Policy Analysis:

A Study of the Minimum Legal Drinking Age Policy

Using the Bootleggers and Baptists Theory

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Introduction

In America, you are known to become an "adult" at the age of 18. At that age you can vote, get a full time job, serve in the military, even enter to play the lottery. Yet, the legal drinking age to buy and publicly drink alcohol is of 21 years. America has had a long history of law changes concerning alcohol consumption in the last two decades, including prohibition in two occasions. Even though the federal government ultimately gave the states the ability to decide if they would follow their demands of making the MLDA 21, , they still placed an incentive to follow their rule. The current law states that the minimum drinking age is 21, but many, like the Amethyst Initiative, have come out and demand change. This law was enacted in 1984, when many traffic accidents had been associated with drunk driving, especially among teenagers. According to the CDC, excessive drinking is responsible for more than 4,300 deaths each year, and it accounts for $44 billion in economic costs. One could argue that if many are prohibited to purchase or publicly possess alcohol, consumption would decrease, which would then mean less car crashes.

Still, evidence shows that underage teenagers dying of alcohol abuse is still a problem in the United States, even if it is illegal for them to purchase alcohol in the first place. The MLDA law enacted in the 1980s has not successfully achieve its original goal, which was decreasing the amount of death caused by alcohol consumption. Experts claim that there may be a relationship between the alcohol minimum legal drinking age and the culture of binge drinking in America. This means that a higher legal drinking age incentivizes teens to drink alcohol underground, out of sight, and most of the times in the form of binge drinking to be able to consume it before going out. On average, underage drinkers consume more drinks per drinking occasion than adults

(Bonnie, O'Connell, 2005). In fact, according to the Office of Juvenile Justice and Delinquency Prevention, 11% of all alcohol consumed in the United states is associated to people aged 12-20 years.

If there is so much evidence that shows that binge drinking is a direct consequence of the MLDA and other alcohol related regulations, why has the government then settle with such an ineffective law, who benefits from a high drinking age? The following research, focuses on the public choice perspective of the origin and prevalence of the regulation that increased the legal drinking age in 1984. With this framework the players in the market that are interested in keeping this regulation regardless of its ineffectiveness can be identified. The Bootleggers and Baptists theory first introduced by Bruce Yandle in 1983, explains this confusing phenomenon in which an inefficient policy prevails. This theory gives the perfect framework to explain why certain policies that may be inefficient for society are still there because it benefits other parties. (Yandle, 1983). By identifying the parties that are benefiting from such a policy, future policymakers can recognize potential externalities to their legislation.

In order to be able to effectively convey the importance and history behind this policy, section I of the research paper gives a brief overview in the consumption and regulations of alcohol in America over time. Section II of this research analysis explains the Bootlegger and Baptists theory utilized to study this policy, with an example of past circumstances where this same phenomenon occurred. Section III provides the analysis of the current minimum drinking age law, and the parties intervening in keeping this law. Finally, section IV specifies the final

conclusion to the analysis and recommendations for further research pertaining the Minimum Legal Drinking Age act of 1984.

I.   History of Alcohol Policy

As I have already stated, America has had a rich history with alcohol consumption and regulations across time. W. T. Rorabaugh in 1991, published "Alcohol in America" where he narrates the consumption patterns adopted with each changing regulation in America. Europeans, when they first came to America had a heavy drinking culture that was passed on to their American counterparts. By the 1770s, Americans of all ages would consume alcohol with every meal of the day. In fact, the average American drank 3.8 gallons of alcohol each year. With the revolutionary war, drinking habits had to change when the British cut off the rum imports. This did not stop Americans, by 1830s the consumption of whiskey had reach to more than seven gallons per year for every person over fifteen years of age. Still, by that time the heavy drinkers in America where being threatened by the religion revival of the late 1700s. Protestant priests argued that consuming alcohol was a sin, which led to churches banning alcohol altogether. Along with the Church, physicians argued that excessive drinking led to health problems, and even threats towards society. This resulted in a decrease in alcohol consumption, including the introduction of the first prohibition law in Massachusetts in 1838. It was still a hard regulation to enforce, hence it was not successful and consumption eventually increased to previous levels (Rorabaugh, 1991).

By the late 1800s, women who lacked much voice in public affairs started the *Women's Crusade*, with the intention of making themselves be heard by the men controlling their lives.

