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Illicit Alcohol Markets and Everyday Crime:

A Historical Re-Conceptualisation

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## **Abstract**

Illicit alcohol markets are widely viewed as exceptional phenomena. Partly in consequence, they are under-researched and have a low political profile in Britain. This article proceeds from a contrary understanding that illicit alcohol markets are actually persistent features of the history of modern Western societies. Based on original archival research, it examines how illicit alcohol markets in England and Wales changed but endured across the long nineteenth century (c.1789-1914). It charts the decline of wholly illegal alcohol markets and the increasing prominence of hybridized enterprises which entwined legal and illegal activities. Importantly, the article proposes a significant new conceptualisation of illicit alcohol markets as everyday crimes. It then considers the implications of this argument for criminological research and alcohol policy.

**Keywords:** illicit market, alcohol, everyday, historical criminology

## 1. Introduction

Illicit alcohol markets routinely defraud states of tax revenue and can stimulate organised crime, endanger public health and undermine supply-side controls on drinking. Estimates suggest that 13% of alcohol consumed in the UK and 30% consumed globally comes from outside of legitimate commercial channels (WHO 2011). These figures include alcohol produced domestically in countries where this is legal – although, in the UK, ‘homebrewing’ is relatively small scale<sup>1</sup> – as well as alcohol that is illegally manufactured, smuggled, counterfeit or is ‘surrogate’ in the sense that it is produced for other purposes (e.g. perfume)(Lachenmeier et al 2010). Despite their continuing scale and the seriousness of potential resulting harms, illicit alcohol markets have a low political profile in the UK. *The Government’s Alcohol Strategy* (2012) noted that alcohol duty fraud involves organised crime groups and costs the UK Government around £1.2bn per year, but discussed it in little more than six lines of a 29 page document. Similarly, the Scottish Government commissioned twelve separate evaluations to assess the impact of the implementation of their minimum unit pricing policy from May 2018, but none were tasked with directly addressing whether introducing a legal price floor for alcoholic drinks is affecting the illicit alcohol trade (see Beeston et al 2021). The political neglect of this sizeable and potentially harmful sphere of illegality is puzzling.

Part of the reason for this neglect lies in the way that we tend to conceptualise illicit markets as exceptional phenomena. Popular cultural representations of illicit alcohol markets are overwhelmingly shaped by a tiny number of extraordinary and relatively short-lived historical experiences. Novels, TV shows and Hollywood cinema have, for decades, conditioned us to associate illicit alcohol with the period of US national prohibition, 1919-1933, with the result that its very mention conjures up familiar motifs: the remote Appalachian still, the bootlegger trying to outrun the Bureau, the covert urban

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<sup>1</sup> Home or domestic distillation of spirits is illegal in the UK unless the manufacturer obtains a licence from HM Revenue and Customs and pays taxes on what is produced.

speakeasy, the sharp-suited gangster protecting his profits with a tommy gun. In Britain, the 'gin craze' of the first half of the eighteenth century, immortalized in William Hogarth's 'Gin Lane', is almost equally well known. This was an era when licensing restrictions were dodged by unlicensed street-sellers, excise taxes were evaded by publicans and grocers who sold gin illegally, and informers aiding the authorities were sometimes beaten and occasionally killed (Warner and Ivis 1999). The fact that Parliament tried to suppress gin-drinking by, amongst other measures, setting spirits duty and licence fees so high that they functioned as a prohibition on the trade in spirits (Yeomans 2019) demonstrates that this was, in regulatory terms, another deeply unusual time. The prominent examples that inform wider understandings thus imply that illicit alcohol markets are exceptional phenomena that need not trouble us as we think about drinking and its control in the present.

This article is an engagement with the reality of the contrary view that illicit alcohol markets are embedded and persistent features of the history of modern Western societies. Although they change in size and form, there is no point in the history of modern Britain – or, very likely, of any other Western nation – when illegal enterprises of some form have not helped meet consumers' demand for alcoholic beverages. Indeed, even in Prohibition Era Chicago, John Landesco (1929) found that many of the actors, networks and business relationships which helped sustain illegal markets for alcohol had actually been in existence since well before prohibition came into effect. While concentrated studies of exceptional historical episodes are valuable, an influential review of research on illegal markets by economic sociologists Beckert and Wehinger (2011) argued that longer-term studies are required to better understand the emergence, proliferation and reformation of such markets, and the social conditions that hinder or trigger their growth. More widely, emerging literature on the practice of historical criminology finds particular explanatory value in long-term studies (Lawrence 2019; Churchill et al 2021). Hence, this article offers a longitudinal perspective on illicit alcohol markets in England and Wales during the period that historians have dubbed the 'long nineteenth century', from the onset of the French Revolution (1789)

to the beginning of the First World War (1914). As well as its chronological length, this period is useful as, in England and Wales, it was uninterrupted by either exceptional prohibitions or the sort of wartime controls (e.g. price controls, rationing) which punctuated the twentieth century. Across this extended timeframe, this article asks: what enterprises constituted illicit alcohol markets? How did they develop? And why did they persist?

This article thus provides the first dedicated longitudinal study of illicit alcohol markets over a substantial period of time. It sits at the nexus of several disciplines and, as well as criminology, draws especially on crime history and economic sociology. These diverse perspectives are used to explore and explain the persistence of illicit alcohol markets in England and Wales over the long nineteenth century. The term 'illicit market' is used here instead of 'illegal markets', which is preferred in some literature (e.g. Beckert and Wehinger 2011; Beckert and Dewey 2017). This is because, with regards to alcohol at least, legal and illegal actors and activities are often hard to distinguish or separate. Indeed, the analysis presented here points towards the growing importance, across the long nineteenth century, of a hybridized economy in which the production, distribution or retail of certain alcoholic drinks involved enterprises that routinely traversed the boundaries of legality and illegality. The illicit alcohol market therefore encompasses economic processes and transactions which involve a form or degree of illegality but are not necessarily wholly detached from legitimate business practices or the work of licensed traders. Ultimately, this article provides a corrective to dominant understandings of illicit alcohol markets as exceptional and offers a new criminological conceptualisation in which the actions which comprise these markets are examples of what Karstedt and Farrall (2006) call everyday crimes. Crucially, this everyday status is found to be instrumental to the persistence of illicit alcohol markets through time. It is proposed that the concept of everyday crime could be used more widely in research on illicit markets and a four-part typology of illicit alcohol enterprises – which encompasses obvious criminality and hybridized practices, spectacular occurrences and everyday illegalities, transnational trades and domestic

innovations – is provided as a potential aid. The implications of the article's findings for alcohol policy are also considered.

## **2. Existing Conceptualisations**

There is a paucity of criminological literature which concentrates on illicit, illegal or informal markets as broader phenomena (Shapland 2003). When criminologists examine these things, they tend to look at specific illegal trades, particularly those in sex and prohibited drugs (Shapland 2003; also Nordstrom 2016). There are very few criminological studies which deal with illicit alcohol markets specifically (for an example, see: Edwards and Jeffray 2017). Historical research has furnished us with more studies of illicit alcohol markets but these are similarly particularistic in their orientation towards specific enterprises in certain historical periods. The smuggling of alcohol and other commodities into England in the 1700s has been researched quite extensively (e.g. Winslow 1977; Rule 2014; Smith 2020) – as, for that matter, have contemporary transnational trades in specific illicit goods (e.g. Nordstrom 2016; Mackenzie and Yates 2017) – but less is known about other illicit enterprises. This tendency for criminological and historical research to concentrate upon particular illicit enterprises in specific contexts means that understandings of illicit markets are fragmented. This is curious given that, as various scholars emphasise, illicit markets are actually integral features of modern capitalism (Beckert and Dewey 2017; Kassab and Rosen 2019). It may help explain why the perception that illicit alcohol markets are exceptional is able to endure. More pointedly, it means that reviewing relevant conceptualisations of this topic depends upon the insights drawn from a small number of studies of illicit alcohol markets as well as the claims made – sometimes implicitly – within wider criminological literature. This section will describe and briefly evaluate these conceptualisations before introducing the concept of everyday crime.

