



Aspects of the Informal Liquor Trade

"I'd rather that England should be free than that England should be compulsorily sober. With freedom we might in the end attain sobriety, but in the other alternative we should eventually lose both freedom and sobriety".

- W.C. Magee, Archbishop of York, Sermon to Peterborough (1868)^[1]

1. Introduction

Informal liquor outlets, commonly known as shebeens, are the most common enterprise in the informal economy in South Africa's townships. The informal sector, including shebeens, has the potential to create much-needed employment in South Africa: Barnes estimates that in the Western Cape there are 25 000 unlawful shebeens and that 152 500 people are working in the informal liquor industry in the Cape^[2]. However, the shebeen industry is surrounded by controversy. This paper will attempt to shed light on the issue by discussing aspects of the informal liquor trade in South Africa, including how liquor policy can be used both to reduce social harm and to protect the interests of shebeen owners.

2. Background

According to Cameron, liquor was used as a means of control over most of the population during the colonial and apartheid eras. After 1910 the manufacture, distribution, sale and use of liquor were regulated by the Liquor Act 30 of 1928 and the Native (Urban Areas) Act 21 of 1923^[3]. These statutes prohibited the supply and delivery to or the possession of alcohol by 'non-whites'. Freeman and Parry argue that liquor licensing also has a shameful history since only white people could trade liquor. Black people could only drink at beer halls supposedly founded to fund the improvement of black areas (though unfortunately the profits were not used for this purpose)^[4]. In addition, Singer claims that the regime ensured that liquor was more liberally

obtainable by Indians and 'coloureds' than by black Africans. This forced black people to enter the illegal alcohol industry, and consequently these constraints on liquor for blacks lead to the creation of shebeens as an act of resistance to apartheid-era exclusions.^[5]

3. The ANC's and DA's Views on Shebeens

The famous economist Hernando De Soto argues that laws have restricted economic growth by limiting informal businesses^[6]. Shebeens, as informal businesses, could enter the formal economy if the barriers to formalizing their businesses were lowered, thus enhancing economic growth and employment. Likewise, the formalization of the illegal liquor trade after apartheid was supposed to lead to economic development, but in recent years moral and health arguments have pushed legislation in a different direction. The views of the ANC and DA regarding shebeens illustrate this point.

In 1997 the 'moral regeneration movement' originated in a meeting between Nelson Mandela and key South African religious leaders, and in 1998 a 'moral summit' took place where Mr Mandela discussed the moral problems which the regeneration campaign should address. In essence, the only problem discussed was crime^[7], the ANC arguing that a lack of morality was the cause of crime in the country. When the moral regeneration movement was founded it did not discuss liquor and shebeens, but it does presently call for a stricter liquor policy. For example, while the organization has not explicitly critiqued

shebeens, it has called for the law to ensure that liquor outlets are not grouped closely together, and that new licenses should not be awarded in communities where shebeens are in close proximity to each other^[8]. These recommendations would obviously impact shebeeners, especially those in poorer areas where exactly such conditions exist.

DA leader Helen Zille was arrested in 2007 for allegedly supporting the vigilante group Peoples Anti-Drug and Liquor Action Committee (Padlac), and in 2008 she led an anti-drug protest in Johannesburg. The DA often publishes articles on its website which call for more regulation of shebeens, such as a segment entitled, 'DA welcomes proposed clampdown on illegal shebeens'. The media reports and rhetoric of the DA both suggest that a somewhat moralistic framework has influenced how the party sees both liquor and shebeens.

In recent times the ANC has also adopted a tougher stance towards shebeens. The ANC youth league has called for a crackdown on illegal shebeens and for a ban on all liquor advertising. In 2011 the party's chief whip, Mathole Motshekga, stated that moral deterioration in South Africa is caused by the abuse of drugs and liquor. Motshekga also reported that a group of women from the Cape Flats townships claimed that shebeens were selling liquor to school going children on a daily basis^[12]. This is in contrast with the ANC's National Drug Master Plan of 2009 which focuses mainly on drugs, not liquor, and only devotes one line to the issue of underage drinking^[13].

In 2012 the Minister of Social Development, Bathabile Dlamini, launched an anti-alcohol campaign with the theme: "Towards an alcohol and drug abuse free South Africa – take a stand"^[14]. In addition, the 2011 'substance abuse summit' saw Dlamini and other participants calling for restrictions on liquor marketing and the re-examination of licence fees. They also proposed that liquor licenses should only be renewed if laws were adhered to, and that the legal alcohol drinking age should be raised to 21. Both major parties are thus very concerned about the harm caused by liquor in South Africa.