This marked the start of the Anti-Alcohol movement, which proved to be a valuable method to stop heavy drinking. This movement led to the biggest impact in alcohol consumption in America of all times, half of the country stopped drinking. Still, this decrease in American drinkers did not last long with the rise of "blind pigs", a common way of referring to illegal drinking establishments. One of the most prevalent organizations created during this period was Women's Christian Temperance Union, formed by Frances Willard. One of the many demands the organization advocated for to raise the legal age of drinking. These organizations grew to work as political pressure groups. This organization would then work along with politicians who favored   prohibition, by giving them funding and workers for their campaigns. Still, such groups seemed to have been only successful in small towns, but not as much in big cities. (Rorabaugh, 1991)

In the end, prohibitions was only successful after World War I, given that the anti-German sentiment drove Americans to stop drinking the most popular drink at the time, beer. Still, there were many loopholes in the regulation, and ultimately it failed in many big cities. This gave international liquor firms the opportunity to obtain high profits. Many mafia giants, like Al Capone, heavily profited from the prohibition as well. Gangster and mobster would pay off the policemen in big cities and sell alcohol at extremely high prices. This increased crime rates and led to a negative opinion about prohibition, which ultimately ended the law (Rorabaugh, 1991).

The economic boom following World War II, led to the stimulation of the alcohol market. Alcohol was considered a luxury good, therefore there was a correlation between wealth and consumption. By the 1970s, many states reduced their legal age of drinking to 18, which drove a

steep increase in teen drunk driving accidents. This resulted in the creation of many interest groups that advocated for a raise in the legal drinking age once again. Among those groups, Mothers against Drunk Driving (MADD) lobbied to raise the drinking age. MADD eventually succeeded and congress coerced the states to adopt a higher drinking age (Rorabaugh, 1991).

II.   Bootleggers and Baptists.

As previously mentioned, for this research the framework of the Bootlegger and Baptist theory helps explain the reason not only why the drinking age in America is still high, but also why this types of regulations often fail to solve the problem. Yandle argues that, when creating some laws, different actors that are affected by the law may intervene in order to push the regulation forward. The Bootleggers, want the regulation to pass for their personal gain that may seem unethical, frowned upon, or even counter intuitive. Therefore, the Bootlegger does not need to lobby for the regulation. TO obtain their desired profit, they rely on the influence of other actors affected by the regulation, the Baptists, which appeals more to the public, and lobby intensely to push the law for approval (Yandle, 1983). The Bootlegger often times has opposing values from those of the Baptists, but they both depend on the other in order to accomplish their goals and obtain profits. That is, without one of the players, the remaining party would not be able to persuade regulators to implement the law. The Baptist, usually does not seem to care or understand that if not though with precision, their preferred regulation may be also favored by another party that does not follow their values. This often times results in enacting socially inefficient regulations that prevail through time.

One of the best examples of Bootleggers and Baptists theory related to alcohol consumption and failed regulations is the case of Al Capone, and the drug wars in the 1920s. Supporters of the Eighteenth amendment in the 1920s argued that "eliminating alcohol consumption would reduce crime and corruption and lower the tax burden created by prisons and poorhouse" (Coyne, Hall, 2017). Yet, at the time the problems that arose from the prohibition seem to signal that there may have been some negative externalities to such policy. This regulation motivated crime lords and hopeful business men to engage in a market without tax burdens, given that it was illegal. As previously mentioned, during the prohibition era crime groups and syndicates formed to distribute the illegal product, such as those observed in the Chicago area involving mob leader, Al Capone. During the prohibition era, mobsters and gagsters were extremely attracted to a tax free business, the distribution of alcohol. To be able to keep on the business of tax free profits, he would pay politicians and members of the police force to protect his clients and his business from any potential threat. These mobsters were profiting from the actions other groups were taking in order to actually make illegal the consumption of alcohol. But where were these groups finding the funding to push for these laws? It was not the mobster who were providing these interest groups with money to create propaganda to abolish alcohol consumption.

The prohibition era was a direct consequence of the rise of "perfectionist movements" which had been popular in America from the early 1800 (Gusfield, 1986). With this ideology in the back of American minds, many organizations that sought for religious perfection for their societies started emerging. Among these groups, the one that was specifically focused on the abolishment of alcohol use was Anti-Saloon League. The Anti-Saloon League was established

initially as an anti-drug movement. It valued the enforcement of temperance laws and enacting further anti-alcohol regulation. They were heavily funded by Churches, by relying in the idea that church saw alcohol as a vice, and therefore a sin. Given the amount of popularity this organization seemed to be getting politicians began to become attached to the values of such groups. In their quest to seek the median voters support, politicians would use the organizations as a tool to create a successful political platform.

We can understand know that what Yandle meant to illustrate in his theory is that behind some regulations, actors that benefit from contradicting outcomes may work indirectly together to be able to push for or enact a certain regulation. In the 1920s, gangsters and mobsters were working behind the scenes while interest groups, such as the Anti-Saloon League, worked with churches and politicians in order to maximize utility and profits respectively. Both of the parties would receive funding, popularity, and profits that incentivized them to push for regulations that proved to be socially inefficient. The reason why these regulations would be considered socially inefficient is because the significantly negative externalities. Negative externalities can be perceived to be a relatively noticeable signs of *Bootleggers and Baptist* framework in the enactment of certain policies.