Much criminological literature conceptualises illicit markets as products or forms of organised crime. This conceptualisation is visible in how some criminological studies use illicit markets for alcohol (e.g. Edwards and Jeffray 2017) and illicit markets generally (e.g. Shapland and Ponsaers 2009) as

windows onto the scale, form and characteristics of contemporary organised crime. It is also reinforced by the typically pivotal role ascribed to organised crime within the illicit markets that undermined the functioning of national alcohol prohibitions in Western countries between the 1910s and the 1930s. The relevant US experiences with mafia-style groups orchestrating bootlegging, moonshining and the rest are well known (see Landes 1929; McGirr 2016). Equally, studies of Russia, Iceland, Norway and other countries which implemented national alcohol prohibition in the same period have highlighted the role of organised crime groups in undermining legal controls (Johansen 2013; Herlihy 2017; Gunnlaugson 2017). Such experiences are regularly raised within discussions of the contemporary regulation of psychoactive substances and usually positioned as apparent evidence that criminalising supply without addressing demand creates illicit markets which are serviced by organised crime groups (e.g. Kassab and Rosen 2019). It is, however, important that some of the studies mentioned point to the additional involvement of other actors including looser criminal networks, overtly legitimate businesses and ordinary consumers (e.g. Johansen 2013). Indeed, criminological studies of illicit markets have been criticised for over-focusing on organised crime and obscuring the more varied actors and settings that can be involved (Beckert and Dewey 2017; also Moeller 2018).

An alternative means of conceptualising illicit alcohol markets is to view them as instances of social crime. Popularised by social historians, the term 'social crime' refers to actions that contravene the law but are not popularly regarded as criminal (Hobsbawm 1972). Committing social crimes is sometimes seen as a political protest against unjust laws but is more consistently viewed as an action which, whether political in nature or not, is widely sanctioned within the community it occurs (Rule 1979; Lea 1999). Illicit distillation in the eighteenth and nineteenth centuries has been described as a social crime and the smuggling of alcoholic spirits along with other commodities is one of the archetypal examples (Rule 1979; Lea 1999). The idea that these activities were widely approved in certain communities could offer insights into the reasons for the persistence of illicit alcohol markets in the historical long-term, pointing to a moral code of acceptability that endured despite the existence of



a more proscriptive legal code. Nevertheless, difficulties have long been recognised in how the concept of social crime rests on a notion of popular approval that is often difficult to evidence in historical research or separate from the more straightforward effects of intimidation (see Thompson 1972; Rule 1979). Arising from a Marxist theoretical milieu, it was also developed with working class resistance in mind and, as such, does not easily apply to illicit activities involving other socio-economic groups (see Smith 2020).

A recent and rare criminological study of illicit alcohol concentrated upon counterfeit drinks in the UK and Ireland. Analysing specific cases of counterfeit alcohol, researchers found that overtly lawful distribution companies, as well as licensed shops and nightclubs, were involved in this trade (Spencer et al 2018; Belotti et al 2020). As well as helping to differentiate illicit alcohol markets from markets for illegal drugs, these conclusions reinforce the need to look *at* but also *beyond* organised crime. Marshall Clinard's *The Black Market* (1969) remains criminology's best known work in this area. Concentrating on illicit markets in the US during the Second World War (when extraordinary systems of price control and rationing existed), Clinard showed that the bulk of illicit market activity was conducted by shopkeepers, property-owners and other business-people. It typically encompassed things like counterfeiting ration coupons and violating price ceilings. Research on Britain in the same period has found organised crime activity within illicit markets but has similarly found legitimate businesses to be key players (Roodhouse 2014). Clinard (1969) conceptualises such activities as white collar criminality, as defined by Sutherland (1940). This emphasis on the inter-mingling of legal and illegal enterprises resonates with the findings of contemporary research on illicit trades in gems, antiques and other commodities (Nordstrom 2016; Mackenzie and Yates 2017), but it remains unclear whether this hybridity is consistently apparent in illicit alcohol markets through time. Additionally, while pathbreaking in many ways, Sutherland's (1940) concept of white collar crime is vague in other respects, including on whether its key defining feature is the social class of the offender or the occupational context of the offence (see Levi and Lord 2017).

In the absence of a settled and agreeable means of conceptualising illicit alcohol markets, this article employs the concept of 'everyday crime'. This concept was created by Susanne Karstedt and Stephen Farrall (2006; 2020) who use it to encompass a range of (mostly fraud) offences, including making bogus insurance claims and paying in cash to evade tax. Everyday crimes sit somewhere between 'crimes of the streets' and 'crimes of the suites'; they are common and mundane illegalities perpetrated by people who are often, but not exclusively, middle class (Karstedt and Farrall 2006; Farrall and Karstedt 2020). The key feature of perpetrators of these everyday crimes is that, for the most part, they reject the label 'criminal' and regard themselves as 'law-abiding citizens' – a facet which immediately resonates with the observed role of ordinary businesses and consumers within some illicit markets. Moreover, the dissonance between legal and moral codes of behaviour which social historians captured in the concept of social crime is echoed in Karstedt and Farrall's (2006) description of a moral economy of everyday crime.

Boundaries between legality and morality are frequently blurred and, as the moral boundaries which delineate what is and is not fair and acceptable shift through time, so the cognitive terrain in which compliance is navigated can also alter, with the result that individuals become more or less likely to commit 'everyday crimes'. For Karstedt and Farrall (2006; 2020), therefore, there is a moral economy to everyday crime and this helps to explain why relevant offences increase and decrease through time. This argument is well supported by their own findings on insurance fraud as well as subsequent work on other offences (see Jackson et al 2012). The notion of a moral economy, originally coined by the social historian E.P. Thompson, has also been productively used by various criminologists to explore how moral understandings shape economic or financial crime (see Whyte and Wiegratz 2016). As such, the concept of everyday crime – as both a descriptive category and explanatory device – is a promising lens with which to view illicit alcohol markets in the long nineteenth century.

The analysis presented here eschews an exclusive focus on organized crime and remains attentive to how illicit enterprises can span legal and illegal economies and involve overtly legitimate businesses or transactions. Plus,

following Karstedt and Farrall (2006; 2020), it considers how criminality is often imbricated within mundane activities and everyday contexts.