4. Problems

Alcohol abuse is identified as a major issue in

South Africa, thus increasing the concern over shebeens. October claims that the Western Cape has the world's highest prevalence of foetal alcohol syndrome^[15], and it is estimated that in certain South African populations more than 30% of people have alcohol problems^[16]. In addition, the South African Police Service reports that 60% of crimes nationally are related to substance abuse^[17]. South Africa also has a high incidence of road fatalities and injuries caused by drunk drivers; 50% of people who die on our roads are intoxicated^[18]. Medical problems caused by liquor include liver cirrhosis, certain cancers, elevated blood pressure and stroke. Alcoholism also causes problems such as poverty because people are willing to use their money on liquor instead of on the basic needs of themselves and their families, and absenteeism from work by alcoholic workers decreases productivity. Shebeens have been implicated in rape and other sexual assaults, while their sometimes unbearable noise levels disturb surrounding communities. People are also unhappy with the fact that some shebeens are located too close to schools and places of worship. The availability of liquor via informal liquor outlets has certainly made it easy for people to access liquor; however, because shebeens are informal businesses, there is no clear way to measure how much shebeens contribute to many of the problems related to abuse of liquor.

5. South Africa's Response

Each province in South Africa is responsible for developing its own liquor law. For example, in April 2012 the Western Cape Liquor Act was implemented. The DA's main reason for implementing the Act was to reduce health problems caused by liquor. The Act states that shebeens can only operate in main streets, and only in exceptional circumstances will a liquor licence be granted to a shebeener operating in a normal street. In its policy position on drugs and alcohol, the City of Cape Town clearly states that it seeks to limit the availability of liquor to the poor and in certain areas. Although the City rightly identifies that alternative employment and skills development opportunities need to be provided to liquor traders, and that suitable land must be provided where people can legally trade in alcohol, steps were not taken to do so prior to implementation of the Act. Gauteng is now in the process of drafting new liquor laws and, according to the economic development MEC

Qedani Mahlangu, stricter controls on the informal liquor industry will be implemented. Thus, at least two provinces in South Africa are implementing stricter liquor laws.

6. The United States

The US has a more complex manner of regulating liquor. Each state is responsible for drafting its own liquor laws, and different counties and cities within a state can also have their own liquor laws if they so choose. There are 'dry' counties where liquor may not be sold, but some cities within dry counties have chosen to allow the sale of alcohol. Scalen and Payne conducted a study in Angelina County, Texas, which transitioned from a dry to a wet county. They reported that the switch from dry to wet did not increase the amount of arrests for driving while under the influence^[19]. However, some authors argue that in dry counties there are increased road accidents because people need to drive further distances to get to liquor outlets^[20]. Unlike in South Africa, the legal drinking age in the US is 21 years old, and supporters of this drinking age have claimed it reduces alcohol-related harm. On the other hand, critics have claimed that often the youth does not follow this law and that this creates mass criminality and disrespect for the law. Miron and Tetelbaum argue that raising the legal drinking age to 21 has had no impact on alcohol-related road traffic accidents^[21]. In certain states the liquor outlets are owned by the state itself, which makes it easier for the government to regulate the sale of liquor (unlike South Africa where the state does not own any liquor outlets).

7. The United Kingdom

The UK's liquor policy of 2003 brought an end to fixed licensing hours. This means that licensed liquor outlets can now be open 24 hours per day in the UK^[22]. Ward claims that some fear that this has resulted in some city centres becoming no-go zones for the aged and families to visit at night^[23]. The Home Office has noted the following points: in the UK the majority of people who drink do so responsibly, but there is a minority which drinks liquor in excess. There is a growing number of children aged 11-15 years old who 'binge drink'. Alcohol abuse impacts crime, health, children and young people, and £21 billion is spent yearly on liquor-related harm. The availability of inexpensive liquor is a major contributing factor

to liquor-related problems, and the government has therefore tabled a new draft liquor policy which seeks to end access to cheap liquor as well as reckless liquor promotions. Liquor outlets which operate at night will be charged a levy, and this money will be used to police areas where late-night liquor outlets operate. The draft law also aims to make it easier to shut down liquor outlets which do not comply with the law. Interestingly, although alcohol advertising has been cited as not having a dramatic impact on drinking patterns, the UK already has laws which regulate such advertising, and it does not allow any liquor advertisements to target the youth.

8. Recommendations

A few tentative measures to help improve South Africa's liquor policy may be considered.