Today, alcohol prohibition is not something considered to be a pressing matter that must be solved. Still, there has been a rising rate of car crashes involving drunk drivers, especially teens in America. Interest groups argue that the law that keeps legal drinking age in America higher than that of the rest of the world should be maintained. This policy, the Minimum Legal Drinking Age law, may be actually pushing for a culture of binge drinking that is increasing and becoming

more popular across college campuses in America. The policy also has opened the door to substitute markets to grow in the economy. The next section identifies the modern *Bootleggers and Baptists* in the Minimum Legal Drinking Age policy.

III.   Case Study: Bootleggers and Baptist in the Modern World

The following section uses the theory described in the previous section to describe the modern case of Bootleggers and Baptists in regards to alcohol regulation today. The purpose of this section is to identify who is the bootlegger and who is the Baptist given the new ideology or trends society focuses on. As mentioned previously, alcoholism is still regarded as a problem for the American society, today instead of focusing on the elimination of alcohol consumption, interest groups focus on drunk driving.

The current law, the Minimum Legal Drinking Age (MLDA), states that the legal age to purchase and publicly consume alcoholic beverages is at the age of 21 years. The MLDA act of 1984 promises to take away highway funding to states that choose to set their MLDA below 21 years of age (Lindo, J. M., Siminski, P., & Yerokhin, O., 2016). According to the statistics published by the CDC, after the law was enacted in 1984, the alcohol consumption among citizens aged 18-20 declined from 59% in 1985 to 40% in 1991 (Serdula, M. K, et al 2004). Additionally, states that increased the drinking age to 21 observed a 16% reduction of car accidents (Shults, R. A., et al, 2001).

Still, many other authors seem to disagree with this relationship between the implementation of the MLDA act of 1984 with drunk driving accidents. Some authors argue that

the MLDA of 21 may have significant health benefits for the country's youth, yet little effects on drunk driving accidents. Research has shown that there is significant evidence between raising the MLDA with a decrease of motor vehicle accidents (Lindo, J. M., Siminski, P., & Yerokhin, O., 2016). On the other hand, other authors emphasize their research in the development of more dangerous uses of alcohol when raising the MLDA. Carpenter and Dobkin argue that with the MLDA of 21, alcohol consumption per day would increase for each individual (Carpenter, C., & Dobkin, C., 2011). There is evidence that demonstrates that heavy drinking alcohol consumption remained constant after the MLDA was raised from 18 to 21 (Engs, Hanson, 1988). This would mean that even though the access to alcohol consumption had been limited to certain people, consumers found other ways to either obtain it, or consumption for those who could drink increased. In essences, many authors have argued that there may be a higher cost to society from raising the Minimum Legal Drinking Age. As Keith Hartley puts it, "prevention policy is not immune to mischief" (Hartley 1989). Nevertheless, a specific group today still relies statistical facts to push for the MLDA to stay at 21. Legislators and interest groups seem to disregard that the United States is still one of the countries with the most drunk driving related accidents as a percentage of the total motor vehicle accidents regardless of their efforts (McCarthy, 2016).

Mothers Against Drunk Driving is an organization that was first stablished in the 1980s in California after a mother who had lost her thirteen year old daughter decided to take action in her honor (Weed, 1991). Originally, their goal was to reduce drunk driving related accidents and the possible harm it caused to other parties (Hanson, 2016). Yet, throughout the years MADD became a bigger and more successful organization based on a media organizing strategy. This strategy helped the organization attract the attention of the public with weekly stories about

MADD in many newspapers and magazines in the 1980s. The organization had a huge impact in the implementation of laws and regulations regarding drinking. President Reagan appointed the founder of the organization as the leader of a new Presidential Commission on drunk driving. This commission was responsible for recommending the legislation that would eventually force states to increase the legal drinking age to 21 years of age. The grieving and angry members of the organization were capable lobbying their legislation with the support of American Medical Association, Parent Teacher Association, National Council on Alcoholism, insurance industry lobbies and the National Safety Council (Reinarman, C, 1988).

As already previously stated, one of the main evidence of a Bootlegger and Baptist situation is that without the Baptist the Bootlegger will not be able to succeed. As it has already been discussed, there is no substantial evidence that proves that increasing the Minimum Legal Drinking Age decreases car crashes. Clearly in this scenario the MADD is working as the Baptist player. However, who is the bootlegger that makes a profit from maintaining the MLDA at 21?

