

EDITORIAL

Indigenous Australians and liquor licensing restrictions

Introduction

In Australia laws relating to the sale and consumption of alcohol are the prerogative of state and territory governments. Until the 1960s, in all jurisdictions, laws were in place which prohibited the sale of alcohol to, or the consumption of alcohol by, Indigenous Australians. Following the repeal of those laws, there was a rapid increase in consumption by some sections of the Indigenous Australian population. Recent research has shown that the proportion of Indigenous Australians who consume alcohol on an occasional or frequent basis is lower than that among the non-indigenous population. However, in aggregate, those Indigenous Australians who do consume alcohol do so at levels greatly in excess of levels among non-indigenous people, resulting in a variety of harms at both the individual and community level. This pattern of consumption and harm—reflected to varying degrees among the indigenous populations of countries such as New Zealand, Canada and the United States—is rooted in the legacy of European colonialism. As the Royal Commission into Aboriginal Deaths in Custody has made clear, this legacy continues and is reflected in poverty, marginalization, discrimination, and their consequences. The Race Discrimination Commissioner has linked the disadvantage faced by, and neglect of, Indigenous Australians to the infringement of their human rights by the wider Australian society. In this context, much excessive consumption is: a response to dispossession and grief; a response to boredom as a result of exclusion from the mainstream economy and its benefits; one of the few cheap recreational activities available; and a protest at the imposition of a range of bureaucratic controls.^{1–3}

Some efforts are being made to redress the

fundamental inequalities faced by Indigenous Australians from which the patterns of consumption found among them arise. In addition, Commonwealth and state/territory governments fund a number of programmes aimed specifically at addressing the harms arising from, or associated with, excessive alcohol consumption among Indigenous Australians. Some of the services funded under these programmes are delivered by government agencies but, more importantly, a large number have been developed, and are provided by, Indigenous community-controlled organizations. As well as such programmes, in recent years some Indigenous community-controlled organizations have attempted to use liquor licensing laws to restrict the supply of alcohol and, hence, to reduce consequent harm.

Liquor licensing restrictions

As well as general provisions relating to all liquor licences, state and territory liquor laws contain provisions that allow licensing authorities to impose specific conditions on individual licences. Over the past decade, the amendment of most licensing acts to include harm minimization objectives has strengthened the ability of authorities to impose such conditions, and it is these which some Indigenous community organizations have sought to exploit.⁴

Usually at the instigation of Indigenous community organizations, licensing authorities have imposed restrictions in a number of localities in remote and rural Australia. All these localities have small populations—generally about 5000 people—and have either a majority, or a large minority of Indigenous people. These restrictions—appended to existing liquor licences—have sought to reduce the supply of alcohol by

reducing trading hours and limiting the amount and the types of beverage that can be sold. In particular, the restrictions have had two foci. First, they have sought to reduce take-away sales because of the unfettered manner in which much off-premise consumption occurs. Secondly, they have aimed to reduce the sale of cask wine which is consumed in large quantities because of its low cost per standard drink—stemming from both economies of scale in its production and distribution and a taxation regime that is favourable to it.⁵ These restrictions are often popularly portrayed as new, draconian measures which infringe upon the “rights” of individuals to consume alcohol.⁶ Despite this portrayal, however, they are not new. Rather, they are an extension of existing restrictions on who may sell alcohol, and under what conditions, that are already part of various state and territory liquor laws.

Evaluation

Evaluations of the effect of additional restrictions have been conducted in a number of localities and these have been reviewed in comparison with each other and in comparison with other interventions.^{7–14} While there has been some variation in their impact, in general it has been found that: they have led to reductions in per capita consumption and key indicators of harm such as hospital admissions and police incidents; and that—at the local level—they have had a greater measurable impact than interventions such as treatment and health promotion programmes. Where they have been most effective, they have been initiated by Indigenous people, conducted as part of broader strategies to address alcohol-related harm, and have wide community support. The latter is particularly important because, in most situations, restrictions impact on non-Indigenous as well as Indigenous people.

Licensing restrictions have a significant advantage over licensee “accords” which have been implemented in other locations and which have purportedly similar objectives. Under such accords—which are generally negotiated between licensees and concerned community groups and/or government agencies such as police and health—licensees in a locality voluntarily agree to limit supply in ways similar to those included in licensing restrictions. However, licensee accords

are not enforceable at law (one reason that at least some licensees are willing to enter into them) and can break down as a result of commercial pressure on individual licensees. While they have an advantage in this regard, licensing restrictions do share a disadvantage with licensee accords. That is, they are piecemeal in application and because they have been implemented only in small population centres, to date, their impact on state- or territory-wide consumption and indicators of harm has been limited.