8.1. Increasing the price of alcohol in Europe led to a drop in its consumption. Some researchers claim that increasing the price of liquor will also result in heavy drinkers and the youth drinking less, but Moore has shown that the consumption patterns of heavy drinkers do not change even if liquor prices are increased^[24]. He also claims that younger drinkers and heavy drinkers tend to be more willing to substitute liquor with other drugs such as tobacco, marijuana and cocaine. Moore adds that his respondents claimed that the reason they used alcohol and or these other substances was because they wanted to be intoxicated; they did not care what substance they used. Increasing the cost of liquor in order to dissuade people from drinking is a less viable option in South Africa because a large section of our community brews and consumes homemade beer, which is an easily-available option if other liquor becomes too expensive.

8.2. Policy must target middle-class and wealthy people, not just the poor. Alcohol abusers can and do purchase liquor from licensed liquor outlets, and the patrons of legal liquor sellers also become involved in negative activities. For example, it is less likely that poor people will cause car accidents as majority of South Africa's poor travel by public transport. So, in order for liquor policy to reduce road accidents it needs to target all classes.

8.3. Liquor policy must not be created in isolation; an integrated approach is needed.

The City of Cape Town's goal to create alternative economic opportunities is commendable, but no plan has been developed as to how this will be achieved. Liquor policy and economic policy are closely related. As Meyers has said, "Interventions targeting alcohol, violence and traffic-related injury risks are quintessentially inter-sectoral, and partnership and institutionalisation are key factors for successful action. An appropriate, high-level provincial oversight structure should therefore be established and tasked with planning, implementation, monitoring and evaluation. Growing evidence demonstrates the benefits of such co-operation to society and to each sector"^[25]. It should also be noted that the majority of shebeen owners are poor, black women; the impact of liquor laws on them and on their families and communities needs to be considered before the laws are implemented.

8.4. The experience in countries like Norway and Sweden is that **banning liquor advertising does not decrease liquor-related harm**. A similar ban in South Africa would lead to job losses and decreased profits for companies, with little if any benefit to show for it. However, alcohol advertisements targeting young people, who have not yet begun to use alcohol regularly may be a different matter. It is arguable that these should be banned even if they have only a slight effect in making liquor appealing to minors.

8.5. Road traffic officials need to increase their visibility. A national points system should be implemented regarding licences, and drivers who accumulate too many points should have their licences revoked. More road-blocks checking alcohol levels need to occur as well.

8.6. More widespread education programs should be implemented to explain the harm done by liquor to the youth and citizens in general. 'Liquor education' should be continuously updated, and should suit the context of the participants. It needs to include life skills training in order to be effective.

8.7. Increased treatment facilities for people suffering from alcohol addiction are needed. The City of Cape Town has set up a liquor and drug helpline, and is also creating more treatment facilities for people who abuse alcohol and drugs. These are positive examples of how government can help reduce liquor's harm.

8.8. It is very important for policy makers to understand that **the informal liquor trade is rooted in poverty**; it is merely a symptom of the underlying economic inequality in South Africa. The gap between the poor and rich is increasing, and unemployment figures are high – therefore shebeens are for many a means of survival. Patrons of shebeens also choose to use alcohol to dull their senses, to forget about the problems they face. Clearly, shebeens which are managed in an irresponsible manner should be shut down, and no-one should be allowed to sell liquor to minors or to cause disturbances in communities, but responsible traders should be allowed to enter the formal market by being granted licences. This would make it easier to police the industry, and would also boost South Africa's formal economy.

8.9. Increasing the legal drinking age is unlikely to resolve liquor issues, as minors are already breaking the law by drinking at a young age; researchers have found that 12% of South Africa's youth started drinking at age 13^[26]. Raising the drinking age will not change the current binge-drinking culture which South Africa has; instead, there needs to be a mindset shift with regards to liquor, and an increase in the provision of recreational facilities. This will help to ensure that the young people have other places to socialize at instead of informal liquor outlets.

8.10. An appropriate tax should be imposed on shebeens operating in residential areas, similar to the proposed tax on night-time liquor traders in the UK. This tax could be used to police the communities where these shebeens are operating, and could also provide informal liquor industry patrons with safe transport after they are done drinking.

9. Conclusion

Various aspects of the informal liquor industry have been discussed in this paper, and suggestions have been made which could help improve liquor policy. The key message is that liquor policy needs to be formulated by using an integrated approach. This is crucial because well intentioned liquor policies can have unintentional affects on society; they can worsen problems caused by liquor abuse, instead of minimizing them. Thus, liquor policy needs community involvement and support in

order to be effective. Ultimately, the informal liquor industry needs to be transformed, not driven further underground by stricter liquor laws.

