

DRIED PEAS AND THE POLITICS OF INEBRIATION

AN IDIOSYNCRATIC PIECE OF APARTHEID ERA LEGISLATION RAISES IMPORTANT QUESTIONS ABOUT THE STATE OF LEGAL RESEARCH IN NAMIBIA, WRITES **ELLISON TJIRERA**

At the dawn of independence, as Swapo rode the idea of “One Namibia, One Nation” to clear victory in the inaugural elections, a wave of triumphant nationalism swept the country. But the optimistic embrace of a new identity as Namibians did not reach into every corner of the country.

Over the last two years or so a number of obsolete laws still on our statute books were spotlighted by the media.

The purpose, it appears, was to foreground the slow pace at which the wheels of law reform in Namibia turn.

What set tongues wagging in particular was the Dried Peas Control Ordinance No. 35 of 1957. Apart from pointing out the extents to which apartheid authorities were prepared to go, such that ‘humble peas’ could not escape, none of the media managed to tell us why dried peas were controlled.

For this reason, the discussion was

couched in the trope of ‘obsession with repressive and control’ as the hallmark of apartheid.

I was personally puzzled and could not stop thinking about why on earth access to dried peas amongst natives (read blacks) was controlled. This piece of legislation just sounded too laughable and hilarious to be taken seriously.

In November 2015, I shared the Dried Peas Control Ordinance story with a South African historian – Catherine Burns –



based at the University of the Witwatersrand (Wits). She was equally perturbed and told me that she was going to find out why dried peas were legally guarded amongst the natives.

In almost no time, Catherine Burns shared with me a piece titled 'Diluting Drinks and Deepening Discontent: Colonial Liquor Controls and Public Resistance in Windhoek, Namibia'. Written by the historian Jan-Bart Gewald, this piece makes reference to dried peas in relation to being used as ingredients in the production of alcohol/intoxicating substances.

It seems that dried peas were not that 'humble' after all. The control of dried peas was done within the context of illicit production of alcohol and the perceived lawlessness that drunkenness invited. Indeed, attempts at constricting the flow of alcohol in Namibia go as far back as the 1930s when the colonial state hit the ground running with a resolve to undercut and ultimately eradicate the illicit production of alcohol (Gewald, 2002).

In particular, the apartheid regime was concerned with precluding unfettered access to cheap alcohol. The latter is poignantly hinted at by a piece of legislation enacted in the same year as the Dried Peas Control Ordinance. Kaffir Beer (Rural Areas) Control Ordinance No. 36 of 1957 was another piece of legislation in the arsenal of keeping in check what

was going down non-Europeans' throats.

Production of alcohol using rudimentary ingredients was probably more prevalent in rural areas where the absence of Europeans invited constricted supply. This historical fact seems to shine some light on the state of alcohol consumption in contemporary Namibia. Successive reports by the World Health Organisation (WHO) on alcohol and health have shown Namibia to be among the top boozing countries in Africa.

Could this be partly explained by history insofar as the inevitability of attempts to control desires backfired? Or does it relate to the oversupply of idle time within the context of high unemployment? It seems that Namibia's problem with booze have historical roots, but have been accentuated by contemporary conditions. The WHO (2004) has it that home-brewed beer – a beer whose production and circulation the apartheid regime sought to control – is the most prevalent and significant type of alcoholic beverage in Namibia. After all the consumed alcohol is converted into obsolete alcohol, home-brewed beer accounts for 67 percent of total consumption (Ibid.).

In terms of legal reform in the alcohol industry, the Liquor Act No. 6 of 1998 completely repealed the Kaffir Beer Control Ordinance and consolidated a raft of laws related to the control, sale and supply of alcohol.

The Dried Peas Control Ordinance survived the chop in 1998 and remains on Namibia's statute books. This suggests that there was no nexus established by those seized with law reform between dried peas and the production of alcohol when the Liquor Act of 1998 was being crafted.

It appears that the reason why the Dried Peas Control Ordinance is still law in Namibia relates to lack of understanding of why ordinary dried peas' circulation was legislated for in the first place.

Any amendment or repeal of law should, as common course, in the initial phase foreground the 'spirit of the law' or its perceived intention. Only after an understanding of the 'spirit of the law' is sufficiently mustered can a meaningful amendment or repeal take place.

The fact that the majority of Namibians are still consuming dried peas illegally – 58 years after their circulation came under legislative constriction – is very telling insofar as leaving untouched that which we do not understand or know. This example is microcosmic of a broader malady relating to the slow pace of legal reform, and it would not be unreasonable to partly attribute this to the absence of sustained, well-resourced and coherent legal research in Namibia



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