Barriers to the effectiveness of additional restrictions

Given the demonstrated local success of additional restrictions on availability, there is increasing interest in them in other communities. However, there are at least five inter-related barriers to their continued success. The first of these barriers arises from the view, common among large segments of the population, that alcohol problems—including drinking problems among Indigenous Australians—are problems of individual drinkers to whom interventions should be directly targeted. While by no means unchangeable, this view means that Indigenous community organizations and their supporters face a difficult challenge in even adding population-based strategies, such as additional restrictions, to the agenda.

The second barrier—to some extent related to the first—is a contradiction inherent in current alcohol policy and legislation. At the same time that governments have moved to enshrine harm minimization principles in liquor licensing legislation, most have also sought—to varying degrees—to reduce legislative and administrative restrictions on the supply of alcohol.⁴ At the macro-level, such liberalization is likely to increase the aggregate levels of consumption and related harm that additional licensing restrictions are designed to reduce at the local level.

The third barrier, to increased use of additional licensing restrictions, comes from the liquor industry. Where they are effective, restrictions have reduced alcohol sales and hence impacted on the profitability of licensed premises. This has not been accepted passively by licensees. One of the country’s largest liquor chains successfully challenged the imposition of restrictions in a Western Australian town—although, in the face of a public outcry, it later

agreed to adhere to the proposed restrictions under a licensee accord.⁹ The same liquor chain has subsequently challenged the imposition of restrictions on take-away trading hours in a town in the Northern Territory.¹⁵ It is likely that there will be more such challenges in the future based on the provisions of commercial and competition law.

A fourth barrier is misinformation about the effects of additional restrictions. At the local level, individuals and groups opposed to restrictions for ideological reasons or because of vested interests have sought actively to distort the results of the assessments of the impact of restrictions. This activity has included editorials and articles in local newspapers and has had at least some success.

Ironically, a fifth barrier may arise from the success of restrictions. On one hand, there is a danger that they may come to be seen by politicians and bureaucrats as an inexpensive 'quick fix' to problems of Indigenous drinking and/or be imposed in response to calls by non-Indigenous sections of communities seeking to restrict the access of indigenous people to alcohol. The latter is a particular danger in localities where non-Indigenous people define "the alcohol problem" as "an *Aboriginal* problem"—despite excessive, although less readily observable, levels of consumption by many non-Indigenous people in remote and rural Australia.^{15,16} On the other hand, there is a danger that well-meaning public health workers may pursue the implementation of restrictions without the support of Indigenous people, thereby further disempowering them. Research suggests that restrictions imposed in isolation and without the wide support of both Indigenous and non-Indigenous people are likely to be circumvented and limited in impact.¹³ If they are applied under such circumstances, additional restrictions in general may come to be perceived as ineffective and less likely to be considered as part of a broader solution to the problems associated with excessive consumption among indigenous Australians.

Some lessons

The lessons to be learnt from the Indigenous Australian experience with additional liquor licensing restrictions, and the obstacles to their more widespread adoption, relate to measures to address alcohol problems both in general and

among Indigenous people in particular. The lessons are not new, but they are worth restating, and they are broadly applicable to other countries with indigenous populations.

The fact that additional restrictions on availability have been shown to be effective in reducing alcohol consumption and related harm in some areas of rural and remote Australia does not mean that they are the solution to the problem. It does demonstrate, however, that they can be an effective part of a broader strategy to deal with the problem. It also teaches that effective action is possible at the local level—often in the face of countervailing policy and powerful vested interests. Importantly, it also highlights the need to consider carefully the impact of policies that aim to liberalize the availability of alcohol.

Research on the economic costs alone demonstrates that excessive alcohol consumption and related harm is a problem for *all* Australians.¹⁷ Similarly, given the underlying factors, alcohol misuse and related harm among Indigenous Australians is also a problem for *all* Australians. Demonstration of these facts, however, is not enough. That they are not recognized or acknowledged by large segments of the Australian population reminds us that public opinion can severely constrain what is achievable both locally and nationally. Clearly, those of us working in the field need to renew our efforts to better inform that public opinion.

The final lesson is perhaps the most important of all. While the alcohol problems of Indigenous Australians are rooted in both their past and present relations with the wider Australian society, any solution to those problems requires Indigenous people themselves to acknowledge them and to initiate action to address them. Their efforts in working towards the introduction of restrictions, plus numerous intervention projects around the country, demonstrate that they have done this. As researchers, educators and practitioners we need to work *with*, not on behalf of, Indigenous people to further these efforts. Indigenous people need assistance, not to be assistants. For many, of us, this will involve an unfamiliar role—playing second fiddle.¹⁸

Acknowledgements

I wish to thank various colleagues with whom I have worked and/or discussed these issues. They include Sherry Sagers, Brooke Sputore, Deirdre

Bourbon, David Atkinson, Peter d'Abbs and Samantha Togni. In particular, I also want to thank Elliot McAdam, formerly of Julalikari Council, and various other Aboriginal and non-Aboriginal committee and staff members of Julalikari Council, Anyinginyi Aboriginal Congress, Central Australian Aboriginal Congress and Tangentyere Council whose dedication to helping their people has been the catalyst for my work in this area. The National Drug Research Institute is funded by the Australian National Drug Strategy.

