Public Health and the Global Governance of Alcohol

Paula O'BRIEN[*]

INTRODUCTION TO THE SPECIAL ISSUE ON PUBLIC HEALTH AND THE GLOBAL
GOVERNANCE OF ALCOHOL

In many cultures, alcohol is regarded as a food that is associated with festivities, leisure, coming of age and success.[1] Alcohol industry marketing creates and reinforces these cultural understandings, downplaying facts about the harms associated with alcohol consumption.[2] Alcohol is also a drug, and its harm profile distinguishes it from regular foodstuffs or other consumer items. Alcohol use is causally connected to more than 200 diseases, conditions and injuries,[3] with at least 25 other diseases and conditions entirely attributable to alcohol.[4] These harms include non-communicable diseases (such as cancer), mental health problems (including alcohol dependence), injuries from violence and accidents, and disabilities arising from foetal alcohol spectrum disorders.[5] The burden of disease associated with alcohol use is "unacceptably high", amounting to 3 million deaths (5.3% of all deaths) and 132.6 million disability-adjusted life years (DALYs) (5.1% of all DALYs) worldwide in 2016.[6] The impacts of alcohol use also extend beyond health, and include social and economic detriments.

Preventing harms from alcohol requires intervention at multiple levels – in communities and organisations, and by governments acting at the national, regional and global level. The articles in this symposium issue of the *European Journal of*

* Senior Lecturer and Director of the Health Law and Ethics Network, Melbourne Law School, University of Melbourne, Australia; email: obrienpl@unimelb.edu.au; ORCID 0000-0002-6879-0489. I appreciate the support for the symposium provided by the European Journal of Risk Regulation, and its editor, Professor Alberto Alemanno, and managing editor, Cliff Wirajendi.

1   K Mäkela, "The Uses of Alcohol and Their Cultural Regulation" (2016) 26 Acta Sociologica 21, 24.

2   M Petticrew et al, "How Alcohol Industry Organisations Mislead the Public about Alcohol and Cancer" (2018) 37 Drug and Alcohol Review 293.

3   J Rehm and KD Shield, "Global Alcohol-Attributable Deaths from Cancer, Liver Cirrhosis, and Injury in 2010" (2013) 35 Alcohol Research: Current Reviews 175.

4   KD Shield, C Parry and J Rehm, "Chronic Diseases and Conditions Related to Alcohol Use" (2014) 35 Alcohol Research: Current Reviews 155.

5   TF Babor et al, *Alcohol: No Ordinary Commodity: Research and Public Policy* (2nd edn, Oxford, OUP 2010) 15–18.

6   World Health Organization (WHO), "Working Document for Development of an Action Plan to Strengthen Implementation of the Global Strategy to Reduce the Harmful Use of Alcohol" (2020) 4 <www.who.int/docs/default-source/alcohol/working-document-for-action-plan-web-consultation-november-2020-final.pdf?sfvrsn=684393b8_0> (last accessed 25 November 2020).

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Risk Regulation focus on alcohol as a global health problem, exploring how alcohol is governed at the global level, and how it could and should be governed to minimise and prevent harm. This conceptualisation of alcohol is warranted, not just because of the common experience of countries with alcohol consumption and harm, but because of the increasingly global nature of the alcohol industry and its products. The production and marketing of alcohol is now concentrated in the hands of a small number of transnational corporations.[7] There is a strong global trade in alcohol. There is also significant cross-border marketing of alcohol, particularly through social media.[8] The treatment of alcohol in trade and investment agreements is impacting the capacity of national governments to intervene and regulate alcohol in a manner protective of the public's health. At the same time, there is an emergent desire to explore how the instruments of global health governance, including those available through the World Health Organization (WHO) and the Codex Alimentarius Commission (Codex), might be used to advance the public health project of reducing harms from alcohol. A push for a treaty on alcohol – a Framework Convention on Alcohol Control (FCAC) inspired by the success of the Framework Convention on Tobacco Control (FCTC) – has not yet been successful. But in early 2020, the Executive Board of the WHO did commit to the development of an action plan to improve the implementation of the "Global strategy to reduce the harmful use of alcohol" (Global Strategy).[9]

The symposium opens with an article by Jürgen Rehm, Sally Casswell, Jakob Manthey, Robin Room and Kevin Shield analysing how levels of alcohol use have been used as an indicator of progress in several global instruments covering alcohol, including the "Global Strategy", the "Global Action Plan for the Prevention and Control of NCDs 2013–2020"[10] and the "Sustainable Development Goals".[11] Yet even with the proliferation of these global commitments, the article finds that the targets for decreased alcohol consumption and harm have not been met. This conclusion directs attention to the key questions explored in the other articles in the symposium: How adequate is the current global health governance of alcohol? What reforms to the global governance of alcohol are needed, now and into the future, to achieve the public health goal of preventing harm from alcohol consumption?

In the article by Robin Room, the history of alcohol's handling by international institutions and its limited inclusion in international instruments reveals "good intentions, but little action". Alcohol is not covered by the international drug conventions. Institutions, such as the International Labour Organization and the World Bank, have had only "sporadic" interest in alcohol. Room posits that only the

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[7]   See D Jernigan and CS Ross, "The Alcohol Marketing Landscape: Alcohol Industry Size, Structure, Strategies, and Public Health Responses" (2020) s19 Journal of Studies on Alcohol and Drugs 13, 14–15.

