

THE INTERNATIONAL JOURNAL OF HUMANITIES & SOCIAL STUDIES

The Paradox of Alcohol Control Policies in Kenya: Culture versus Policy: A Case of Illicit Brew Control in Kakamega and Uasin Gishu Counties, Kenya

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Abstract:

Alcoholic beverages are closely linked to the history of man. They are either recorded (formal) or unrecorded (illicit). In Africa, a third of all alcohol consumed is illicit and are closely tied to cultural traditions that challenge alcohol control policies. This study was carried out in Kakamega and Uasin Gishu counties in Kenya targeting illicit brew traders and National Government Administrative officers (Chiefs and Assistant Chiefs). It was a descriptive study that sought to determine how cultural norms determined implementation of alcohol control policy on illicit brews. The study was guided by discursive approach to policy, the result indicated that, illicit brews were socially acceptable, were a key requirement in traditional rituals practiced in both counties, were valued by some members in the community, used a medicine, is an intergenerational art and played key roles during different social integration events. All these factors, affected the effort to curb illicit brew trade because the implementers belonged to the same communities, some still holding the believes about traditional alcohol. It was further found that the presence of cultural values on unrecorded alcohol, multiple stakeholders in controlling the brews and national constitution protecting people's cultural heritage further derailed control efforts by of the National Government Administrative officers.

Keywords: *Illicit brew, unrecorded alcohol, cultural practices, illicit brews control policy, Busaa, Changaa*

1. Introduction

Human beings discovered alcoholic beverages in prehistoric times. It was a product of natural fermentation but was later produced deliberately from starchy and sugary plants (Keller, 1979). It dated back to over 7000 BC (Phillips, 2014) and was described biblically in the era of Lot and Noah when drunkenness was widespread thus, closely linked to the history of mankind (Waithima and Wahome, 2019). The use of alcoholic beverages around the world is said to be as old as agriculture (Myadze and Rwomire, 2014). People, throughout the history of nations, were familiar with alcoholic beverages used during festivities such as marriage, birth celebrations, and successful hunting (Hamdan-Mansour, 2016). The advancement in technology has led to large scale alcohol production and consumption and expanded the alcohol market. Alcohol is attributed to 5% of the global burden of diseases and is the leading risk factor causing mortality and morbidity in the world (GDB, 2013). Consumption of alcohol contributes to a 5.2% global burden of diseases (Mkuu, Barry, Swahn, and Nafukho (2019) through increased exposure to HIV infections, cardiovascular diseases, pneumonia, and tuberculosis (Mkuu, Barry, Ishino, and Amuta, 2018). Approximately 3.3 million deaths in 2012 were attributed to alcohol misuse (WHO, 2014). The effects of alcohol consumption are adverse, ranging from health risks among individuals, family, friends, and society at large (Sudhinaraset, Wigglesworth, and Tekeuchi (2016).

Globally, alcoholic beverages are of two kinds; recorded and unrecorded alcohol. The recorded alcohol are formal alcoholic beverages with standardized production. They are regulated, controlled, and legally sold within specified territories. The unrecorded alcohol is unregulated, hence, illicitly produced by either unlicensed industries or home-brewed, smuggled across borders, consumed in unregistered jurisdictions and surrogate alcohol, not intended for human consumption (Mkuu, Barry, Ishino, and Amuta, 2018).

Cultural norms are strong predictors of alcohol consumption regardless of race and ethnicity. They vary across continents, nations, and communities (Sudhinaraset, Wigglesworth, and Tekeuchi, 2016). Some communities value alcohol consumption others demonize it (Monaco et al, 2020). As a cultural artifact, the norms regulating the consumption of

alcohol dictates the kind of beverage used, rate and amount of intake, rituals that require alcohol use, the role played by the alcohol, age, and gender of the drinker, and the place and time for drinking (Mandelbaum, 1965).

Apart from the legal provisions to control alcohol production and consumption at the global level, country-specific national policies and local regulations, Savic, Room, Mugavin, Army, and Livingstone (2016) noted that cultural norms are crucial building blocks that determine alcohol consumption patterns. This leads to complications between legal policies for controlling alcohol production and consumption, and people's different cultural beliefs and practices surrounding alcohol.

