

APPROACHES TO INTOXICATION IN AUSTRALIAN CRIMINAL LAW: RESULTS FROM A NATIONAL STUDY

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Introduction: In recent years there have been a series of legislative and policy responses designed to curb alcohol-related violence. In NSW, for example, a suite of legislative changes have been introduced and credited by some with reducing alcohol related violence. In this legislation, the object of 'intoxication' features centrally. Intoxication also appears in many other parts of the criminal law. It is unclear whether approaches to intoxication in criminal law in Australia are, or should be, consistent, and how these approaches mesh with expert knowledge about AOD effects.

Method: This paper reports findings from a national study where we mapped approaches to intoxication in criminal law across all states and territories. We produced and comparatively analysed three typologies of knowledge regarding the relationship between intoxication, anti-social behaviour and violence, and criminal responsibility, being knowledges: (i) embedded in criminal legislation; (ii) deployed in case law; and (iii) featuring in expert AOD literatures.

Key Findings: Approaches to intoxication in the Australian criminal law are inconsistent. There are areas of overlap, conflict, under-definition and lacunae. For instance, AOD are understood to impair people's actions in some contexts, but to make them more blameworthy in others.

Discussions and Conclusions: We consider the significance of these findings in light of current debates about alcohol. We ask whether approaches to intoxication in criminal law should be consistent, consider implications of inconsistency and discuss opportunities for strengthening the criminal law's capacity to meet community needs with respect to the attribution of criminal responsibility for alcohol-related problems.

Disclosure of Interest Statement: The authors have received funding from the Australian Institute of Criminology for this study. There are no conflicts of interest.