### 3. Methods

This article is based on archival research. Three main types of data have been drawn from several archives:

- a) Quantitative data on criminal offences taken from the annual reports of relevant tax authorities 1857-1914 (held in the CUST series at The UK National Archives) and from annual *Return of Judicial Statistics for England and Wales* reports published 1857-1914 (accessed through *Parliamentary Papers Online*). It is supplemented with licensing data compiled within Wilson (1940). It is not possible to construct a complete dataset of illicit alcohol offences across the whole timeframe because legal changes to relevant offences, and the tendency of British governments not to publish national statistics until the 1850s, mean available data is uneven. It has been possible to produce a long-term quantitative overview of illicit distillation offences and shorter-term analyses of other offences.
- b) Official government sources including annual reports from both Customs and Excise, as well as Select Committee reports (accessed through *Parliamentary Papers Online*). These sources have been qualitatively analysed in order to chart the changing construction of illicit alcohol problems. They provide information on the changing techniques used to produce, distribute or retail illicit alcohol as well as how these practices were viewed and the attempts made to suppress them.
- c) Specific cases in which people were prosecuted for illicit alcohol offences. Numerous serious cases from the early part of the timeframe were located within *Old Bailey Online* but these disappear from records in the 1830s. Due to the lack of other accessible court records, newspaper reports of court cases – mostly heard in summary courts – were analysed. Newspapers reported extensively on court proceedings in this period and their reporting was generally detailed and well-informed (Rowbotham et al, 2013). *The Times* was selected for analysis as a London-based newspaper which was published across the whole timeframe and can be

easily researched through its digital archive. *British Library Newspapers* archive – which includes more than 240 newspaper titles - was used to provide further sources and better national coverage. Keyword searches were performed on both *The Times Online* and *British Library Newspapers*. The volume of hits for some on *British Library Newspapers* was so large that it was necessary to take a sub-sample of newspaper titles which consisted of *Leeds Mercury*, *Western Mail* (published in Cardiff), *North Wales Chronicle* and *Wrexham Weekly Advertiser*.<sup>2</sup> Along with *The Times*, this sample provides geographic coverage of England and Wales as well as a balance of reports drawn from metropolitan London, provincial industrial cities and rural areas. Analysis of these cases provides insights into the characteristics of those involved with illicit alcohol markets and the enforcement practices which were mobilized against them.

The nature and availability of the source material means that analytical coverage of the time period is somewhat uneven. This is normal within historical research. As the novelist Hilary Mantel eloquently put it, history is simply “what’s left in the sieve when the centuries have run through it” (2017: 4) – in this case an abundance of newspaper reports and a shortage of official statistics. The article does not, therefore, promise a systematic examination of illicit alcohol in all its forms over the whole time period. Instead, it uses available sources to flesh out our understandings of the changing actors and activities which comprised illicit alcohol across the long nineteenth century, and provide insights into the reasons for its remarkable persistence.

#### **4. Levels and Types of Illicit Market Activity**

This section identifies the main enterprises which constituted illicit alcohol markets in England and Wales in the long nineteenth century. It provides an overview of each enterprise and considers how they developed across the timeframe. Smuggling, illicit distillation and adulteration were the main relevant enterprises during this period, although a variety of other practices

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<sup>2</sup> This included keyword searches relating smuggling, illicit distillation and adulteration.

have also been included under the umbrella category of ‘Dodges and Scams’. Each overview is derived from the sources described in the previous section.

#### **4.1) Smuggling**

The illegal importation of alcoholic spirits, particularly brandy, rum and gin, along with tea, tobacco and other taxed commodities, was widespread in the eighteenth century. Smuggled cargoes were brought to the British coast by single or multiple ships before being landed and received by others – often armed groups of men – who would either sell the commodities locally or transport them to larger marketplaces (Winslow 1977; Smith 2020). Smuggled spirits could then be sold through unlicensed channels but public houses were known to function as outlets too (Winslow 1977). The movement and retail of these cargoes was sometimes aided by the corruption of revenue officers or local officials (Winslow 1977; Rule 2014; Smith 2020). It is likely that thousands – maybe *tens* of thousands - were involved in the smuggling trade in the eighteenth century (Winslow 1977; Rule 1979) and it is very clear that, if threatened, many were ready to respond with lethal violence. The murder of informers and revenue officials was not uncommon (Winslow 1977; Rule 2014). This widespread, organized and violent form of smuggling continued into the early 1800s. At least 55 people were tried for smuggling between 1800 and 1830 at the Old Bailey alone. For example, in 1828, six men were punished with transportation after, along with approximately seventy other “evildisposed persons”, gathering in Eastbourne, Sussex, with “guns, blunderbusses, pistols, bludgeons, bats, clubs, staves, and hedgestakes” for the purpose of “landing, running, and carrying away” 400 gallons of smuggled brandy and gin (*Old Bailey Online* 10/4/1828).

The levels of violence, corruption and organization involved mean that, of the main activities that brought illicit drinks to the lips of British consumers in the long nineteenth century, it is smuggling that bears the closest resemblance to the Hollywood vision of illicit alcohol enterprises. Smuggling was not, however, connected to exceptional times. As social historians indicated by designating it a social crime, the trade in illegally imported goods was so embedded within many communities that it may have been considered

legitimate in the eighteenth and early nineteenth centuries. Direct political motives are absent from most accounts of smuggling but there may have been an air of 'primitive rebellion' in some instances; a sense that, like Eric Hobsbawm's (2001) 'social bandits', these smugglers were lower class people who lacked a political programme but were unwilling to accept subjugation passively (Winslow 1977). Importantly, this form of rebellious smuggling - large scale, organized, violent - declined markedly from around the 1820s onwards (Rule 2014). Such cases virtually disappeared from the Old Bailey in the 1830s and newspaper coverage declined too. Tax authorities began publishing annual reports in the 1850s and, while the early versions devoted much space and discussion to smuggling (e.g. CUST44/1), it barely featured by the turn of the twentieth century (e.g. CUST 44/17).

Nevertheless, smuggling did not disappear and, while large scale operations became rare, Customs remained concerned about the opportunistic smuggling of smaller quantities of goods.<sup>3</sup> They reported that the typical quantity of spirits seized from smugglers in 1875 was less than 2 gallons (CUST 44/8). These smuggled goods were sometimes stashed with the coal or in other spaces aboard merchant ships (CUST 44/8), or concealed beneath the dresses of women travelling on passenger ships (CUST 44/2). Another common practice was for bottles of brandy to be added to shipments of wine in the hope that officials would not notice and charge the importer only the lower rate of duty for wine (CUST 44/9). Smuggling, therefore, remained common across the long nineteenth century. In 1900, for example, there 3778 seizures of smuggled goods and 2163 people were convicted of smuggling (CUST44/17). But the prominent form of smuggling had changed. Once a large scale, organized illegal activity that was resistant to the state's attempts at law enforcement, smuggling became a more opportunistic, less dangerous enterprise across this period that was increasingly – and somewhat

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<sup>3</sup> In 1865, the Commissioners states that "No organized attempt at smuggling on a large scale has come to our knowledge in 1864, nor have the Coast Guard reported to us that any run of spirits or tobacco has been made or attempted on any part of the coasts... Smuggling is, we consider, now almost entirely confined to the concealment of spirits and tobacco on board vessels in small quantities" (CUST 44/4).

parasitically - intermingled with otherwise legal maritime traffics in passengers or goods.