DENNIS GRAY

*National Drug Research Institute,
Curtin University of Technology,
GPO Box U1987,
Perth, WA 6845,
Australia*

References

1. SAGGERS, S. & GRAY, D. (1998) *Dealing with Alcohol: indigenous usage in Australia, New Zealand and Canada* (Melbourne, Cambridge University Press).
2. AUSTRALIA, ROYAL COMMISSION INTO ABORIGINAL DEATHS IN CUSTODY (JOHNSON, E., COMMISSIONER) (1991) *Royal Commission into Aboriginal Deaths in Custody: national report*, 4 vols (Canberra, Australian Government Publishing Service).
3. AUSTRALIA, RACE DISCRIMINATION COMMISSIONER (1995) *Alcohol Report, Racial Discrimination Act 1975. Race discrimination, human rights and the distribution of alcohol* (Canberra, Australian Government Publishing Service).
4. BOURBON, D., SAGGERS, S. & GRAY, D. (1999) *Indigenous Australians and Liquor Licensing Legislation* (Perth, National Centre for Research into the Prevention of Drug Abuse).
5. GRAY, D., CHIKRITZHS, T. & STOCKWELL, T. (1999) The Northern Territory's cask wine levy: health and taxation policy implications, *Australian and New Zealand Journal of Public Health*, **23**, 651-653.
6. NORTHERN TERRITORY LIQUOR COMMISSION (1998) Submissions to the Northern Territory Liquor Commission in relation to the review of liquor licensing restrictions in Tennant Creek (224 folios) (Darwin, Northern Territory Liquor Commission).
7. WALLEY, G. & TRINDALL, D. (1994) Strengthening community action in the Northern Territory, *Health Promotion Journal of Australia*, **4**, 60-61.
8. D'ABBS, P., TOGNI, S. & CRUNDALL, I. (1996) *The Tennant Creek Liquor Licensing Trial, August 1995-February 1996: an evaluation*, Menzies occasional papers issue no. 2/96 (Darwin, Menzies School of Health Research and Northern Territory Living With Alcohol Program).
9. D'ABBS, P. & TOGNI, S. (1997) *The Derby Liquor Licensing Trial: a report on the impact of restrictions on licensing conditions between 12 January 1997 and 12 July 1997* (Darwin, Menzies School of Health Research).
10. GRAY, D., SAGGERS, S., ATKINSON, D., SPATORE, B. & BOURBON, D. (2000) Beating the grog: an evaluation of the Tennant Creek liquor licensing restrictions, *Australian and New Zealand Journal of Public Health*, **24**, 39-44.
11. DOUGLAS, M. (1998) Restrictions of the hours of sale in a small community: a beneficial impact, *Australian and New Zealand Journal of Public Health*, **22**, 714-719.
12. D'ABBS, P., TOGNI, S. & DUQUEMIN, A. (1998) *Evaluation of Restrictions on the Sale of Alcohol from Curtin Springs Roadside Inn, Northern Territory. A report prepared for the Office for Aboriginal and Torres Strait Islander Health* (Darwin, Menzies School of Health Research).
13. D'ABBS, P. & TOGNI, S. (2000) Liquor licensing and community action in regional and remote Australia: a review of recent initiatives, *Australian and New Zealand Journal of Public Health*, **24**, 45-53.
14. GRAY, D., SAGGERS, S., SPATORE, B. & BOURBON, D. (2000) What works? A review of evaluated alcohol misuse interventions among Aboriginal Australians, *Addiction*, **95**, 11-22.
15. D'ABBS, P., GRAY, D., TOGNI, S., WALES, N., FITZ J. & CHIKRITZHS, T. (1999) *Alcohol-Related Problems in Katherine* (Darwin, Menzies School of Health Research).
16. GRAY, D. & CHIKRITZHS, T. (2000) Regional variation in alcohol consumption in the Northern Territory, *Australian and New Zealand Journal of Public Health*, **24**, 35-38.
17. COLLINS, D. J. & LAPSLEY, H. M. (1996) *The Social Costs of Drug Abuse in Australia in 1988 and 1992*, National Drug Strategy monograph series no. 30 (Canberra, Australian Government Publishing Service).
18. TEACHING LEARNING GROUP, CURTIN UNIVERSITY OF TECHNOLOGY (1993) *Playing Second Fiddle* (Perth, Media Productions, Curtin University of Technology).