented in a serious manner. State should further make an endeavor to start various drug de-addiction centers for treatment of habitual users of alcohol and drugs to weed out this problem of alcoholism completely. Youth must be provided ample employment opportunities by helping them acquire technical/ professional education and loans to further their own enterprises. Games and tournaments should be encourages to take care of their health and in turn avoid stress and frustrations. It is further possible to reduce the legal consumption by increasing the price of alcohol as it has been

practically observed that increase in prices of alcohol beverages do lead to reduction in drinking and consequently in the adverse consequences of alcohol use and abuse.

Therefore, effectively confronting alcohol related crime will require a balanced approach of public education, professional training, increased assessment and referral for treatment expanded access to treatment, recovery housing and recovery support. It is high time that we ponder over a remedy to treat the cause of binge drinking, alcohol abuse and dependence on alcoholism. The 'Sydney Morning Herald' said that in the year 2011, India was a 25 billion dollar market for booze. And by 2015, it is estimated to be a 39 billion dollar market for the same. With 30 percent of Indian men drinking, there is ample room to grow and given the size of India's population an even 1 percent rise can mean huge profits. But India cannot only look into the economic profit due to alcohol market and ignore the adverse consequences we are facing due to excessive intake of the same.

India needs to sober up its drinking problem. We cannot afford to brush aside the spiking numbers of alcohol fueled rapes and drunken driving traffic accidents any more. The World Health Organization has given India a voluntary target of 10% reduction in alcohol consumption by the year 2025 and the best way to achieve this target is to look back at "how we drink" and it is high time that India moves on the path to combat the monster of alcoholism and related crimes in the country.

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¹⁴Ibid.

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²⁹ Section 185 of the Motor Vehicle Act, 1988, states "Whoever, while driving, or attempting to drive, a motor vehicle,- [1(a) has, in his blood, alcohol exceeding 30 mg per 100 ml. of blood detected in a test by a breath analyzer, or](b) is under the influence of a drug to such an extent as to be, incapable of exercising proper control over the vehicle, shall be punishable for the first offence with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees, or with both; and for a second or subsequent offences, if committed within three years of the commission of the previous similar offence, with imprisonment for a term which may extend to two years, or with fine which may extend to three thousand rupees, or with both."

³⁰1976 Cr.L.J 2010 (SC).

³¹1976 Cr.L.J 594 (SC).

³²The Tribune, May 6,2015, p.1; available at:<http:// indianexpress.com/tag/salman-khan-hit-and-run-case>(Visited on May 10,2019).

³³AIR 2012 SC; Available at:http://en.wikipedia.org/wiki/1999_Delhi_hit-run_case(Visited on May 5,2019).

³⁴AIR 2012 SC.

³⁵ AIR1956 SC 488.

³⁶ 1996Cr. L.J 1660 (SC).

³⁷ Section 85 of IPC states, "Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong, or contrary to law: provided that the thing which intoxicated him was administered to him without his knowledge or against his will."

³⁸ Section 86 of IPC lays down that, "-In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will."

³⁹S.N. Mishra, Indian Penal Code,192(Central Law Publication,17th edn.,2010); Reninger V Fogossa (1552) KB, 75, Eng Rep 1

⁴⁰D.P.P v. Beard (1920) AC479.

⁴¹ Davis (1881) 14 Cox 563.

⁴²(1920) AC479.

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⁴⁴Ibid

⁴⁵(1909) KB 865.

⁴⁶(1963) AC 349.

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⁴⁸ H.S. Gour, Penal Law of India, 382(Central Law Publication, Delhi, 12thedn.,2005)

⁴⁹Shamsul Huda, The Principles of Law of Crimes, 387(Eastern Book Company,May,2011)

⁵⁰Op.cit.,S.N. Mishra,p.225.