

Verité Explains

Restricting the Sale of Liquor to Women: The Public Debate is Misinformed

On 10 January 2018, the Minister of Finance and Mass Media amended Excise Notification No.666 of 31 December 1979. It is widely believed that by this act the Minister revoked a prohibition on the sale of liquor to women. The President and the cabinet responded by asking for the amendments to be reversed. This reversal is widely believed to have reinstated the previous prohibition on women purchasing liquor. Verité Research finds both these views to be poorly-informed.

The Notification that the Minister amended lists categories of persons to whom liquor cannot be sold or given. This includes for example: a ‘member of the Police Force or Officer of the Excise Department while on duty’; any ‘person under 21 years of age’; and a ‘woman *within the premises of a tavern*’.

The Minister’s intervention through Excise Notification No. 02/2018 only removed the restriction on women being sold or given liquor ‘within the premises of a tavern’. That was the only consequence it had on women’s ability to purchase liquor.

The Excise Ordinance of 1912 does not define the term ‘tavern’. Black’s Law Dictionary defines a tavern as ‘a place of entertainment...[or] a house for the retailing of liquors to be drunk on the spot.’ Sri Lanka’s excise licensing regime has over twenty types of licenses that are issued for the manufacture and sale of liquor. This regime includes licenses for retail shops, licenses for bars, licenses for hotels, licenses for rest houses, and licenses for the consumption of liquor on the premises in which it is sold. There are only two types of licenses for ‘taverns’: licenses for toddy taverns and for foreign liquor taverns. Such taverns appear to be a rarity in Sri Lanka, and it is likely that new licenses for taverns may have long ceased. In fact, the Excise Department does not list a prescribed application scheme for either of these tavern licenses. By contrast, it lists an application scheme number for every other form of license. Excise Notification No. 1004 of 11 December 2017 lists the schedule of fees for liquor-related licenses. It lists the fees for forty types of liquor licenses – including hotel licenses, rest house licenses and retail licenses. Licenses for taverns are not among this list. Therefore, the licensing regime for taverns lack both an application scheme and a corresponding license fee.

By Notification 02/2018, the Minister only set aside a previous restriction on the sale of liquor to women *inside a tavern*. This restriction has no implication on the purchase of liquor almost anywhere else, which is almost everywhere that liquor is sold.

This begs the question as to why there has been a wide-ranging perception that the sale of liquor to women is restricted at establishments that are not taverns. Past discussions in the press suggest that some sections of the Excise Department have promoted the view that the terminology of 'taverns' (in the law) is applicable more generally to any retail outlet that sells liquor (e.g. supermarkets). This view, however, appears to be untenable in law.

In conclusion, the foregoing analysis reveals that, contrary to popular understanding, the cabinet decision on 16 January 2018 to reverse the Minister's original amendment has no implication on the freedom of women to purchase liquor from retail shops and supermarkets. Excise Notification No. 04/2018 issued by the Minister of Finance re-imposed the same restriction on women that was previously removed – this is *prima facie* inconsistent with article 12 of the Constitution. However, even if the Supreme Court does not declare it unconstitutional, the Notification will only re-impose the restriction on women purchasing liquor inside a *tavern*. It cannot impede on the freedom of women to purchase liquor anywhere else.