#### **4.2) Illicit Distillation**

Illicit distillation refers to the illegal production of distilled alcoholic spirits, which, in this historical context, means distillation by unlicensed persons who evade the excise taxes levied on spirits production. It was very common in the first half of the nineteenth century. As Figure 1 shows, the Excise recorded the discovery of at least 100 illicit stills per year in England and Wales from 1830-1860 and, in some years, more than 500. Newspaper court reports reveal that these stills were sometimes set up in properties that had been specifically rented for the purpose or, as was probably more common, in the kitchens, cellars or bedrooms of people's homes. There are occasional glimpses of a degree of organization. A character known as 'Sandie' became notorious for illicit distillation in West Yorkshire in the 1850s and, on one occasion, it was claimed he had set up one William Peacock in a house and paid his rent on the condition that a still could be kept in the property (*Leeds Mercury* 20/12/1855; also *Leeds Mercury* 17/4/1852). In 1845, Clerkenwell police court dealt with several cases which were reported by *The Times* to be "part of the same system of illicit distillation, which is said to ramify through the low districts of Islington" (*The Times* 28/3/1845). A specific link became apparent on one evening when Excise and police officers raided two separate properties in Islington and, despite the properties being half a mile apart and being raided in quick succession, were aggressively confronted at each address by the same large, spotted dog. But these rare cases aside, there is little evidence that illicit distillation in this period was coordinated on a larger scale.

[FIGURE 1 HERE]

Two things stand out from the newspaper reports and Excise sources analysed. Firstly, illicit distillation was practiced primarily by the lower social classes and often used as a means of subsistence when times were hard. This point is partly evident in the occupations of those convicted of illicit distillation which, where stated in newspaper reports, typically consist of

manual, industrial labour. Moreover, 77% of the 6558 people (CUST 44/1) convicted of illicit distillation in England and Wales 1830-1856 received prison sentences, despite the fact that the standard penalty was a £30 fine and prison was reserved for those who would not or could not pay. On occasion, offenders pleaded poverty as a way to explain their actions or seek leniency from the courts. Mary Greenwood was tried by magistrates in Halifax in 1856 after Excise and police officers raided her home and found a still in a bedroom where children were sleeping. Greenwood explained that her husband was in America and she had taken to illicit distillation as she had a large family to provide for (*Leeds Mercury* 14/8/1856). Similarly, when Robert Gledhill was tried for illicit distillation in Bradford in 1858, his wife explained that he had been out of work for seven months and his neighbours testified that “he was a good character, and had been led to do wrong from poverty” (*Leeds Mercury* 8/6/1858). Illicit distillation, therefore, seems to have been part of what Agar has called “the economy of makeshift” (2014: 2).

The second point to stand out is the dramatic decline in detections of illicit distillation (see Figure 1). Following a peak in detections in 1850, it appears to have almost completely disappeared in England and Wales by the turn of the twentieth century. Of course, detections by enforcement agencies are not necessarily an accurate gauge of levels of any particular offence, but the statistical decline is correlated by the qualitative sense in which the Excise believed that the problem of illicit distillation was largely solved. The number of detected instances of illicit distillation fell to 21 in 1872 and the Commissioners of the Excise insisted this figure was achieved under conditions of “equal vigilance” to previous years (CUST 44/7). A special report on illicit distillation produced in 1906 noted that there had been only two detections in England in the previous year and, despite the fact that both were in London, it was asserted that “illicit distillation does not at present prevail to any considerable extent in London” (CUST 45/276). Nor had it permeated into more legitimate activities, as occurred with smuggling. There were only a handful of cases highlighted in newspapers where those involved in illicit distillation had some footing in the licensed drinks trade and so might have sold their illicit produce through legal channels (e.g. *The Times* 21/1/1892). It



is therefore clear that illicit distillation declined dramatically over the long nineteenth century and ceased to be considered a public problem.

#### **4.3) Adulteration**

Other illicit enterprises became increasingly prominent during this period. The adulteration of beer, wine, spirits or other drinks typically involves their dilution with water and the subsequent addition of further ingredients selected to conceal the resulting loss of flavour or intoxicating potency. John Burnett (1989) argues that the onward march of industrialization and urbanization in this period distanced many British people from the land and required them instead to source food from extended supply chains which were easier for unscrupulous manufacturers or traders to manipulate. He further argues that certain events, including expensive wars with France from 1792-1815 and the liberalizing Beerhouse Act 1830, made it difficult for licensed manufacturers and retailers to turn a fully legal profit (1989; also Gourvish and Wilson 1994; Ashworth, 2003). William Ashworth adds that the increasing prominence of adulteration also stemmed from technological advances, arguing that the Excise's increased use of hydrometers and standardized techniques made the growth of this "vast invisible economy" increasingly visible (2004: 196). A spate of prosecutions in 1819 (Gourvish and Wilson 1994; Ashworth, 2003) were followed by the publication of *A Treatise on the Adulteration of Food and Culinary Poisons* by the chemist Frederick Accum (1820), in which he detailed the results of analyses of the ingredients of commonly purchased foods and drinks. More exposés followed, a Select Committee examined the issue in the 1850s and new legislation was passed, including the Sale of Food and Drugs Act 1875. Adulteration was clearly treated with intensifying seriousness across the nineteenth century.

The adulteration of all types of alcoholic drinks was very common. In 1831, for example, London excise officers claimed that six to eight of every ten brewers are adulterating porter (CUST 119/368). Evidence presented to the Select Committee in 1854 and 1855 suggested the practice was even more common amongst publicans as samples of beer taken from pubs were generally weaker than samples of the same beer taken from breweries, usually by a

margin of between 0.5% and 2.5% ABV (HoC Select Committee 1854; HoC Select Committee 1855). To whatever degree it was conducted, adulteration was a fraud on the revenue as it reduced either manufacturer's use of taxed ingredients (e.g. hops, malt) or the sale by retailers of the 'pure', taxed version of the drinks. In addition, adulteration was widely regarded as a fraud on the consumer. It was occasionally claimed that consumers preferred adulterated versions of some commodities but most sources report that consumers were being duped. For the most part, consumers believed they were purchasing the genuine article (Accum 1820; HoC Select Committee First Report 1854; HoC Select Committee Second Report 1855). This means the widespread practice of adulteration was generally a fraud on consumers as well as the revenue.

Furthermore, adulteration sometimes affected the health of drinkers. Most adulterants were innocuous; coriander, cardamon, orange peel, pepper and salt were amongst the ingredients regularly added to gin (HC Select Committee First Report 1854). But there is substantial evidence that other, more harmful adulterants were regularly added to drinks. Giving evidence to the Select Committee in 1854, the physician Alphonse Normandy described being "seized with violent colic and vomiting" after drinking some porter in a public house in Bermondsey. He returned to the same public house the next day and, after testing it, found the porter contained iron sulphate (HoC Select Committee First Report 1854: 66). *Coculus indicus*, a plant containing picrotoxin, was also regularly mixed into beer in this period (Accum 1820, HoC Select Committee First Report 1854), and lead was sometimes added to wine to reduce ageing. Such adulteration was often blamed when drinkers suffered bouts of sickness and, on occasion, blamed for loss of life. Accum (1820) describes the death of a man after drinking two glasses of port that were adulterated with lead. "The merchant or dealer who practices this dangerous sophistication", Accum accused, "adds the crime of murder to that of fraud, and deliberately scatters the seeds of disease and death among those customers who contribute to his emolument" (1820: 108-109).

