

**INTOXICATING MEASURES AND TEMPERANCE AGENDAS:
ATTITUDES TO ALCOHOL IN BRITAIN**

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1 Introduction

In a newspaper column of 1944, George Orwell criticised Britain's restrictive laws governing the sale and consumption of alcohol. Orwell compared British laws to more relaxed regulations in France and other European countries and demanded more liberty for the 'downtrodden' population.¹ Despite Orwell's protestations, the same situation exists today with clear legal frameworks specifying who is licensed to sell alcohol, to whom and at what time. British law also regulates the behaviour of those consuming alcohol through the provision of public order and anti-social behaviour offences. In both academic and lay discussion, these comparatively strict laws are often presented as a necessary response to a drinking culture that is both excessive and harmful. The implementation of the Licensing Act 2003 was a case in point - to many in the public sphere, the lessening of regulations on opening hours was fully expected to open the floodgates holding back a tide of mayhem. The Act's liberalising components caused public consternation and complaints that this would exacerbate alcohol-driven problems of crime and disorder, already seen by many as 'out of control.' Despite the negligible initial impact on the vast majority of licences,² the Act was branded 'madness,'³ 'close to lunacy,'⁴ and speculatively linked to a projected explosion of violence, sexual assault and general disorder.⁵ Can this outburst of extreme public anxiety relating to alcohol, and others of its kind, be explained solely with reference to British drinking behaviour? Or does the formative impact of attitudes, ideology and morality upon legal regulation and popular beliefs merit some attention?

¹ Orwell, G., 'As I Please', *Tribune* 18 August 1944.

² Travis, A., Muir, H., and Crown, R., 'Government admits new drinking hours could lead to increase in offences', *The Guardian*, 23 November 2005. This article reported that only 40% of premises were granted extended licences, and of the 184,000 licensed premises in England and Wales only about 700 were granted 24 hour opening.

³ Oaten, Mark MP, quoted by: Plant, M., and Plant, M., *Binge Britain*, (2006, Oxford University Press), p.100.

⁴ Harris QC, Charles C., quoted by: Plant and Plant, (2006), p.109.

⁵ Alleyne, R., 'New drinks law "delays disorder for an hour,' *Daily Telegraph*, 19 November 2005; Townsend, M., and Hinscliff, G., 'New drink laws spark rape fears,' *The Observer*, 27 November 2005.

2 Context and Theoretical Orientation

In terms of drinking behaviour, it is difficult to find support for the alarmed reaction to the Licensing Act 2003. Although it is generally accepted that alcohol consumption increased in the second half of the Twentieth Century,⁶ significant pieces of research indicate a decrease in alcohol consumption from around 2001-02 to the present and so suggest that the years of inflating consumption are ended.⁷ Moreover, research conducted in 2004 by the WHO ranked British alcohol consumption below that of France, Luxembourg and Germany - countries usually seen as having more relaxed relationships with alcohol.⁸ These aggregated patterns of consumption would be irrelevant, however, if alcohol-related problems could be shown to be increasing. The first stated objective of the government's licensing reform addressed the problems of crime and disorder and it is this issue which dominated subsequent discourse. Unfortunately, there are practical and definitional complications which preclude the collection of national data on the precise levels of alcohol-related crime, but overall crime rates have been falling for some time. Police recorded crime shows a decrease from 2001-02 to the present and British Crime Survey data shows a decline of 42% since 1995. Interestingly, the British Crime Survey also records that violent crime, the type of offence most usually associated with drunkenness, has declined by 41% since 1995.⁹ Referring to either levels of alcohol consumption or problems of crime and disorder, it is difficult to find empirical support for the alarmed reaction to the Licensing Act 2003.

This is not the only occasion in which measurable incidences of a type of behaviour deemed problematic have failed to account for a public reaction against this behaviour. In the first half of the Eighteenth Century, London was gripped by the 'gin panics' as the widespread availability of gin instigated alarm and concerns for law and order amongst middle-class elites. Despite these concerns, the number of prosecutions for drunkenness in London during this period was very low¹⁰ and this social panic is often attributed to structural

⁶ Harrison, B., *Drink and the Victorians*, (1971, London, Faber and Faber), pp.66-72; Institute of Alcohol Studies, *Drinking in Great Britain*, (2007), <http://www.ias.org.uk/resources/factsheets/drinkinggb.pdf> retrieved 24 November 2008, pp.6-7.