[8]   R Room and P O'Brien, "Alcohol Marketing and Social Media: A Challenge for Public Health Control" (2020) Drug and Alcohol Review <doi.org/10.1111/dar.13160> (last accessed 25 November 2020).

[9]   WHO Executive Board, "Accelerating Action to Reduce the Harmful Use of Alcohol" (7 February 2020) EB146(14); WHO, "Global strategy to reduce the harmful use of alcohol" (31 May 2010) <www.who.int/teams/mental-health-and-substance-use/alcohol-drugs-and-addictive-behaviours/alcohol/global-alcohol-strategy> (last accessed 3 December 2020).

[10]   WHO, "Global Action Plan for the Prevention and Control of NCDs 2013–2020" (31 May 2013) <www.who.int/publications/i/item/9789241506236> (last accessed 3 December 2020).

[11]   United Nations Department of Economic and Social Affairs, "Sustainable Development Goals" (2015) <sdgs.un.org/goals> (last accessed 3 December 2020).

WHO has had a constructive long-term agenda on alcohol. At the same time, the WHO's resources are stretched, governments are not fully supportive, industry has not been excluded and the WHO's mandate around health means that the many other non-health impacts of alcohol are not fully addressed at the global level.

The article by Trish Hepworth, Sarah Ward and Lisa Schölin and the article by Clare Slattery also explore how alcohol is treated by international institutions other than the WHO. Hepworth, Ward and Schölin discuss the developments by Codex to fill a "vacuum" around international labelling standards for alcohol products. Alcohol has not been subject to Codex's food labelling standards, nor has it been subject to the labelling rules of the international drug conventions. The absence of a standard on alcohol labelling has produced "a lack of consistency across jurisdictions", but has also allowed international trade law arguments to be made against states seeking to introduce progressive public health labelling measures. Hepworth, Ward and Schölin advise that taking alcohol labelling outside the WHO and into Codex has the potential for benefits in governance, but there are also risks if the involvement of industry and recalcitrant governments results in a weak standard. In her article, Slattery strikes a positive note and argues that "the human rights agenda can be used to ensure accountability and mobilise action for alcohol control". She details ways in which human rights law instruments, mechanisms and processes have already been used to advance alcohol control, but also argues that a human rights framing should be brought more directly to bear in new global instruments around alcohol and public health. She asserts that support for this approach is to be found in the successful use of human rights in the tobacco control context and the FCTC.

The lessons to be drawn from the FCTC for alcohol are a common theme across a number of papers in the symposium. The article by Paula O'Brien compares how the Global Strategy and the FCTC have been used in discussions in the World Trade Organization's Committee on Technical Barriers to Trade (TBT Committee). It concludes that the low utility of the Global Strategy in the TBT Committee, including the fact that it has been deployed to *oppose* public health warnings on alcoholic beverage labels, is explained by key differences between the Global Strategy and the FCTC that are salient to future developments in the global governance of alcohol. O'Brien concludes that the legal status of the instrument matters, that the instrument must contain detailed guidance as to the use of evidence-based measures and that the alcohol industry must be excluded from the negotiation and implementation of the instrument.

The article by O'Brien is a segue to a set of papers about a treaty for alcohol. The article by Suzanne Zhou maps the differences between binding and non-binding legal instruments, drawing on experience from tobacco control and the FCTC. She sets out the options for legal instruments negotiated under the auspices of the WHO and the practical differences in these instruments. Although acknowledging the benefits of the FCTC, she puts forward the argument that there is not necessarily a "bright line" between binding and non-binding instruments, and that significant gains could be made for alcohol control through a high quality non-binding instrument. There is resonance between the article by Zhou and the article by Gian Luca Burci. Although

Burci considers that a FCAC would be "the most effective approach from a substantive and institutional perspective in terms of a global regulatory instrument", he does not think such an instrument is feasible at the present time owing to political considerations and the absence of "norm entrepreneurs". He explores alternatives to a FCAC, including further international "legalisation" in the new action plan presently being developed by the WHO to strengthen the implementation of the Global Strategy. Such legalisation could serve to improve alcohol control and public health, as well as to smooth the way for states to commit to a treaty in the future.

The symposium concludes with an article by Robin Room and Jenny Cisneros Örnberg, offering the first ever "concrete" proposal for drafting a FCAC, including a text that could be used as a starting point for discussions. The draft text draws on the FCTC and the international drug conventions as models for the content of a treaty on alcohol that pursues public health goals. In explaining and justifying their draft FCAC text, Room and Cisneros Örnberg sound a warning, which is common across the articles in this symposium, about "building in protection for public health interests from inappropriate commercial influence".

Drafts of these articles were presented at the "Public Health and Global Governance of Alcohol" conference held in Melbourne, Australia from 30 September to 3 October 2019.[12] The conference was held under the auspices of the Kettil Bruun Society for Social and Epidemiological Research on Alcohol, and hosted by the Centre for Alcohol Policy Research at La Trobe University and the Melbourne Law School at the University of Melbourne. The conference was generously supported by the Foundation for Alcohol Research and Education and the Victorian Health Promotion Foundation.

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[12] University of Melbourne, "Public Health and Global Governance of Alcohol: Thematic Meeting of the Kettil Bruun Society: 30 September 2019–3 October 2019" (2019) <law.unimelb.edu.au/alcohol-globalgov-2019?> (last accessed 26 November 2020).