Finally, and as already indicated, it should be emphasised that adulteration was perpetrated primarily by brewers, distillers, wholesalers, publicans and others with a stake in the licensed drinks industry. There were intermediaries,

known as ‘publican’s adulterators’ or ‘brewers’ druggists’, who sometimes supplied publicans and brewers with adulterants and were occasionally prosecuted for teaching innocent parties how to adulterate (e.g. *The Times* 2/6/1820), but the broader profession of supplying goods to the beer trade was not illegal in itself. Adulteration, then, was not carried on by organised crime groups, and nor was it connected to lower class subsistence or resistance. Its perpetrators were overtly respectable men with legitimate occupations and businesses who, in many cases, would have been considered middle class. Burnett notes on the extraordinary irony of this situation: “the class which had taken upon itself the moral leadership of society... not only practiced adulteration but accepted it as a normal agency of commerce” (1989: 101). Despite its illegality, adulteration was regarded by many of those working in the drinks industry as a normal part of their ordinary business practices.

The nature of available data means it is not possible to measure adulteration – or prosecutions for adulteration – across this whole period. However, as figure 2 shows, the volume of prosecutions in the late 1800s shows that adulteration clearly continued. Indeed, there was an uptick in newspaper reporting of prosecutions for adulteration in Wales in the 1880s and 1890s, most of which involved whisky (e.g. *Wrexham Weekly Advertiser* 6/12/1884; *Wrexham Weekly Advertiser* 11/11/1893). This spate of prosecutions did not reflect an increased threat to public health as it largely concerned the adulteration of drinks with water and sugar or other sweeteners. However, a series of deaths resulting from the accidental addition of arsenic to beer during the production process in the early 1900s (CUST 148/99) shows that the precise ingredients of alcoholic drinks remained a threat to the lives and wellbeing of drinkers. Adulteration therefore emerged as a recognised social problem in the 1800s and persisted into the twentieth century.

#### **4.4) Scams and Dodges**

In addition to the three large enterprises already detailed, a variety of other illicit acts were regularly used to evade tax or circumvent licensing restrictions. William Ashworth (2003; 2004) has detailed various schemes of technological

subterfuge whereby false cask bottoms or concealed pipes were used to mislead Excise officers, usually by hiding quantities of liquor produced so as to reduce tax liabilities. The Customs and Excise records, for example, include extensive documentation on Smith's Distillery in Whitechapel, London, which, in 1846, was discovered to be using a hidden pipe to evade large sums of tax (CUST 119/140). The distillery was run by George Smith and the pipe led to a rectifying house next door which was managed by his brother, Scott Smith.<sup>4</sup> This illegal scam seemed to have been running for at least seven years and had cost the Treasury thousands in lost revenue (CUST 119/140). As well as sustained scams of this form, a variety of more opportunistic dodges were also common. In 1831, for instance, Newcastle brewers wrote to the Treasury to complain about the illegal sale of beer by unlicensed persons at local fairs (CUST 48/132). At temporary events like this, the risks of being caught and identified were likely to be low and so it is easy to see the appeal of this particular dodge. While they sometimes involved a degree of ingenuity or daring, scams and dodges were frequently of a more banal form. In 1910, Swansea business Tulloch and Co. placed an order with John Lane's Distillery in Dublin (CUST 49/183). The order was fulfilled but when examined by Excise officers it was found that the distillery was not licensed to sell spirits in these quantities (as it did not possess a dealer's licence) and, presumably as a consequence, the sale had not been entered into the company's stock book (CUST 49/183).

It is not possible to measure the changing level of these scams and dodges as they consist of different offences infringing various excise or licensing laws. It is also notable that some of these issues were dealt with through civil rather than criminal courts; indeed, this appears to have been more usual when the party at fault was a licensed manufacturer, dealer or retailer in alcoholic drinks. In 1826, for example, the Court of Exchequer found that Mr Oldfield of the Westminster Wine Company had been fraudulently obtaining excise permits (*The Times* 1/12/1826). The permits in questions enabled him to

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<sup>4</sup> Rectifiers were businesses that bought spirits in bulk from distilleries and were licensed to alter the spirits before selling on to retailers or others. This was legal as long as relevant licences were held and excise duties were paid.

legally purchase large amounts of fortified wine from other traders but, in reality, Oldfield was buying small quantities of sherry, diluting it with (cheaper) wine and then selling it on in large quantities as pure sherry. Illicit distillation similarly defrauded the state of revenue but, perpetrated by unlicensed persons, it tended to be regarded as a criminal matter. So, as with adulteration, scams and dodges were often committed by overtly legitimate actors with a stake in the licensed trade in alcohol. While clearly illegal, the frequent recourse to civil procedure further suggests that tax authorities did not regard such scams and dodges as particularly troublesome. They were officially proscribed operating practices but were not entirely unexpected. These mundane illegalities, along with other scams and dodges, stretch across the long nineteenth century.

#### **4.5) Everyday Entanglements**

It is clear that a more wholly illegal market for alcohol declined across the long nineteenth century. Large scale, organised smuggling virtually vanished. These operations had often had some connection to overtly legitimate business because, as noted, pubs and licensed victuallers were known to sell smuggled drinks until at least the early 1800s. But, even if they believed this form of smuggling to be morally legitimate, the actors involved can have had little doubt about its legal status. Smuggling gangs clearly operated outside of the law and, at times, in direct and violent opposition to it. Despite the occasional surfacing of links between illicit distillation and the licensed trade in court (e.g. *The Times* 8/7/1846), illicitly distilled spirits generally appear to have been sold through unlicensed channels too. Indeed, following the decline of large-scale smuggling in the 1820s and 1830s, some illicit distillers reacted to the shortage of contraband by falsely marketing their produce as high quality, *smuggled* foreign spirits (*The Times* 5/7/1832; *The Times* 3/8/1832). This distinctively illegal sphere of alcohol trading had largely disappeared by the 1860s. Smuggling came to be practiced by sailors and ship's passengers, most illicit distillers held 'straight' jobs, and adulteration, like many scams and dodges, was the transgressive preserve of the licensed trade. Illegal actions pertaining to the production, distribution or retail of alcoholic drinks therefore became more embedded in the working practices of

overtly legitimate actors from 1789-1914. Notably, these activities correspond closely to Karstedt and Farrall's (2006) definition of everyday crime. They encompassed economic transactions and were overwhelmingly small scale, non-organised and non-violent. They also occurred principally in private spaces (e.g. workplaces) and were perpetrated by people who would have largely regarded themselves as 'law-abiding citizens'. A fully illegal market for alcohol thus faded from view while a hybridized or 'grey' market, in which everyday working practices routinely entangled the legal with the illegal, became more prominent.

### **5) Illicit Markets, Fairness and Legitimacy**

But why would business people, who were neither political rebels nor professional criminals, engage in the illegal practices documented? Why would publicans, distillers, brewers and others demonstrate their commitment to legal norms by obtaining licences and running superficially legitimate businesses yet also decide to transgress the boundaries of legality? Why would those with some stake in the dominant social order put their reputations and livelihoods in jeopardy in this way?