In Africa, alcohol distribution and consumption are heterogeneous with a third of all alcohol consumed as illicit brews, produced by fermenting or distilling from grains, fruits, sugarcane, and palm trees (Ferreira-Borges, Parry, and Babor (2017). In sub-Saharan Africa, unrecorded alcohol accounts for 60% of all alcohol consumed (Willis, 2005, Rehm, Larsen, Lewis-Laietmark, Gheorge, Poznyak, Rekve, and Fleischman, 2016).

In East Africa, 90% of the alcohol consumed is homebrewed (Jackson, 2015) and is linked to intentional and unintentional injuries, deaths, and disability (Mkuu, Barry, Swahn, and Nafukho, 2019). Different communities in Kenya use different kinds of alcohol because they have diverse cultural significance (Musungu and Kosgei, 2015) and acceptability (Githui, 2011). An estimated 36% of alcohol consumed by adults in Kenya is illicit homebrews, used for cultural and traditional practices (Papas, 2010). Some, for economic reasons, trade the homebrews informally.

The Alcoholic Drinks Control Act of 2010, provided a framework to control alcoholic drinks in the country. It aimed at ensuring consumer safety (Musungu and Kosgei, 2015). Furthermore, the policy regulated traditional liquor by reducing prevalence of alcohol poisoning and raising revenues from home-made legal liquor (Jenkins, Othieno, Ongeru, Kiima, Sifuna, Kingora, Omollo and Ogutu, 2015) through the provision of licensing procedures.

The Alcoholic Drinks Control Act No. 4 of 2010, is the national alcohol control policy in Kenya, providing multiple control measures on alcohol inclusive of illicit home brews. It provided for a legalization process to make the artisanal alcoholic beverages formal. Despite the provision, illicit brewing, distribution, and sale in the country are rampant, with chang'aa, a distilled spirit, having a rise of consumers from 3.8 - 4.2 % in 2015 coupled with reports on illicit brew poisoning (Jenkins *et al.*, 2015).

Locally, studies on illicit brews in Kenya indicate a continuity of illicit alcohol despite formal policies to control the trade. Kobia's (2011) study carried out in central Kenya reported 38.3 % of women consumed illicit brew. Takahashi, Wilunda, Magutah, Mwaura-Tenambergen, Wilunda, and perngparn (2017) study, on correlates of alcohol consumption in Ikolomani sub-county, Western Kenya found that illicit brews were the most commonly consumed alcoholic beverages. They included Changaa and busaa (Taeka, 2015), because of its meaningful cultural and traditional customs (Mkuu *et al.*, 2019). Furthermore, there were research gaps in previous studies on illicit brew cultural role and control. The studies investigated cultural norms but did not link its use to existing policies on how they affect implementation. a paradox that the study sought to examine.

2. Theoretical Framework

The study adopted the discursive approach, proposed by Jurgen Habermas and Michael Foucault and used in late 1980's and early 1990's in public policy, Particularly in Europe and USA. The approach pays attention to policy actors' subjectivity on the kind of knowledge they mobilize, the interpretations used to create meaning and particular contexts and situations that meaning evolves (Bevir and Rhodes, 2004). Discursive approach seeks to identify the normative discourses that advance different political processes and institutions. Normative discourses' centre point includes the analysis of value judgment, (Durrova and Zittoun, 2013) whose interest is to explain how things are supposed to be based on particular beliefs, norms and culture of people.

According to Hewitt (2009), Discourse analysis of a policy is dependent on different interpretations, key being its dependence on social practices such as cultural norms and rituals which form rules that end up constructing discourses. Based on this theoretical framework this paper sought to examine the cultural factors that supported the production and consumption of illicit brews in Kakamega and Uasin Gishu counties despite national and local policies. It sought to investigate the values attached to illicit brews from both the illicit brew traders and The National Government administrative officers, the policy implementation actors on illicit brews.

2.1. The objective of the Study

The objective of the study was to assess how cultural norms determined the implementation of illicit brew control policies in Kakamega and Uasin Gishu counties

3. Methodology

The study was descriptive, carried out in Kakamega and Uasin Gishu counties in Western Kenya. Kakamega is predominately occupied by the Luhya community while Uasin Gishu County is mostly occupied by the Kalenjin community, each with its own further sub-tribes, as well as other minority ethnic groups. Kakamega County is composed of 13 Administrative units, and 6 in Uasin Gishu County. The study targets the National Government Administrative officers (NGAOs), Particularly the Chiefs and Assistant chiefs, the street-level bureaucrats tasked with the control of illicit brews, and the illicit brew traders from both counties.

