

The Gujarat Prohibition Act, 1949

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In news

Recently, the Gujarat Prohibition Act, 1949 was challenged before the Gujarat High Court, more than seven decades after it came into effect.

Key provisions of the act

- Also known as the Bombay Prohibition Act, 1949, this act is related to promotion and enforcement of alcohol prohibition in the Bombay State.
- The Bombay state was divided into the states of Maharashtra and Gujarat in 1960.
- Today the Act is applicable in the State of Gujarat.
- Gujarat adopted the prohibition policy since 1960 and subsequently chose to enforce it with greater rigidity.
- Under the Act a permit is mandatory to purchase, possess, consume or serve liquor.
- The Act empowers the police to arrest a person for purchasing, consuming or serving alcohol without the permit with punishment ranging from three months to five years in prison.
- It also penalises the transporting of liquor.
- In 2011, the state government renamed the Act as Gujarat Prohibition Act.

Origin of the Prohibition Act

The first hint at the prohibition of liquor was through the Bombay Abkari Act, 1878. This Act dealt with levying of duties on intoxicants, among other things and aspects of prohibition via amendments made in 1939 and 1947.

In 1940 it was decided to undertake and enforce a policy of "total prohibition" in the whole of the Province of Bombay on the basis of a four-year plan.

Main grounds raised against prohibition of liquor and in favour of prohibition are:

Arguments against the law:

Two key grounds have been taken up by the petitioners, that of **the right of privacy**, which has been held as a fundamental right by the Supreme Court in several judgments since 2017

Second ground of manifest arbitrariness has been especially highlighted while challenging sections pertaining to **grant of health permits and temporary permits to out-of-state tourists** on the basis that **there is no intelligible differences in the classes** thus being created by the state on who gets to drink and who does not and **violates the Right to Equality** under Article 14 of the Constitution.

The petitioners also submitted that any invasion by the state in an **individual's right to choice of food and beverage** amounts to an unreasonable restriction and destroys the individual's decisional and bodily autonomy.

Arguments in favour:

If relief claimed by the petitioners of setting aside several sections are granted, it will open Pandora's box, primarily on the ground that various research and studies have shown that alcohol tends to aggravate the sense of violence

The applicants have also objected to the plea challenging the law, calling it to be an attack on the constitutional obligation of the primary duty of the State as the guardian of the population to protect the health and lives of its people.