As with lower class people who took to illicit distillation when times were tough, it is possible that business people were more inclined towards illegal practices when facing financial pressures. Indeed, as aforementioned, Burnett (1989) describes how economic problems in the early 1800s stimulated the growth of adulteration. But such effects were not always apparent. Publicans and brewers convicted of adulteration are only occasionally reported to have connected their actions to financial pressures (e.g. *The Times* 17/5/1830). Furthermore, statistics for the quantity of people prosecuted for adulterating alcoholic drinks 1874-1894 do not correlate with general measures of consumer prices in this period (see Figure 2). Similarly, seizures of smuggled goods fluctuated markedly from 1873 to 1914 while consumer prices remained generally stable (see Figure 3). Price remains important but, as economic sociologists have argued (Moeller 2018; Radaev 2017), it is clearly not the only factor which shapes illicit markets for alcohol. Changing opportunities to break the law might be relevant too. However, as the Excise

operated an extensive system of permits and inspections, equipped its officers with the latest measurement instruments (e.g. hydrometers) and conducted laboratory analysis of suspicious commodities from 1842 (Ashworth 2004), it is highly doubtful that opportunities for licensed traders to offend could have proliferated in this period. Even if they did, there would remain a question over why licensed traders with a legitimate stake in a legal industry chose to take these opportunities.

[FIGURE 2 HERE]

[FIGURE 3 HERE]

Karstedt and Farrall (2006; 2020) situate everyday crime within a moral economy where its frequency is affected by general perceptions of fairness and legitimacy. It certainly appears there may be a broader relationship between the changing shape of illicit alcohol markets and shifting perceptions of governmental legitimacy. Martin Daunton (2001) has persuasively argued that the improving fiscal condition of the British state in the nineteenth century derived partly from its enhanced legitimacy. Greater transparency and scrutiny in public finances, as well as a sustained restraint on the level of taxation, apparently meant that British people were more likely to trust the state and consent to live by the rules it applied, including by paying taxes (Daunton 2001). Daunton identifies a stable “Gladstonian fiscal constitution” (2001: 58) that prevailed from approximately the 1830s to the 1880s and, following his argument, it would be expected that internal threats to the British state would decline in this era. As established, large scale, organized smuggling did indeed decline in the 1820s and 1830s. By the 1850s, Customs was confident that smuggling’s legitimacy had faded: the smuggler, they stated, “is no longer an object of general sympathy or a hero of romance; and people are beginning to awake to the perception of the fact that his offence is less a fraud on the revenue than a robbery of the fair trader” (CUST 44/2). While spiking in the 1830s and 1850s, the steep decline of illicit distillation detections thereafter also supports Daunton’s argument. There is, therefore, a loose sense in which the growing legitimacy of the British state described by

Daunton could have contributed towards the decline of certain illicit alcohol enterprises in the early to mid-1800s.

Perhaps the biggest change to the 'fiscal constitution' in this period was ushered in by the 'People's Budget' of 1909. Amongst other things, the resulting Finance Act 1909-1910 increased the duty on spirits and overhauled the set of excise licence fees that were paid by manufacturers and retailers of intoxicating liquors. These changes imposed an estimated four million pounds of additional taxes on the drinks industry (Gourvish and Wilson 1994). It might be expected that such drastic changes would alter the extent of licit and illicit trade, and indeed seizures of smuggled spirits and smuggling prosecutions did increase from 1909 (see Figure 4). Figure 5 illustrates two more pronounced trends. Firstly, there was a fall in the number of excise licences granted, constituted almost entirely by the halving of the quantity of licensed dealers in beer and spirits in England and Wales from 1910 to 1911. Secondly, there was an enormous spike in prosecutions for unlicensed sale of alcohol in 1911-1912, a fivefold increase in a single year before prosecutions returned to a more usual level. The sequencing of these events strongly implies that a proportion of licensed traders reacted to sharp tax hikes by exiting the licensed trade and working illegally.

[FIGURE 4 HERE]

[FIGURE 5 HERE]

Such reactions are made more plausible by the insecurity and hostility to government felt by many working in the drinks industry at this time. Concerted local action by licensing justices had already closed as many as 4000 licensed premises between 1905 and 1908 (Wilson 1940), while less-regulated private clubs were spreading rapidly (Cherrington 2013). The Liberal Party had grown close to the temperance movement and, since the 1890s, had made serious though unsuccessful attempts to significantly reduce the number of licensed premises nationally through legislation (Fahey 1980; Greenaway 1908). Their final attempt to do this was rejected by the House of Lords in 1908 (Fahey 1980; Greenaway 2003) and the measures contained in the People's Budget were seen by many as the Liberal



Government's retaliation (Gourvish and Wilson 1994). The fact that the Government made concessions to other licensed premises, including hotels and restaurants, can only have increased the sense of victimisation felt by publicans and breweries (who owned 95% of pubs at the time)(Fahey 1980). Growing competition and the "precarious legal status" (Fahey 1980: 89) of pubs meant much of the drinks industry was, in the early 1900s, gripped by an understandable fear for its economic future. There was, moreover, a palpable sense of fury directed at the Liberal Government. The Chancellor of the Exchequer, David Lloyd George, held two fiery meetings with representatives of the brewing industry in 1909. The brewers complained that they were already "taxed up to the hilt" (CUST 148/108; 4; also CUST 148/109) and protested that any further impositions would doom them to a "slow destruction" (CUST 148/108: 16). For his part, Lloyd George criticised the brewers' reluctance to make a deal with him and even mocked the intelligence of one delegate (CUST 148/108; 36). And the animosity was not restricted to publicans and brewers. Off-licence holders, for example, called the new excise licence fees "extortionate and unjust" (*Nottingham Evening Post* 12/10/1910).

In this incendiary atmosphere, the surge in prosecutions for unlicensed sale makes considerable sense. The longer-term squeeze on the number of licensed premises, along with the profound feeling that they were being mistreated by the Liberal Government, weakened the commitment that some drinks industry actors usually felt to legal rules. When the Anchor of Hope pub in Essex was shut in January 1909 under the provisions of the Licensing Act 1904, the former landlord, with the assistance of two ex-maltsters, continued to sell beer for several months without a licence (*Chelmsford Chronicle* 28/5/1909). When, as mentioned in the previous section, John's Lane Distillery was caught selling spirits in quantities that contravened their licence, they protested that their application for the dealer's licence that would have permitted this sale had been rejected and "the financial burdens recently imposed on us" (CUST 49/183) meant that they were forced to deviate from the parameters of their licence. Meanwhile, some brewers were prosecuted for door-to-door selling, a practice which could generate extra income but

which was only legal if the brewer was specifically licensed to do this (see: *Exeter and Plymouth Gazette* 3/1/1912; also, *Nottingham Evening Post* 12/10/1910). A spate of reports of prosecutions of persons running unlicensed 'bogus clubs' in this period (e.g. *The Times* 10/1/1912) further suggests that weakened moral commitment to the legal rules around selling alcohol was fostering widespread transgression from the excise and licensing laws which governed the trade in drink.

Feeling financially squeezed and politically victimised, a sense of injustice therefore led many actors within the licit drinks industry to engage in illegal practices either as a way to 'hit back' at the authorities they held responsible or because ongoing events had fermented a cynicism which increased their willingness to break the law. Of course, the cost of the new licences and additional duties were probably a factor too. However, it is impossible to abstract the decisions that licensed traders were making about compliance with the law from a historical context in which they were fearful for their economic future and increasingly regarded the government with anger and distrust. Moreover, prosecutions for unlicensed sale swiftly returned to more ordinary levels in 1912-1913, suggesting that the new taxes were not unaffordable for most businesses. What was at stake here was not just price but principle. The Liberal Government's legitimacy was badly diminished in the eyes of many licensed traders and this perception shifted the cognitive landscape in which drinks industry actors negotiated compliance, enabling many to justify minor infringements of law in a short-lived reaction to the People's Budget.

