

Forum Feature

Sydney's Lockout Laws: For and Against

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Abstract

This article considers the pros and cons of the New South Wales Government's restrictions on licensed premises to curb 'alcohol-related violence' introduced on 21 January 2014. The laws, currently the subject of an independent inquiry, have polarised Sydney residents and attracted protest from diverse sectors of the community. The article presents three points for and three points against the current legislation.

Keywords: lockout laws – CPTED – alcohol regulation – governing crime – violence – risk

Introduction

On 21 January 2014, in response to a spate of alcohol-related violent incidents, the New South Wales ('NSW') Government introduced legislation placing restrictions on licensed premises. This article discusses six points about the introduction of what have been called 'Sydney's lockout laws': three in support of the laws, and three pointing to problems with their implementation or justification.

Justifications for the lockout laws

Freedoms

Contrary to what some commentators seem to suggest (Barrie 2016), we do not have a 'right' to access a licensed venue whenever we want. Given the only rights charter that might support such a claim in NSW is the United Nations *Universal Declaration on Human Rights* (United Nations 1948), it is useful to assess how it might relate to the lockout laws. Although there may be alternative interpretations, the following provides little ammunition for those who believe a 5 am drink is a right:

Article 3. 'Everyone has the right to life, liberty and security of person'

Article 24. 'Everyone has the right to rest and leisure...'

Article 27. '(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts...'

Using art 27 as the starting point of this debate, should we enjoy free access to licensed premises as we please? Or is it reasonable for the state to curtail these freedoms as the

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government has, in the name of security (or safety)? From debates around the war on terror we know that once we start thinking in dichotomous terms such as ‘security vs freedoms’, things get tricky. The question becomes then: what is a reasonable amount of legal regulation to place on what might be otherwise a *laissez-faire* night-time economy in Sydney (or elsewhere for that matter) in order to achieve both ‘liberty and security’? In the face of relatively high levels of violence it is surely proper for a government to seek to regulate to ensure public safety? As the next point indicates, the freedoms some have taken as a right have not always been permitted in Sydney’s night-time economy.

Deregulation

So has the government heavily curtailed our freedoms? Well, yes and no. The night-time economy before the lockout laws was a relatively recent invention — although today’s young revellers would not know this. Its development dates to the mid-1980s when, following decades of heavy restrictions on trading hours, Labor Premier Neville Wran and then successor Liberal Premier Nick Greiner legislated changes to the regulation of alcohol. As Wadds (2013:62–3) stated:

Market deregulation and a liberalisation of alcohol-related policy was touted as a solution to the problems of disreputable leisure practices, as it was believed that increased options for nightlife recreation and leisure would allow for nightlife patrons to enjoy themselves ...

The Greiner government secured passage of the Liquor (Amendment) Act 1989 ... which permitted hotels and bottle shops to trade between 5am and midnight, Monday to Saturday and between 10am and 10pm on Sundays. Furthermore, applications could also be made by larger ‘entertainment-orientated’ hotels to trade until 3am or, if located in ‘tourist’ areas, until 5am
....

It was argued in the late 1980s that this market liberalisation would foster a European cosmopolitan drinking culture, liberalise the market resulting in increased revenue, and reduce episodic drinking based on the 6pm closing times. So it was really only generation X onwards that enjoyed the partially deregulated night-time economy to which criticisms of the lockout laws refer. The Howard Government went on to make alcohol an ‘ordinary commodity’ under its neo-liberal economic principles, and under its National Competition Policy late-night licensed venues flourished and the ‘night-time economy’ was born (Wadds 2013). So when we argue for our freedoms and an unfettered night-time economy, we are also arguing for a neo-liberal night-time economy (Hayward and Hobbs 2007).

This argument against regulation is slightly uncomfortable, particularly when we argue *for* regulation in so many other parts of our lives to provide security. In this case it can be constructed to do the bidding of the alcohol industry and venue owners (good and bad).

Entertainment

It could be argued that lockout laws killed the Sydney live music scene. Well, they did not help and no doubt they will result in a restructuring of city late-night entertainment. But what originally killed off a vibrant live music scene in Sydney in the early 1990s was the hotel industry itself — with the legislative support of the then Labor Government — which introduced poker machines into hotels. As soon as more money could be made from pokies than bands, live music was out and venues were redesigned to house poker machines. In addition, with gentrification and planning regulations that favoured residents over pubs, many venues closed due to noise complaints.