The targeted population was composed of 486 NGAOs; 138 Chiefs and 348 Assistant chiefs. 144(96 from Uasin Gishu and 48 from Kakamega) were sampled. A response rate of 124(26 chiefs and 5 Assistant Chiefs from Kakamega county and 5 Chiefs and 35 Assistant chiefs from Uasin Gishu) was achieved, forming 86.1% of the total sample size. The

illicit brew traders were purposively sampled, 15 from Kakamega County, and 15 from Uasin Gishu County. Questionnaires were used to collect data from the NGAOs and illicit brew traders were orally interviewed. A research permit was sought from NACOSTI, Kenyatta university graduate school, respective county education directors, and county commissioners' offices of the two counties. Furthermore, informed consent from the research respondents was sought and both confidentiality and anonymity were guaranteed.

4. Research Findings and Discussion

4.1. Social Acceptability of Illicit Brews

The study sought to examine if illicit brews were acceptable in both communities residing in Kakamega and Uasin Gishu counties. The NGAOs responded to Likert scaled questions on the roles played by traditional illicit alcohol in their communities' cultural practices. They were asked to indicate if illicit brews were socially acceptable. The result indicated that 77(62.1%) disagreed, 54(36.3%) agreed while 2(1.6%) did not know. Despite the disagreement by the majority of the NGAOs, the social acceptability of illicit brews had been reported by previous studies. Dumbili (2013) noted that due to the complex roles played by the beverages in socio-economic relationships, traditional brews become acceptable in communities in Nigeria.

4.2. Traditional Rituals

Asked whether traditional illicit brews are key during community specific rituals, majority 144(91.9%) of the NGAOs agreed that the brews were used during traditional rituals specific to communities and families, 8(6.4%) disagreed and 2(1.6%) did not know. This confirmed the assertions of Willis (2006) that there are cultural practices that strictly require the use of traditional alcohol. The rituals included: Initiation ceremonies divulged by 90(75.5%) of the NGAOs, Celebration of marriage ceremonies 35(28.2%), Memorial services of departed family members 33(26.6%), Funeral rites 12(9.7%), and cleansing ceremonies 8(6.5%). These are applicable to both communities in Kakamega and Uasin Gishu counties.

It was further reported that *Busaa*, a fermented alcoholic beverage from grains such as maize, millet and sorghum and *Kipketin* fermented from honey and sausage tree fruit (*Kigelia Africana*) was used in the ceremonies. However, *chang'aa*, a distilled spirit would be sneaked in and consumed by attendees. The use of alcoholic beverages was mandatory for those who opted to follow traditional practices. During marriage ceremonies, they were used to negotiate a marriage, bless, and seal a marriage union, and during payment of dowry. The majority of the NGAOs 106(85.4%) reported that the traditional brews were necessary requirement for traditional ceremonies, 16(12.9%) disagreed while 2(1.6%) did not know. These were also events reported by the illicit brew traders. This outcome agreed with Birech *et al*, (2013), Schaffer (2012), Gwako (2017), Musungu and Kosgei (2015), Mwangi (2018) and Kamanga (2015) studies.

4.3. The Value of Illicit Brews

The study further sought to determine if traditional brews were valued in the communities. The majority of the NGAOs 55(44.8%) reported that it was valued, 54(43.9%) disagreed and 14(11.4%) did not know. A mean of 2.98% suggested that those who valued the brew and those who did not were almost equal. On the other hand, all 30(100%) of the illicit brew traders contended that the brew is valued especially by those who adhered to traditions. On the contrary, some Christian and Muslim faithful's have abandoned the traditions, but some still hold on to both traditions as well as their faith.

4.4. Illicit Brew Is Medicinal

Asked whether illicit brews had a medicinal purpose, 65(52.4%) disagreed, 37(29.8%) agreed, while 22(17.7%) did not know. The illicit brew traders reported that *chang'aa* was used to treat common cold and intestinal diseases such as amoeba. This result had been previously reported by Were (2011), in a study carried out in Mumias, Kakamega county, and IARD 2017), that the illicit brews were used to prevent illnesses and indigestion.