The Bootlegger has to be an party that benefits from a lower availability of alcohol. In an interview for Reason TV, Bruce Yandle argues that the bootlegger need not to lobby in favor of whatever policy benefits them (ReasonTV, 2010). Crost and Guerrero argue that given a set of statistics concerning marihuana use and alcohol consumption throughout an individual's life proves that there may be a relationship between a higher minimum legal drinking age and the use of marihuana. This could potentially make the cannabis industry the Bootlegger in the modern example. In their research, Crost and Guerrero find that marijuana consumption "sharply decreases" at the age of 21, while alcohol consumption increases after an adult turns 21

(Crost, Guerrero; 2012). It can even be argued that the marihuana industry has the same strategy. There is evidence that demonstrates that during the California Preposition of 2010, many marihuana growers voted against the legalization of marihuana for those 21 years of age or older. This strategy would prevent the price of marihuana from lowering due to its illegality (Lawson, Nesbit; 2013). In their research, Crost and Guerrero find that decreasing the MLDA would decrease the probability of consuming marihuana by 10% (Crost, Guerrero, 2012). From their research, it is already stablished that without marihuana, that is when an adult turns 21, alcohol consumption sharply increases. This would align with Yandle's argument that the condition for a Bootlegger and Baptist situation is that if one of the players is not present then the strategy would not benefit the other. Therefore, Mothers Against Drunk Driving arguably depend on the marihuana industry.

Another piece of evidence we can derive from the effects of having a higher MLDA is the size of the cannabis market in America compared to that of other countries with a lower MLDA. According to Statista data, in 2018 cannabis consumption in America was among the top countries with a consumption rate of 15% as a share of the total population, which is fairly close to the number one country Nigeria in which 19.4% of the population consumes cannabis. It is also worth stating that in part of Northern Nigeria alcohol is prohibited, given the prevalence of Muslims in the area (Heap, 1998). The market value of the cannabis industry in the us is fairly large at 6.6 billion dollars in 2016 given that the world market value of cannabis that same year was of 14.3 billion dollar, hence the US cannabis market accounted for almost half of the global market (PR Newswire, 2017)(Marijuana.com, 2017).

IV. Conclusion

It is clear that the evidence presented in this research shows that having an MLDA of 21 has negative externalities. This leads us to believe that the only reason why such policy has not changed is due to the fact that powerful parties do not want the policy to change. The Bootlegger and Baptist framework developed by Bruce Yandle help us analyze and understand what parties are benefitting from ineffective policies.

Mothers Against Drunk Driving are a difficult group to question given not only their power as a nonprofit organization, and appeal towards the public. They are hard to question because they back their mission with sad stories of loss of human life, most of the times personal tragedies within the family. Mothers Against Drunk Driving have develop a power that gave them the voice to enact a regulation that could potentially help them achieve what was attempted during the prohibition era, but failed. MADD tried to prevent illegal alcohol distribution to underage drinkers to emerge, like it did during the prohibition era of the early 1900, by limiting access to this group of the population perceived to be unfit to drink responsibly. Still, the policy they lobbied for presented itself with several new externalities produced by the limited access to alcohol, such as a change in drinking behaviors among the population in general. However, the main externality explained in this analysis is the development of a new market, that can potentially produce the same problems encountered with alcohol consumption; the marihuana market.

The research provides evidence that demonstrates that marihuana is a substitute for alcohol. Given such a rapid growth path in the last few years, and compared to evidence from other countries, it can be concluded that the access to alcohol in negatively related to the

percentage of the population of a country that consumes marihuana. The literature also demonstrates that given the lack of knowledge and uncertainty about the effects of marihuana, it is still a growing market and it depends on the restriction of access of its competition to be able to expand as a market.

With the emergence of groups such as the Amethyst Initiative, that argue that the MLDA should be once again set at 18, the debate concerning the MLDA has surfaced once again. Policymakers should therefore take into account the gravity of the externalities produced by certain laws and identify all affected parties. It is clear that the MLDA act of 1984 has had its advantages and disadvantages. However, given the reputation and statistics worldwide concerning car accidents, marihuana consumption, and alcohol consumption, the federal government should reevaluate this policy in order to maximize the utility of its citizens, and the profits generated for themselves and private companies within the country.

Further research should focus on alcohol and marihuana consumption in countries in which they are both legal and have a lower MLDA. This could potentially answer the questions of what actions are taken by this competitors when the Baptists is not lobbying for their profit maximization. This findings could be compared to case studies that present opposing factors. Another interesting research matter moving forward would be to study the effect of marihuana legalization. Given that since they count with the MADD's actions to lobby for the limitation of their competitors distribution, the marihuana industry has never had to engage in lobbying to maintain a significant market share. It would be interesting to anticipate any potential lobbying

actions the marihuana industry could take in order to limit the access to their competition, and

fight against the actions taken opposing interest groups.

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