The impact the laws have had on the amount of foot traffic the lockout zones has been greater than expected (City of Sydney 2016) There is perhaps a psychological element that

has seen revellers needlessly avoid the areas where the lockouts take place. That said, for many visitors the regulations would make little difference to their behaviour patterns for a night out.

Oppositions to the lockout laws

Exclusions

The fact that The Star Casino precinct (and the proposed casino in Barangaroo) was exempted from the lockouts is simply unfair and unjust. It also advantages some of Australia's most wealthy and powerful people and creates the perception — accurate or not — that the government is soft on 'mates in high places'. If The Star were counted as a single venue (and this is not to suggest necessarily it should be), it would be by far the most violent venue in NSW according to assault data. It is excluded because it is a precinct of sorts with a number of licensed venues and many patrons.

Yet as a precinct far smaller than Kings Cross, The Star records around 6.5 assaults per month or 78 assaults per year (Menéndez et al 2015). To put that in perspective, Kings Cross recorded 212 assaults in 2014–15, down from 512 in 2012. The Star has also recorded a significant increase in assaults since the lockout laws were introduced (Donnelly et al 2016), although these do not offset the reductions in areas such as Kings Cross. So The Star is exempted from the lockout laws, and exempted from the three strikes shaming of licensed venues — this seeks to manage/reduce alcohol related violence and focuses on the number of acts of violence (offences under the Crimes Act), venues are ranked accordingly. It's not a good look politically, and imagine all the extra revenue being generated through the casino as the lockout laws take effect elsewhere!

Risk

The lockout laws were introduced in an attempt to reduce risk. We are, as many scholars have noted (Beck 1992; O'Malley 2010; Mythen 2014), obsessed with risk and its reduction in contemporary society. Yet we forget that risk has both positive and negative connotations. Risk is not only the chance that something *bad* might happen. Risk is also about the excitement of the unknown and of the capacity for transgression (Presdee 2000). Many revellers head to late-night venues precisely because they do not want regulation that shuts down the positive risks of the unknown. As it is under the lockout laws, if fewer people are going to an area, there are likely to be fewer assaults (in most circumstances). So, if dropping the laws — without other action — will likely result in more assaults. That, ultimately, is a decision about what kind of community we want and our weighing of risks. We cannot reduce risk to zero, and maybe we are willing to tolerate some increased risk for the sake of an 'adult' drinking culture.

Cultures

One key objection to the lockout laws has been that we have jumped to a solution that does not address the underlying issues that seem to lead to violence largely between young men in the night-time economy context. We talk a lot about drinking cultures, and the fact that Australia does not have a 'European drinking culture'. There is some truth to this claim; there has long been a strong celebration of forms of hegemonic masculinity in Australia that values physical strength and aggressions as positive attributes (Flynn et al 2016).

But when we talk of drinking culture there is a much more important element of culture. It is to do the nature of the venues. In Australia in general — and NSW in particular — there existed licensing laws that favoured large venues. The state's pubs and clubs grew in size when volume alcohol sales became the main game. Punters became anonymous consumers.

The small bar movement is a great indication of how things can be different. As most small bar owners attest, the punters in these smaller spaces generally regulate themselves with less focus on vertical drinking cultures than big venues. Cultures are not somehow inert from the spaces in which they take place. The same could be said of zoning. In places like Kings Cross and the CBD, wall-to-wall large venues meant venue hopping was a sport. The convergence of bodies in the spaces between venues created a recipe for violence, according to models of environmental criminology (Clarke 1980; Bottoms and Wiles 2002).

Conclusion

If NSW is to have lockout laws, they should be blanket: no exemptions, zones of exception and the like. Or we must seek more sustainable solutions that might include zoning changes, reviewing the impact of venue size, improving transport to and from entertainment precincts, and putting on more diverse forms of entertainment (which often reduces alcohol consumption).

At present, as happens with a lot of crime-related policy and political debate, emotion trumps a rational, considered debate about policy levers and other regulatory options. The mobilisation of people to fight for their freedoms is positive; however, with so many freedoms under threat in our current risk-adverse climate, it is a shame the fight is for freedom to consume alcohol when we wish.

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