



WESLEY MISSION
MINISTERING TO HUMAN NEED SINCE 1812

January 6 2004

The Director,
Standing Committee on Social Issues,
Parliament House,
Macquarie Street,
Sydney 2000.

Dear sir/madam,

The Alcohol Awareness Week Network would like to make a submission to the inquiry into the Inebriates Act.

The submission is attached.

The Network is willing to provide any additional information you may require.

Yours faithfully,

Keith Suter
Chair

Alcohol Awareness Week Network

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SUBMISSION FROM THE ALCOHOL AWARENESS NETWORK

Authorized by Dr Keith Suter, Chairperson, Alcohol Awareness Network

INTRODUCTION

The Inebriates Act 1912 (hereinafter "the Act") is an old law but it is not necessarily redundant. This submission recommends that whatever updating to the details of the Act may be contemplated, the essence of its reasoning should be retained: namely, that that a criminal approach be retained to the treatment of alcohol. Alcohol is a dangerous drug and it should be treated as such.

This submission is in four parts. The first part begins by introducing the Alcohol Awareness Network and where it stands on the alcohol issue in general and the Inebriates Act in particular. The second part then looks at the "normative" effect of criminal law and why it is important to maintain the underlying reasoning of the Inebriates Act. The third part provides a warning from the litigation over tobacco. The fourth part compares the alcohol issue with the international control of narcotic drugs.

ALCOHOL AWARENESS WEEK (AAW) NETWORK

The Network

The Alcohol Awareness Network (hereinafter "AAW" or "the Network") is an ad hoc network of churches and other organizations that support a total abstinence policy on alcohol.

AAW is a "network" in that it is simply a meeting place for like-minded organizations to share their views and outline proposed actions for others who may wish to join in. Other organizations that have a total abstinence philosophy are welcome to participate in the Network. The Network began about a decade ago as an organizing committee for the national Alcohol Awareness Week in September. Its events now run throughout the year.

The Network's Opposition to Alcohol

The Network has a policy of total opposition to alcohol because alcohol is a dangerous drug. This puts it at odds with the official government policy of "harm minimization", which provides a set limit to the safe consumption of alcohol. The government policy implies that there is such a thing as a safe limit. But the Network disagrees. Alcohol is far more dangerous than the official government "harm minimization" approach suggests - and so it should be treated as such. If something is wrong, then it is totally wrong. To suggest that there is a safe minimum amount suggests that it is not perhaps all that bad.

Given the increased concern about the dangerous impact of some lifestyle choices, AAW believes that its total abstinence policy will eventually be vindicated.

AAW's focus is on alcohol. It recognizes that other drugs are also a serious problem. But those drugs already receive a large amount of attention. In fact, alcohol kills more Australians than narcotic drugs but it not does receive the amount of attention it deserves.

The recent NSW Alcohol Summit was a welcome - if long delayed - official recognition of the dangers of alcohol. AAW believes that the Summit was the beginning of the new era whereby there is now greater recognition of the dangers of alcohol.

The social and health consequences of alcohol consumption are high, for example:

- Almost half of deaths of under 35 year olds are alcohol-related.¹
- Recent research (Bureau of Crime Statistics) reveals that up to 70% of police call-outs are related to crimes in which alcohol has played a role.
- Between 1992 and 2001 there were 10,369 deaths² and 537,742 hospital episodes³ in NSW related to alcohol.
- Alcohol abuse costs NSW \$7 million a day, inclusive of lost labour and productivity, crime and health costs associated with road accidents.⁴
- Alcohol abuse is one of the leading causes of preventable death in Australia.⁵
- Prolonged use of alcohol can lead to significant health issues such as cancer, liver disease, brain damage and heart failure and places considerable demands on the health system.
- Alcohol continues to be the most popular drug in Australian society, with more than 80% of the population aged 14 years and over consuming in the past 12 months with around 9% of the population drinking alcohol on a daily basis.⁶
- In terms of short-term risk, about one-third of Australians aged 14 years or more had at least one drinking occasion in the past 12 months that was risky or high risk for short-term harm.⁶
- In terms of risks of harm in the long term, around one in 10 Australians aged 14 years and over had a pattern of drinking that is risky or high risk for long-term harm.⁶
- Alcohol has been linked to a high proportion of crimes of violence and public disorder. A study in Sydney found that 77% of public order incidents were alcohol related and that 60% of alcohol-related street offences occurred in or near licensed premises.⁷
- A survey of presentations to an inner Sydney hospital emergency department found that 54% of victims of violence were under the influence of alcohol and that 33% of assailants were affected by alcohol. Seventy eight per cent of

¹ Daily Telegraph, 25 August, 2003.