⁷ Institute of Alcohol Studies (2007); Information Centre, *Smoking, Drinking and Drugs Use among Young People in England in 2007*, (2008, Department of Health). IAS published statistics show decrease from 2004 onwards, and Information Centre shows year-on-year decrease in under-16s drinking from 2001-02.

⁸ WHO, *Global Status Report on Alcohol* (2004), www.who.int/substance_abuse/publications/global_status_report_2004_overview.pdf 24 November 2008, pp.11-12.

⁹ Nicholas, S., Kershaw, C., and Walker, A., *Crime in England and Wales 2006/2007*, (2007, Home Office).

¹⁰ Hunt, A., *Governing Morals: a social history of moral regulation*, (1999, Cambridge University Press), pp.36-38.

anxieties about London's unprecedented contemporary growth rather than increasing disorder.¹¹ Similarly Reinerman studied the changing perception of drink driving in the USA in the 1980s - prior to which drink driving had been regarded as something of a 'folk crime', a minor and largely forgivable act. The redefinition of drink driving as a serious and dangerous behaviour is attributed largely to the group Mothers Against Drink Driving (MADD) whose campaign of 'moral entrepreneurship' was effective at mobilising popular support and, Reinerman argues, made a decisive contribution to the subsequent treatment of drink driving as a more serious criminal offence both in the US and across the Western world. Most importantly this sea change in popular perceptions of drink driving occurred at a time when, according to data on detection and prosecutions in that period, drink driving in the US was decreasing.¹² These examples show that social anxiety about certain problem behaviours is not simply a response to an upsurge in the frequency or harmfulness of said behaviour.

3 Methodological Direction

There are two main lessons which can be learnt from the work of Hunt and Reinerman respectively. Firstly, the cases of the gin panics and drink driving show wider social change and popular agitation to be influential factors in the problematisation of certain behaviours. In terms of current anxieties about drinking, the conclusions of Hunt and Reinerman corroborate earlier discussions of levels of consumption and crime by implying that an explanation lies in a study of attitudes and wider social forces. Hence my PhD will incorporate an examination of the social context of alcohol panics and the thoughts, motivations and beliefs of the primary protagonists. Secondly and more obviously, these examples demonstrate that public concern about alcohol is not a new historical phenomenon – examinations of the gin panics in particular testify that alcohol was a source of acute unease in Britain as far back as the Eighteenth Century. This situation prompts certain questions: when were concerns about alcohol consumption first manifested? What are the qualitative similarities and differences between historical concerns about alcohol and contemporary ones? Is social panic related to alcohol a social constant in British history or does it emerge periodically? These are broad and complex historical questions but the answers would have clear implications for our understanding of contemporary attitudes to alcohol. My research will therefore be founded upon a historical study of British perceptions of alcohol.

¹¹ Borsay, P., 'Binge drinking and moral panics: historic parallels?' (2007), <http://www.historyandpolicy.org/papers/policy-paper-62.html> 23 January 2008, p.4.

¹² Reinerman, C., 'The Social Construction of an Alcohol Problem: The Case of Mothers Against Drink Drivers', (1988), *Theory and Society* 17(1), 91-120.

4 Legal and Historical Sources

Within this historical study of alcohol-related social panic throughout British history, the examination of legal sources will be central. Earlier discussion of the Licensing Act 2003 demonstrated that legal reforms can become the focus of popular outrage about drinking. It was similarly the case in the Nineteenth Century when the Beerhouse Act 1830 became the target of early agitation by the temperance movement.¹³ A study of reactions to pieces of legislation pertaining to the sale or consumption of alcohol would be likely to offer insights into attitudes to alcohol at that particular point in time. In order to understand these reactions, it will be necessary to utilise a variety of sources including newspapers, parliamentary debates, public speeches and temperance publications. These sources will be analysed qualitatively with specific attention given to the author's stated position on the legal reform in question and, more importantly, the logical, empirical or moral justification given for this position. In this respect, my PhD will incorporate a historical discourse analysis that investigates the reaction to new laws in order to gain information on underlying attitudes and moral values relating to alcohol.