This dramatic episode reinforces Karstedt and Farrall's (2006) argument that there is a moral economy to everyday offending. The perceived fairness of a policy and legitimacy of a government are relevant to whether many people choose to comply with the law or not. When these things are rocked, middle class persons – even those with considerable stakes in legitimate businesses – can be more inclined towards the production or retail of illicit alcohol through certain mundane illegalities. This insight helps to explain why illicit alcohol enterprises remained common even as a fully illegal market for alcohol faded. And its relevance is not confined to this short period. While the legitimacy of

the state generally increased in Britain across the long nineteenth century (Daunton 2001), there were recurrent disputes between government and the drinks industry, including in response to attempts to implement Sunday closing in England in the 1850s, to tighten licensing rules in 1871 and, as discussed, to introduce the local option in the 1890s. Persistent bad relations between industry and government, as well as a resulting volatility in licensed traders' commitment to relevant legal norms, helped entwine licit and illicit alcohol enterprises across the latter half of the long nineteenth century.

## **6) Conclusion**

This article has used extensive archival research to explore the persistence of illicit alcohol markets 1789-1914. It has revealed that, while the more fully illegal markets for alcohol serviced by organized smuggling gangs and illicit distillers had faded by the second half of the timeframe, various illicit enterprises continued to flourish and were generally located within the business practices of licensed traders or other overly legitimate actors. This situation was, as the previous section found, partly enabled by fluctuations in the extent to which licensed traders trusted the government and felt the policies being followed were broadly fair. Importantly, it flatly contradicts the prevailing perception that illicit alcohol markets and the enterprises that feed them are somehow exceptional and belong to unusual historical times. They are sometimes the province of violent gangs but they are also constituted by the actions of cash-strapped working class people and middle class licensed traders whose commitment to legal rules is weak or wavering. They sometimes consist of daring feats of defiance or technical ingenuity but more typically entail the banal criminality of the mis-reported tax disclosure, the watered-down barrel of beer, or the whisky sold in quantities that fall outside the terms of a trader's licence. When we look past the example of US national prohibition and beyond the associated Hollywood motifs of gangsters and guns, what comes into focus is a more quotidian world of mundane criminality which stretches across modern British history, through the long nineteenth century studied here and undoubtedly far beyond.

As well as offering a corrective to general understandings of illicit alcohol, this article has made two conceptual contributions. Firstly, based on the archival research presented here, a four part typology of illicit alcohol has been created which includes smuggling, illicit distillation, adulteration as well as scams and dodges. This framework encompasses a spectrum of illegality and includes both transnational (i.e. smuggling) as well as typically domestic enterprises (e.g. adulteration). As such, it departs from the particularistic orientation of much research in this area and offers a promising means for the further investigation of illicit alcohol in other historic, geographic or cultural contexts. Secondly, this article has reconceptualized the offences that produce and reproduce illicit alcohol markets through time. Describing illicit alcohol offences as everyday crimes usefully emphasizes their normality in certain contexts, the complex manner in which they are imbricated within many superficially legitimate business activities and the fact that they are frequently perpetrated by those who define themselves as 'law-abiding'. Crucially, this conceptualization is explanatory as well as descriptive. The entanglement of the legal and illegal within everyday working practices is a key reason why illicit alcohol markets have proven to be so historical persistent.<sup>5</sup>

The significance of this point is amplified by its resonance with the contemporary situation. Spencer et al (2018) describe how counterfeit alcohol today is produced illegally but at some point in the supply chain – often through the use of a legitimate logistics company for distribution (Belotti et al 2020) - usually crosses into the licit sphere, and hence fake vodka and other drinks are sometimes found on sale in shops and nightclubs (see also HMRC 2016: 2). This ongoing entanglement of legal and illegal could, perhaps, be the longer-term outcome of the increasing hybridisation of trading practices observed in the latter part of the long nineteenth century. What is certainly

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<sup>5</sup> It is worth noting that the notion of 'entanglements' has been established in transnational legal history as a way to study the historical interactions or exchanges between different jurisdictions (see Duve 2014). The findings presented here resonate more strongly with the *histoire croissée* approach, which promotes a broader historical analysis of connections, flows, exchanges, transfers and intersections through historical time that includes nations or cultures as well as wider objects of study (Werner and Zimmerman 2006; also Cronqvist and Hilgert 2017).

apparent here is that a concentration on the everyday working practices of licensed traders and legitimate businesses is needed to make sense of it. The concept of everyday crime, therefore, promises further significant insights if used more widely in research on illicit markets, past and present.

Finally, the findings of this article have implications for contemporary alcohol policy. The documented persistence of illicit alcohol enterprises across the historical long term is enough to dismiss any lingering sense that these are somehow an ephemeral or passing phenomena. Whether normalised in certain contexts or integrated into mundane working practices, they are firmly embedded in the economies of modern Western nations. For this simple but profoundly important reason, governments should routinely consider potential impacts upon illicit markets when formulating, implementing and evaluating new alcohol policies. To be clear, the point is not that efforts to tighten alcohol controls will necessarily be undone by the pervasiveness of illicit alcohol. The point is that policy-makers should be aware of the scale and persistence of illicit markets, as well as their connection to licit businesses, and either factor this into their choice of control measures or, as Rehm et al (2022) recently argued, design counter-measures to contain any resulting growth in illicit markets. More specifically, the salience of legitimacy demonstrated here points to a need for governments to fully explain and justify new alcohol policies to key commercial stakeholders, including the drinks industry. While it diminished fairly quickly, the burst of criminality provoked by the People's Budget demonstrates the risk posed when key stakeholders in the drinks trade feel mistreated. Governments must not, therefore, disregard illicit alcohol markets. If, instead, they can recognise that illicit alcohol markets have persisted across long periods of time, as hybridised entities existing between and across legal and illegal economic spheres, then that will aid in the formulation and implementation of more effective alcohol policy.

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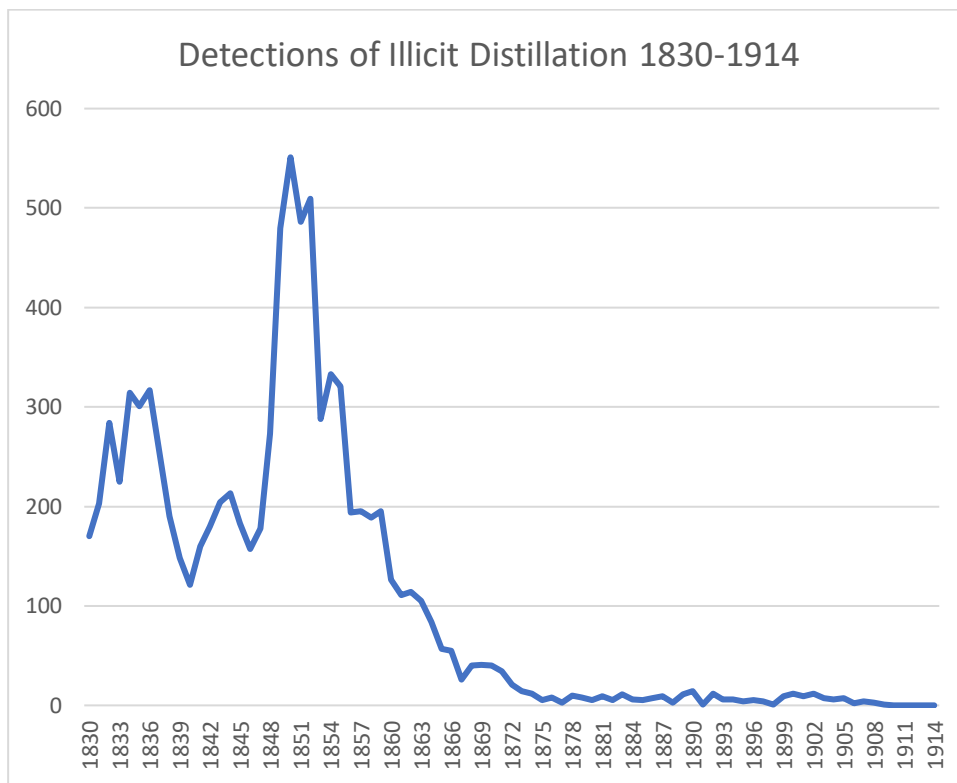
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**Figure 1**