² National Drug Research Institute 2003.

³ National Alcohol Indicators Statistical Bulletin No. 6, NDRI, Curtin University, Perth, WA.

⁴ Collins and Lapsley, Counting the cost: estimates of the social costs of drug abuse in Australia 1998-99.

⁵ National Alcohol Strategy; Alcohol and Your Health Fact Sheet 22, 2003, Commonwealth Department of Health and Ageing.

⁶ 2001 National Drug Strategy Household Survey. AIHW Canberra. August 2002.

⁷ Ireland and Thommeny *'The Crime cocktail: licensed premises, alcohol and street offences'*, Drug and Alcohol Review 1993.

these cases were a result of street violence, implying that alcohol is a significant factor in this form of violence.⁸

The Network's Attitude Towards the Inebriates Act

The Alcohol Awareness Network is opposed to any changes to the Inebriates Act 1912 that would make alcohol more accessible or reduce the penalties associated with the consumption of alcohol. The Alcohol Awareness Network favours changes to the law that would:

- restrict the availability of alcohol,
- enforce penalties for those found breaking the law,
- provide greater resources to the police to enable the proper enforcing of alcohol laws,
- use the funds collected from alcohol taxes to rehabilitate offenders ,
- set up a research fund to research the issues involved,
- raise awareness on the dangers of alcohol consumption, and
- target and enforce strict penalties on licensees who behave irresponsibly by selling alcohol to intoxicated patrons.

THE "NORMATIVE" EFFECT OF CRIMINAL LAW

Turning now to the need to retain the underlying philosophy of the Inebriates Act, this part of the submission looks at the "normative" effect of criminal law and its bearing on the Act.

"Normative" Impact of Criminal Law

Criminal law has a positive and normative effect. It is "positive" in the sense that a law sets out what constitutes a crime and what will be the punishment for committing it. It is "normative" in that by deeming an action a "crime", a society says that an action is "wrong".

This may sound very abstract and detached from the Inebriates Act 1912 but in fact the issue of alcohol is a classic example of the positive/ normative issue.

Drugs are a serious problem in Australian society. But the worst of the drugs does not receive a large amount of attention. Alcohol kills more Australians than narcotic drugs - but it not does receive the attention it deserves. Alcohol kills more Australians each year than were killed in the Vietnam War.

But drugs are seen as a "criminal" matter, whereas there is far less of a "criminal" aspect to alcohol. For example, the sale of alcohol is regulated (hours of opening, location etc) – but it is not banned outright. The normative effect of the criminal law is therefore far less than the normative effect of the drug laws.

Therefore, the media focus on drugs and not on alcohol. One could also note that whereas the State Government is very concerned about drugs, it was very slow to convene an Alcohol Summit.

Should the Sale of Alcohol Be Banned?

If alcohol is so bad, should there not be a complete ban on the sale of alcohol? There are no easy answers to this problem. The Prohibition imposed by the US

⁸ "Position Statement on Alcohol Consumption and Alcohol related problems", Australian Medical Association, May 1996.

government in the 1920s failed. The Prohibition policy led to a flourishing black market of bootleg liquor, and large profits were made by criminals.

But by the same token, the end of Prohibition did not end the problem of alcohol in the US. Thus, the policy of alcohol's being de-criminalized made it more "acceptable" and "respectable" – and so sent the wrong signals to the community. More Americans die from alcohol-related causes than were killed in the Vietnam War.

By contrast, a substance that is banned sends out the signal that it is wrong to consume it. That is the value of the Inebriates Act. That is why, subject to whatever small amendments may be required, the essence of the Act should be retained.

Finally, look at what signals are being sent from the easier availability of alcohol in shops. Alcohol is now more readily available in the home than it was years ago. It can now be bought from a variety of additional sources, such as supermarkets and petrol stations. Therefore, parents set a bad example at home to their children, who can see them drinking at home. The normative effect has been reduced because alcohol is seen as "respectable" and "acceptable".

Case Study: The Consumption of Alcohol by Women

An example of "signals" comes from the consumption of alcohol by young women. Whereas young women may have avoided the heavy consumption in the past, it seems that young women now drink like men.

The Salvation Army (a member of the Alcohol Awareness Network) in 2001 commissioned a very interesting survey sponsored by the EIG-Ansvar insurance company (another member of the AAW Network) and conducted by the Roy Morgan Research company on the alcohol consumption habits of Australians⁹. The survey builds on earlier ones conducted in 1992 and 1995 and so there is a basis for comparison and an opportunity to see the trends.