However, legal reforms are not of interest only in reference to the public reaction they may provoke. In Reinerman's discussion of MADD, he argued that the social movement's successful re-branding of drink driving as a dangerous action led to the advent of new, stricter legal rules to govern this type of behaviour. Discussions of the gin panics also reveal that heightened levels of public concern about drinking led the government to pass a number of pieces of legislation aiming to reduce the consumption of alcoholic spirits. Barr reports that the introduction of drastically high duties on gin in the Gin Act 1736, as well as the creation of an obligation for gin sellers to purchase a licence in the Gin Act 1743, was an attempt to reduce the trade in gin.¹⁴ If public reactions and social movements can produce an impetus towards legislative intervention, it seems reasonable to suppose that resulting Acts of Parliament will themselves contain embedded moral and attitudinal ideas on alcohol. Certainly the Gin Acts were motivated by a belief that the excessive consumption of spirituous liquor was a social problem and that it was the job of government to regulate or reduce this problem. In this respect, the law can be used (albeit cautiously) as a barometer of public and political attitudes at a specific point in time. My PhD will also, therefore, contain an examination of significant pieces of legislation relating to the retail and consumption of alcohol.

¹³ Harrison, (1971).

¹⁴ Barr, Andrew, *Drink: a social history*, (1995, London, Pimlico), p.191.

5 Conclusion: the Convergence of Morality and Law

The idea that statutory law may contain embedded moral assumptions is not an uncontested one. It was argued by utilitarian theorists, namely Bentham and Austin, that law and morality should be construed of entirely separately. Both theorists believed the factual and normative dimensions of law are distinct, so that 'law as it is' must be distinguished from 'law as it ought to be'.¹⁵ But many recent jurists have disputed this: Dworkin emphasises the existence and influence of legal principles that guide judicial decisions, and Fuller proposes that there is an inherent purpose of legal systems that amounts to an inner morality of law.¹⁶ The famous theorist H.L.A. Hart mounted something of a defence of utilitarian jurisprudence, but even he recognised that creation of statutory law may involve the moral values of the legislature becoming law.¹⁷ More pertinently, it has been argued by Hunt that the division of behaviour into acceptable and unacceptable forms has the precise effect of moralising particular activities. When a type of behaviour is designated as not admissible, it has been evaluated with reference to a desired code of behaviour and found to be wrong, irresponsible, or even evil. The moral content of law does not necessarily come from the labelling of behaviours as good or evil with reference to some absolutist theology or profound sense of purpose (although this may be the case); it simply entails a normative judgement that a certain action is not consistent with how people *should* behave.¹⁸ Thus when Eighteenth Century Londoners complained about the drunkenness of others or when the Nineteenth Century temperance movement promoted abstinence as the only solution to the 'evils' of drink, they were both making moral judgments about permissible codes of behaviour. Legislation instigated by public opinions and popular reactions will likely reproduce the same moral judgments.

An understanding of legal frameworks surrounding alcohol must therefore be predicated by a historical knowledge of British attitudes to drinking. Far from being a rational response to an excessive and harmful drinking culture, it seems that Britain's comparatively restrictive legal frameworks governing the sale and use of alcohol are based, in no small part, on moral, attitudinal perspectives. Following Hunt, it is clear that when Gordon Brown stated in March of this year that 'binge drinking is unacceptable'¹⁹ he was not only identifying a type of behaviour as problematic but also making a moral judgment about the conduct of others. The examples of the Gin Acts and drink driving regulations have shown that these normative

¹⁵ Simmonds, N.E., *Central Issues in Jurisprudence: Justice, Law and Rights*, (1986, London, Sweet and Maxwell), p.77.

¹⁶ *Ibid.* pp.97-117.

¹⁷ Hart, H.L.A., *Essays in Jurisprudence and Philosophy* (1983, Oxford University Press) pp.64-70.

¹⁸ Hunt, (1999), pp.7-8.

¹⁹ quoted by Roberts, R., 'Gordon Brown exclusive: any shop caught twice selling alcohol to U18s should lose its licence' *Daily Mirror*, 3 March 2008.

judgments by politicians, public figures, pressure groups and the public in general have had a crucial formative impact on laws relating to alcohol. The basis on which these moral decisions about codes of behaviour were made, on an individual and collective level, will be the primary object of enquiry for my PhD.