**Figure 2**

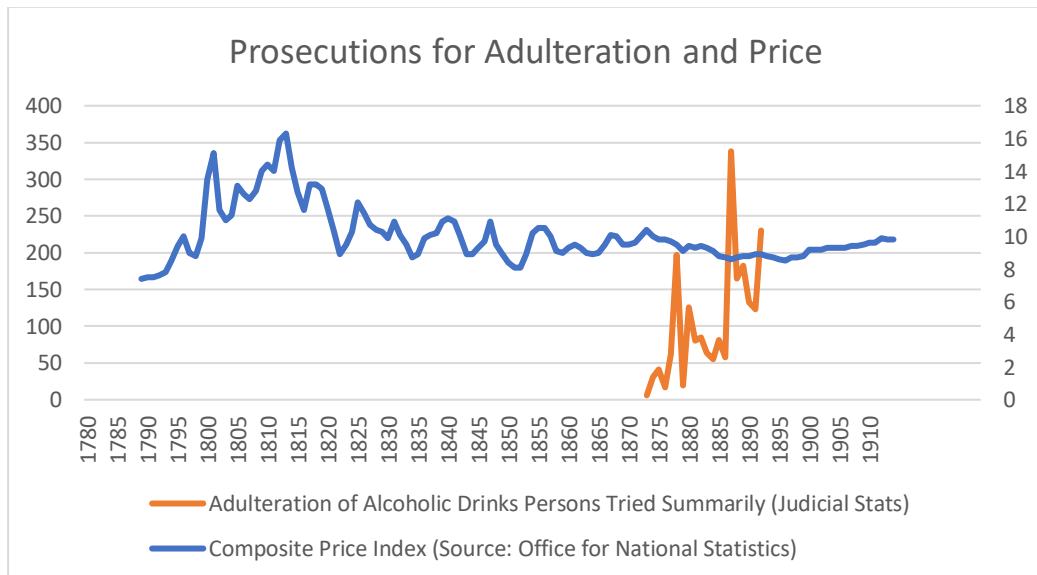


Figure 3

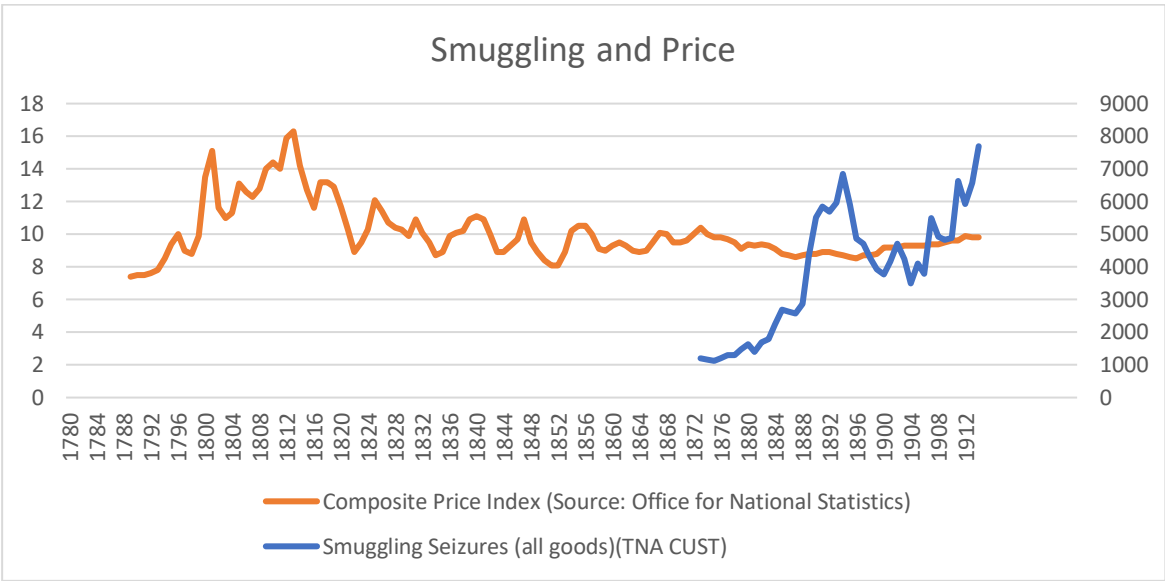
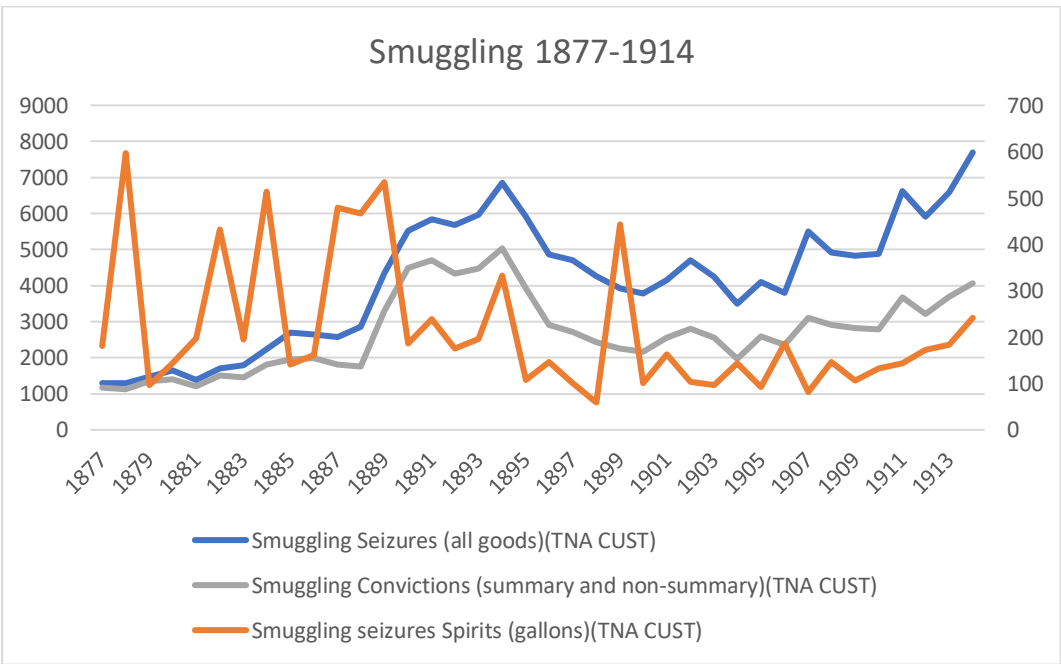


Figure 4



**Figure 5**