First, there has been a huge increase in alcoholic consumption by women. In 1995, only 12 per cent of women had between six and 20 alcoholic drinks each week. Today 20 per cent of women consume that amount.

Second, the prevalence of "binge" drinking has exploded, with young women now just as likely as young men to drink to excess. Regular binge drinking can cause long-term physical damage to the stomach, liver and brain. There is also a very real and negative consequence of violence and physical harm associated with excessive drinking. The Salvation Army is particularly concerned at the explosion in teenage binge drinking and supports the National Alcohol Campaign that distributes literature giving helpful advice to parents on how to communicate with teenagers about alcohol consumption.

Third, there is the issue of what is the "standard drink". AAW takes the view that no alcohol should be drunk. The Australian and State Governments, by contrast, recommend a policy of "harm minimization". For example, the Australian Transport Safety Bureau suggests that men can have two drinks in the first hour, followed by one per hour after that. Women should consume one drink in the first hour followed by one an hour after that. However, what this survey shows is that two thirds of teenagers did not know what was a "standard drink" or how to follow the governmental advice on "harm minimization". The survey showed that young people

⁹ Keith Suter "Young Women Now Drink Like Men" Radio 2GB News Commentary, September 14 2001 (www.wesleymission.org.au).

were drinking at such a high rate that it increased by 2,500 per cent the chance of crashing a car.

To conclude, not enough has been done by the Government to boost the normative effect of criminal law to send the right signals about the dangers of alcohol.

Alcohol And Crime

In the United States, there is a great deal of media attention to crime associated with illicit drug use. However, more crime is committed under the influence of alcohol than under the influence of all the illegal drugs combined. What are the lessons here for Australia?

Suzanne Briscoe and Neil Donnelly have written a study on alcohol and crime: "Temporal and Regional Aspects of Alcohol-Related Violence and Disorder"¹⁰. The NSW Bureau of Crime Statistics and Research and Curtin University in Western Australia have published it jointly. Briscoe and Donnelly review a variety of studies and note some significant trends. For example, the most frequent venue for reported assaults in NSW is on residential premises (43 per cent), followed by outdoors (29 per cent), and licensed premises (9 per cent). The vast majority of alleged offenders involved in assault incidents were male (81 per cent) - and the victims were also more likely to be male (about 55 per cent). Female victims on residential premises were more likely to have been assaulted by a male (81 per cent), compared with female victims either on licensed premises (45 per cent) or outdoors (51 per cent). The average age of all persons identified in offensive behaviour incidents was 25 years and, again, males were more usually the perpetrators (77 per cent).

The authors make the following recommendations. They are all based on tightening up the legislation governing alcohol. First, the prevention of drinking in certain public places by enforcing existing prohibited drinking laws (such as alcohol-free zones) could be a useful strategy to reduce alcohol-related crime. Additionally, there could be additional attempts to systematically reduce the levels of alcohol consumption, such as an increase in the tax on alcohol, restricting outlet sales hours or reducing the number of outlets.

By the way, a value of "drink-free zones" is that where alcohol is banned the zones may well be where tourists and others gather. People who break the law know that they will be punished. This makes the zones more attractive places for more law-abiding people to visit because they know that they will not be confronted with drunken people.

Second, violent crime frequently occurs in conjunction with the closing time of hotels and clubs. Most hotels and clubs close at similar times, causing intoxicated patrons from different licensed premises to congregate in the same area and this could lead to an increase in the propensity for violence. Therefore, there could be the staggering - so to the speak - of the closing times of hotels and clubs and have better transport to move intoxicated patrons out of the areas more efficiently or have police monitoring of bottlenecks where several licensed premises are situated.

¹⁰ Suzanne Briscoe and Neil Donnelly "Temporal and Regional Aspects of Alcohol-Related Violence and Disorder" in Alcohol Studies Bulletin (Curtin University) May 2001, pp 1-14.

Finally, staff in hotels and clubs should be barred from continuing to sell alcohol to patrons who are intoxicated - and there should be close monitoring to ensure that the staff are carrying out this duty.

A LESSON FROM TOBACCO?

AAW believes that Australia should now be heading in the same direction as litigation over tobacco: an opportunity for the victims of the drug to sue the manufacturers because the manufacturers were aware of the dangers of their product but did not do enough to warn people about the dangers.

There is now some scope for the victims of smoking to sue manufacturers. There have been some huge payouts, not least in the United States. A similar pattern is now underway in Australia.

