Addiction

Commentaries on Taylor & Dhillon (2013)

HEALTHY IS AS HEALTHY DOES: WHERE WILL A VOLUNTARY CODE GET US ON INTERNATIONAL ALCOHOL CONTROL?

With the coming into force of the Framework Convention on Tobacco Control (FCTC), alcohol became the main widely-used psychoactive substance not covered by an international agreement on controlling the market. While tobacco has its own treaty, other such substances are covered by three international drug control treaties. Yet, there is a good argument that it is for alcohol that the strongest case for such international controls exists. This is not only because of the burden on the drinking individual, reflected in the high rank of alcohol among risk factors in the global burden of disease, but also because of the harm to others caused by drinking, which about equals the harms to the drinker [1]. In all rankings of the intrinsic harmfulness of substances, alcohol ranks highly [2]. When harm to others is taken into account, it ranks highest [3].

Alcohol was actually the first psychoactive substance to be covered by an international agreement [4] as one by-product of substantial social movements for a century and more against its harm to health and welfare. But, in the 20th century-long reaction against this history, alcohol and tobacco were conceptually separated out from the 'drugs' causing 'addiction' [5], and so are not covered by the drug control treaties. However, alcohol clearly qualifies for control under the definitions and provisions in the treaties and I am presently putting it forward for pre-review to the body charged with scheduling under the treaties—the World Health Organization (WHO)'s Expert Committee on Drug Dependence. It is hard to imagine that it will not qualify on scientific grounds. If it is scheduled under the treaties, there will be no need for a separate convention for alcohol, although the treaties themselves will need some adjustment.

Why does alcohol need to be covered by an international treaty, whether the drug treaties or a new one? There are two reasons. First, to provide a line of defense against World Trade Organization (WTO) and bilateral trade treaties, whether in law or (as for the FCTC) less formally. The argument is often made that this is not needed because trade treaties provide for exceptions for public health. But this has proved, in practice, to be illusory, given the way the game works for trade treaties. So we presently have the spectacle of the Australian government, under legal attack from the tobacco industry for its plain packaging initiative, arguing with other alcohol-exporting countries that Thailand's initiative to require warning labels on alcohol bottles would be a restraint of trade and that Thailand could use some other means for its public health ends [6]. The second reason is to establish a principle of comity for alcohol controls—that governments should not act in ways which undermine the domestic regulations of another country.

Beyond these, there are the reasons Taylor and Dhillon [7] mention for negotiating international instruments, such as establishing an international consensus backed up with 'legal processes and discourse', and 'raising global awareness and stimulating international commitment and national action'. Soft law under some circumstances can, indeed, serve such public health purposes at least as well as hard law. Indeed, a good deal of the FCTC is actually soft law, with phrases that encourage ('as appropriate') rather than require. In my view, the international drug treaties would be fitter for purpose if some of their language was converted from hard to soft law.

However, the question is what kind of soft law and in what context? Taylor and Dhillon propose to include alcohol in a non-binding code of practice on marketing to children along with 'unhealthy foods and beverages'. They see this as a first step 'leading eventually to a comprehensive binding treaty'. Without having seen their forthcoming article, to me this does not sound like a step toward something stronger. Rather, it sounds like something the alcohol industry is quite familiar with. From the industry's perspective, such non-binding codes of practice are a prophylactic measure intended both to build goodwill and to hold off anything more effective—in which they often succeed. In country after country in recent years, organizations funded by the alcohol industry have set up self-regulating advertising codes and bodies, focusing on the content of advertisements in metered media and avoiding such issues as the overall volume of promotion. Examples abound, such as 19 European Union (EU) countries [8], of self-congratulatory monitoring reports. But, public health-oriented investigations often find a rather different story (e.g. Jones *et al.* [9]). As a report on adherence to codes in EU countries summarizes, the code organizations 'in general report positive experiences with self-regulation, whereas governments, scientists and NGOs report that national regulations are not particularly effective in protecting young people' (ELSA Project [10, p.17]).

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Meanwhile, reviews of the effectiveness of alcohol policy measures question whether even substantial efforts to control alcohol advertising content, as opposed to the volume or timing, have any measurable effect [11, pp. 191–2]. At a minimum, any effort to set in place an international non-binding code of practice on marketing alcohol needs to take account of the extensive experience in many countries in this area and its sobering lessons.