4.5. Illicit Brew Is Intergenerational Art

The study sought to establish if the art of brewing was intergenerational. The majority of the NGAOs 78(63.4%) reported that the art was inherited, 43(35.0%) disagreed, and 2(1.6%) did not know. The illicit brew traders further confirmed the assertion of the majority of the NGAOs when 13(43.3%) reported that they learned the art from their mothers, 8(26.7%) from their mothers-in-law, 3(10%) from their grandmothers, 3(10%) from friends and 6(20%) from both their biological mothers and mothers-in-law. This result confirmed Mahugu's (2011) assertion that the family unit is responsible for the transmission of cultural attitudes towards alcohol. It further agrees with Mbali's (2016) study in Western Kenya that Brewers in the region came from a common ancestry whose background can be traced back to four generations. Aside from intergenerational transmission, peer group influence also aids in learning and transmitting the skill. This was reported in Masaba's (2017) study that friends, just like family contributed to the rise of illicit brew trade in Busia town, Western Kenya.

4.6. Social Integration

Communities use traditional brews during social integration practices. The majority of the NGAOs 71(57.3%) agreed, 50(40.3%) disagreed, and 3(2.4%) did not know. These social integration events reported by both the NGAOs and

illicit brew traders included joint harvesting efforts, the building of homesteads, family gatherings, the coronation of kinsmen particular to specific sub-tribes among the Luhya community, the celebration of newborns, and child naming ceremonies. It was also clearly categorized that Kipketin and busaa was used by the kalenjin, while Busaa was key among the Luhya's.

4.7. Illicit Brew Control, Cultural Practices and Multiple Stakeholders

To determine the complexity of illicit brew control, the NGAOs were asked to indicate if they raided and arrested illicit brew, partakers, during cultural practices. The majority 97(78.2%) reported that they did not, while 27(21.8%) did. All the illicit brew traders 30(100%) on the other hand confirmed that they did not. The NGAOs further outlined the reasons for non- interference. They included: prior permission sought 37(38.1%) from their offices or the national police service within their jurisdictions, that the brews were a cultural right 24(24.7%), arrests could lead to curses 21(21.6%) and might disrupt local peace and security 10(10.3%) if they interfered with the practices. Those who saw arrests as a source of curse 21(21.6%) believed that control of the brews during such practices might prompt the elders to bewitch them and thus, might lose their sanity or lives. Others also believed that curses could run through one's generation.

The illicit brew traders further reported that the NGAOs were part of the culture 13(43.3%) having gone through the same traditions while others still practice it. They issue authorization letters for the brews 17(56.7%) and the fact that *busaa* was not considered illegal in the courts. These practices, therefore, saw relaxed illicit brew control by the NGAOs because of such believes, affirming the cultural significance of illicit traditional alcohol regardless of its illegality in both counties. This result agrees with Limaye *et al.*'s (2014) study in Malawi indicating that artisanal alcohol is a cultural artifact rooted in tradition and Mbali's (2016) study reporting that societies in Western Kenya demand and legitimize banned traditional alcohol.

These cultural events that demand the use of illicit artisanal alcohol on the other hand challenge the implementation of alcohol control policy on illicit brews among the NGAOs. Aside from the cultural norms and practices surrounding the control of illicit brews, the implementation problem is further made complex by policy. The constitution of Kenya, Chapter three, part 2, section 44(1), indicating that 'every person has a right participate in cultural life of a person's choice', section 44(2), that, 'a person belonging to a cultural community has the right with other members to a). Enjoy the person's culture and b). To form, join, and maintain cultural associations. The national alcoholic Drinks Control Act 2010 on the other hand is a law meant to control production, sale, and consumption of alcohol, and provides implementing measures to eliminate illicit alcohol by allowing licensing of traditional alcohol (Kenya Law reports, 2010). Despite licensing procedures, illicit brew trade, anchored on its cultural importance is present in Kakamega and Uasin Gishu counties.

The presence of multiple independent stakeholders, for instance, The National government administrative Officers, the national Police service, the county government alcoholic Drinks committee, and the courts further complicate the implementation of illicit brew control policy among the NGAOs. This affirms the discursive approach that discourses can be understood through social processes and they indeed have many elements in policy that play out at the same time.

5. Conclusion

The cultural significance of illicit brews, contradicting laws, and multiple stakeholders in the control of illicit brews provide a complex environment for street-level national government administrative officers in implementing alcohol control policies on illicit brew. They are caught between their own cultural norms and practices protected by the constitution, their legal duty to control illicit trade, and multiple but independent stakeholders controlling illicit brew trade.

5.1. Study's Contribution to Knowledge

This study has contributed to illicit brew control policies literature by filling an existing literature gap in the field. It will be of great significance to policy formulators in Kenya in matters relating control of illicit alcohol and cultural practices to avoid future policy paradoxes and transformation of policy implementation practices.

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