This represents a major turnaround for the status of smoking in developed countries. After all, cigarettes used to be part of the official rations of military personnel in some countries. They were seen as a basic necessity, along with food. Unfortunately some people still smoke - but there is no longer any official encouragement to do so (at least in developed Western countries). On the contrary, there has been a gradual tightening up on smoking, such as restrictions on where people can smoke and the warnings of the dangers they are running.

AAW member-organizations had "smoke free" work places well before there was legislation creating such arrangements. The government has now caught up with these organizations.

AAW member-organizations have also long had a policy on alcohol-free workplaces. Perhaps the government will eventually follow their lead.

The American tobacco experience is that where politicians are reluctant to tread, the courts can set the pace. Anti-smoking groups in the United States decided that the best way to confront the lobbying muscle of the tobacco companies in politics, was to fight in a different arena: they started to sue the companies in the courts. The results have shown that this was a sensible decision. The courts have been less willing to cave in to the power of the tobacco companies.

If the victims of alcohol wanted to use the same strategy in the future, there would be plenty of scope to show that companies and governments knew that alcohol was a dangerous product. Even the NSW Government now recognizes this - even if it seems slow to act on the advice of organizations that has been given over the decades. For example, as progress is made in genetic research, so there is evidence that some alcoholism may be genetic and so be passed on from one generation to another. Therefore, a person having one apparently "innocent" drink may trigger that genetic basis of alcoholism and thus become an alcoholic.

Given the increasingly litigious nature of Australian society - with Australians making greater use of lawyers - so the government could be running a risk. The government's official policy is that some limited consumption of alcohol is not dangerous. But some organizations - such as those associated with the Alcohol Awareness Week Network - are warning the government that the policy is wrong.

Therefore, is the government at risk of people later suing the government because it failed to warn people about the dangers of alcohol? After all, tobacco companies are now being sued by people who claim that the companies knew that tobacco was harmful to health, and yet continued selling the product.

Will there be a similar string of court cases from people with alcohol problems claiming that the government did not do enough to warn people about the dangers of alcohol. After all, the government has been advised by the Alcohol Awareness Week

Network (and others) of the dangers of alcohol. The Government knew - but it did not act.

THE INTERNATIONAL CONTROL OF NARCOTIC DRUGS

Finally, it is worth comparing the need to tighten up the regulation of alcohol with the progress made in the international control of narcotic drugs.

The control of narcotic drugs is an idea that emerged largely in the 20th century.

In previous centuries, people were at liberty to take drugs. Indeed, in the 19th century the British fought wars over drugs with China. The British wanted to buy Chinese products with drugs made in the Indian empire. But the Chinese refused the drugs; they preferred hard cash for their goods. The British used violence to force the Chinese into accepting the drugs in payment for the purchase of Chinese goods.

It was only in the 20th century, with greater attention to public health and the need for preventative measures, that international action arose to stop these drugs. This was an explicit change in philosophy.

The old philosophy of allowing open access to drugs was then seen as wrong and so the drugs should be stopped. The League of Nations (of which Australia was a founding member) pioneered this work. The United Nations took over the task after World War II.

Australia agreed with that change in philosophy and it adopted laws based on that philosophy. It was therefore in a position to ratify the basic international treaties that had been created to stop illegal drugs. Australia is still bound by those treaties (even though the NSW Government has experimented with so-called "safe injecting rooms").

There is little public support for making drugs more daily available (as per the situation prior to the 20th century). As people take greater care of their own health and recognize the importance of preventative measures, so there is less public acceptance of the easy availability of drugs.

It is likely that the same attitude will be seen in the public's opposition to alcohol. Thus, the trend among the politicians should be to make alcohol harder to obtain, not easier.

CONCLUSION

The government warns people that an even greater killer than alcohol - namely tobacco - is a killer and so, by the same reasoning, alcohol should also be labelled as such. Governments do not advise that there is a safe minimum number of cigarettes that may be smoked each day. On the contrary, cigarette packets carry a health warning. The same should be done for bottles of alcohol. Each bottle should contain a health warning that drinking alcohol is also a health hazard.

The best way to stop drinking throughout society is to change the culture. In other words: make drinking an unfashionable pastime. We are making some headway with smoking, which is now seen by many people as being an activity for "losers".

Therefore, the basic reasoning of the Inebriates Act should be retained. To reduce the strength of the Act - let alone abolish it - would counteract the good work of the 2003 NSW Alcohol Summit. It will also expose the Government in due course to litigation from the victims of alcohol that the

Government was warned about the dangers of alcohol but did not do enough to convey those warnings to the wider general public.

Alcohol Awareness Week Network

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