Any proposal including alcohol in a more general code needs to take its specificities into account. Differences between alcoholic beverages and foodstuffs include differing structures of the industries. As Brownell and Warner point out [12], the three largest food companies, Nestlé, Unilever and Kraft, produce both 'good' and 'bad' foods from the point of view of public health. This means that a substantial portion of the food producers have something to gain to balance what they may lose from cooperation with public health. Big alcohol, however, is more like big tobacco, in that it produces primarily one range of products where public health and commercial interests are largely opposed. Effective cooperation is not in its shareholders' interest.

The general question Taylor and Dhillon raise is how to accomplish substantial social change in a global perspective. Whether to go about such change on a step-by-step basis or to aim for something more radical is a recurrent debate in history. Taylor and Dhillon worry whether aiming for the radical will mean nothing is accomplished. The alternative worry is that baby steps of reform, even if they accomplish anything, often serve to stave off more worthwhile changes. There is no general answer to either of these worries. Rather, there is a need to analyze both sides of the question in concrete terms. What would be the most desirable international alcohol control regime, whether or not we can see how to get there? Are particular baby steps likely to have any effect? Will they move us in the right direction, and are they likely to be an end-point or to lead on to further steps?

Declarations of interest

None.

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References

1. Laslett A.-M., Room R., Ferris J., Wilkinson C., Livingston M., Mugavin J. Surveying the range and magnitude of alcohol's harm to others in Australia. *Addiction* 2011; **106:** 1603–11.
2. Room R. The dangerousness of drugs. *Addiction* 2006; **101:** 166–8.
3. Nutt D. J., King L. A., Phillips L. D. Drug harms in the UK: a multicriteria decision analysis. *Lancet* 2010; **376:** 1558–65.
4. Bruun K., Pan L., Rexed I. *The Gentlemen's Club: International Control of Drugs and Alcohol*. Chicago: University of Chicago Press; 1975.
5. Courtwright D. T. Mr. ATOD's wild ride: what do alcohol, tobacco, and other drugs have in common? *Soc Hist Alcohol Drugs* 2005; **20:** 105–24.
6. O'Brien P. Australia's double standard on Thailand's alcohol warning labels. *Drug Alcohol Rev* 2013; **32**: 5–10.
7. Taylor A. L., Dhillon I. S. An international legal strategy for alcohol control: not a framework convention—at least not yet. *Addiction* 2013; **108**: 450–5.
8. EASA. *Alcohol Advertising Monitoring: Compliance Report 2008*. Brussels: European Advertising Standards Alliance: 2008. Available at: http://ec.europa.eu/health/ph_determinants/life_style/alcohol/Forum/docs/alcohol_lib22_en.pdf (accessed 27 May 2012; archived at http://www.webcitation.org/69bZ2lieB).
9. Jones S. C., Hall D., Munro G. How effective is the revised regulatory code for alcohol advertising in Australia? *Drug Alcohol Rev* 2008; **27:** 29–38.
10. ELSA Project. *Report on Adherence to Alcohol Marketing Regulations*. Utrecht: STAP: 2007. Available at: http://ec.europa.eu/health/ph_projects/2004/action3/docs/2004_3_16_frep_a3_en.pdf (accessed 27 May 2012; archived at http://www.webcitation.org/69bZueIzq).
11. Babor T., Caetano R., Casswell S., Edwards G., Giesbrecht N., Graham K. *et al. Alcohol: No Ordinary Commodity—Research and Public Policy*, 2nd edn. Oxford: Oxford University Press; 2010.
12. Brownell K. D., Warner K. E. The perils of ignoring history: big tobacco played dirty and millions died. How similar is Big Food? *Milbank Q* 2009; **87:** 259–94.

ON DELAYING A FRAMEWORK CONVENTION ON ALCOHOL CONTROL: REGRETTABLY AGREEING BUT CALLING FOR STRATEGIC ACTION TO ACCELERATE THE PROCESS

Taylor and Dhillon disparage the 'drumbeat for codification' for a Framework Convention on Alcohol Control

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