



PhD project: How can we use the law to prevent chronic disease?



Key messages

- Public health law is a valuable tool to improve population health, but sometimes laws fail to achieve what was originally intended.
- This PhD project developed a new method of evaluating public health law, by using case law to understand what happens when laws are tested in the real world.
- We found that judicial decisions in cases involving the development or licensing of liquor outlets, hotels, pubs and clubs usually favour industry and pro-competition considerations rather than public health.
- Using this method can help governments target laws to protect population health more effectively.
- We need more robust evaluation of public health law to see what works and whether there are unintended consequences, particularly for at-risk communities.

The project: The role of public health law in preventing chronic disease

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Project end: July 2018

Why is the issue important?

The law is a valuable tool for public health. It has been used successfully in Australia to combat the risk factors for chronic disease and injury, for example by imposing excise taxes on alcohol and legislating the plain packaging of tobacco. However, laws may fail to fulfil their stated purpose and vision.

There is no routine evaluation of the impact of public health laws in Australia. Evaluating public health laws is important to understand whether they work, where they work, and their unintended consequences.

There has been little research in Australia into how governments can use the law to the best effect for population health. This PhD project aimed to provide evidence around how to strengthen regulatory frameworks to effectively prevent chronic disease and injury.

What did we do?

We developed a new method to evaluate the use of public health law in chronic disease and injury prevention. This method used case law to identify the strengths and deficiencies in legislation and the extent to which these deficiencies limit local government action applied in the public interest to regulate alcohol.

Case law is established when judicial officers make decisions in court. These decisions are informed by the facts of the case, existing case law and legislation as well as evidence brought by each party to the action. Case law is an untapped resource of unique data to demonstrate the practical implications of a broad range of legislation on public health. This was the first time this method had been used to examine public health law in Australia.

The PhD project consisted of a number of real-world case studies observing how public health legislation works in the area of alcohol regulation in NSW and alcohol control in Indigenous communities.

What did we find?



We identified a number of cases where public health arguments failed and decisions were made in favour of industry. This happened because the legislation did not explicitly allow the consideration of health impacts on communities. Laws were framed not by public health, but by planning and development or economic imperatives.



We also found that public health evidence was largely discounted as there was no clear basis in law on which it could be used.



Using case law to evaluate public health laws enabled us to uncover the scope of the problem, identify the legal issues underpinning it, and show a way forward to ensure legislation fulfils its intended purpose.



While the law is a highly effective and cost-effective public health tool, legislation is just the starting point. Evaluating implementation and impact is essential in making the law an effective tool to reduce the burden of chronic disease and injury in Australia.

What did we produce?

- Muhunthan J, Angell B, Wilson A, Hackett M, Latimer J, Eades A-M, Jan S. Australia's appointment to the UN Human Rights Council means it must deliver on Indigenous engagement in alcohol control. *Aust N Z J Public Health*. Online. 2018. doi: 10.1111/1753-6405.12799
- Shanthosh J, Angell B, Wilson A, Latimer J, Hackett ML, Eades AM, Jan S. Generating sustainable collective action: Models of community control and governance of alcohol supply in Indigenous minority populations. *Int J Drug Policy*. 2018;62:78-85. doi: 10.1016/j.drugpo.2018.09.011
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Next steps

Our case law method has been used by other research groups in NSW and the United States. Since our research was conducted, amendments have been introduced into NSW planning legislation to provide some limited scope to consider health impacts.

The next phase of this research will use the method prospectively in NSW and then evaluate the impact of the new amendments.

Our hope is ultimately that our findings will lead to a more informed and conscious approach to law making and implementation, so that public health law will improve the health of populations more effectively.



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The Australian Prevention Partnership Centre

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