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- [1] Malpass, L. 2011. *Alcohol policy and the politics of moral panic*, www.cis.org.au/images/stories/policy-monographs/pm-118.pdf
- [2] Barnes, C. 2012. *Shebeen owners to feel heat for crime*, Cape Argus, <http://www.iol.co.za/news/crime-courts/shebeen-owners-to-feel-heat-for-crime-1.1291329#.UF13A7Igc8E>
- [3] Cameron, A.J. 1999. *Ex parte the President of the Republic of South Africa in Re: Constitutionality of the liquor bill*, Constitutional court of South Africa, <http://www.saflii.org/za>
- [4] Freeman, M & Parry, C. 2006. *Alcohol use literature review*, <http://frayintermedia.com/blog/wp-content/uploads/2010/02/Alcohol-Use-Literature-Review.pdf>
- [5] Singer, G. 2003. *An Examination of South African Alcohol Policy*, Cape Town Catholic Parliamentary Liaison Office
- [6] Marquez, A. 1990. *The Other Path by Hernando De Soto*, 10 B.C. Third World L.J., <http://lawdigitalcommons.bc.edu/twlj/vol10/iss1/9>
- [7] Rauch, J. 2005. *The campaign for moral regeneration in South Africa*, <http://www.iss.org.za/pubs/CrimeQ/No.11/Rauch.htm>
- [8] Mdhlahdla, Z. 2012. *WE CAN DO IT! - Department of Trade and Industry*, www.thedti.gov.za
- [12] Motshekga, M. 2011. *Whither the Moral Regeneration Movement*, <http://www.anc.org.za/docs/anctod/ay/2011/pdf/at08.pdf>
- [13] Department of Social Development. 2007. *National Drug Master Plan 2006-2011*. [http://www.westerncape.gov.za/other/2009/5/national_drug_master_plan_\(2006-2011\)_a.pdf](http://www.westerncape.gov.za/other/2009/5/national_drug_master_plan_(2006-2011)_a.pdf)
- [14] Parliamentary Monitoring Group. 2012. *Unrevised hansard national assembly Thursday 1 March 2012*, <http://www.pmg.org.za>
- [15] October, A. 2011. *Fetal alcohol syndrome: dashed hopes, damaged lives*, <http://www.who.int/bulletin/volumes/89/6/11-020611/en/index.html>
- [16] Meel, B.L.A. 2006. *Alcohol-Related Traumatic Deaths in Transkei Region, South Africa*. *Internet Journal of Medical Update*, Vol 1(1), p.14-9. http://www.akspublication.com/paper04_jan-jun2006.htm
- [17] Smith, C. 2012. *Perspectives on drug testing in the community*, <http://www.frontshop.co.za>
- [18] Arrive Alive. n/d. *Drunk Driving and Road Safety*, <http://www.arrivealive.co.za/pages.aspx?i=1259>
- [19] Scalen, W Payne, L.W. 2011. *The Transition of a Texas County from "Dry" to "Wet" and a Comparison of DWI Arrest Rate Before and After*, *Southwest Journal of Criminal Justice*, Vol. 8(1), p. 59-66, <http://www.swacj.org/swjci/archives/8.1/Transition%20of%20Texas%20County%20Dry%20to%20Wet.pdf>
- [20] Baughman, R, Conlin, M, Dickert-Conlin, A & Pepper, J. 2001. *Slippery when wet: the effects of local alcohol access laws on highway safety*, *Journal of Health Economics*, Vol. 20, p.1089-1096, <https://www.msu.edu/dickertc/slipperywhenwet.pdf>
- [21] Miron, J & Tetelbaum, E. 2009. *Did the Federal drinking age law save lives?*, <http://www.cato.org/pubs/regulation/regv32n1/v32n1-1.pdf>
- [22] Secretary of State. 2012. *The Government's alcohol strategy*, <http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/alcohol-strategy?view=Binary>
- [23] Ward, P. 2010. *Alcohol Policy*, http://www.parliament.uk/documents/commons/lib/research/key_issues/Key%20Issues%20Alcohol%20policy.pdf
- [24] Moore, S.C. 2010. *Substitution and Complementarity in the Face of Alcohol-Specific Policy Interventions*, *Alcohol and Alcoholism*, Vol. 45 (5), p. 403-408, <http://alcalc.oxfordjournals.org/content/45/5/403.full.pdf>
- [25] Butchart, A, Corrigall, J, Matzopoulos, R, Meyers, J.E, Naledi, T & Peden, M. 2008. *Reducing the burden of injury: An intersectoral preventive approach is needed*, *South African Medical Journal*, Vol. 98(9), p.703-705, www.samj.org.za/index.php/samj/article/download/2333/2069
- [26] Makoka, S. 2012. *Increasing the age-limit: Youth Perspective*, <http://www.thedti.gov.za/businessregulation/presentations/nyda.pdf>

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