

New Zealand: A Ban-Happy Country

An ingrained New Zealand characteristic is the urge to ban things that some people don't like.

Part of the urge may stem from our propensity for knee-jerk reactions to social problems. Rather than live and let live, or face the fact that the problem might be a matter of encouraging people to take responsibility for themselves, we look to the 'gummint' to pass a law against it.

Or it may derive from what the American journalist and humourist H L Mencken defined as Puritanism: "the haunting fear that someone, somewhere, may be happy." Today we might call this paternalism or wowserism rather than Puritanism.

The New Zealand Oxford Dictionary defines a wowser a "a person who tries to inflict his or her morality on all society." Such people typically seek to invoke the coercive powers of the state to save others from weaknesses and folly.

But the problem is that many New Zealanders don't want to be improved in this way. Legislative curbs may infantilise consumers or medicalise irresponsible behaviours, thus promoting even less responsible behaviour.

Over the years the range of bans or prohibitions has been extraordinary.

New Zealand came close to liquor prohibition during the temperance era. A referendum on prohibition was defeated only by the votes of returning servicemen after the first World War.

A generation ago New Zealand suffered from high inflation. Finance minister Robert Muldoon decided we should simply ban it with a freeze on prices. He failed, of course.

We used to have a ban on weekend shopping (apart from outlets such as dairies). Liberalisation of shop trading hours in the late 1980s was a highly contentious issue. Imagine trying to turn the clock back now.

Today the urge to prohibit or restrict is apparent in responses to problems such as dangerous dogs, alcohol abuse, smoking, gambling, obesity, soft drinks and fireworks.

When the prime minister asked his chief science adviser Sir Peter Gluckman to examine the problem of methamphetamines, he came up with the idea of banning Codral-type products. No careful consideration was given to alternative approaches or the costs of a ban relative to the benefits.

There are two main problems with prohibitions that are imposed ostensibly for the good of all of us.

One is that they reduce personal freedom and choice and undermine individual and social responsibility.

The other is that, unless they are very widely supported by the community, they don't work.

Societies have enjoyed wine, beer and spirits for millennia. Prohibition just gave rise to bootlegging. The idea that an effective strategy to curb alcohol abuse is blanket prohibitions or restrictions on outlets, trading hours, drinking ages or advertising is naive.

It is highly unlikely that either of the tragic deaths of two King's College students would have been prevented by such measures.

The ban on selling certain foods at school tuck shops in response to obesity concerns just led to students buying them at fast-food outlets. On the other hand, the ban on the use of hand-held mobile phones in cars probably makes sense because of the risk of harms to others.

There is broad understanding today that smoking is harmful to health. Health awareness campaigns and changes in social attitudes, no doubt

assisted by banning smoking in bars and workplaces, have played an important part in reducing tobacco consumption.

Restrictions on commercial freedom may be more problematical. Plain-packaging regulation could oblige tobacco companies to compete only on price, forcing prices down and encouraging consumption. Undermining property rights in brands without compensation is a step that should not be taken lightly. The equivalent of bootlegging with liquor prohibition would certainly be a growing black market for tobacco.

Australia is also going through a ban-happy phase. As one commentator recently wrote, “Apart from the retrospective economic costs of wrongheaded restrictions, there are social costs to individual liberty. Discussions of whether Ban A will reduce smoking or whether Ban B will reduce gambling ignore the fundamental issue of individual rights.

“The real question is whether Australia is committed to a free society or whether we are prepared to have the government decide for us what we can advertise, how we may do business, how we manage risk and health, what mistakes we may make, and how we speak to each other.”

No sensible person denies the social harm associated with so-called vices. But governments can only do so much to combat them: individuals, parents and social sanctions have a larger role to play. Attitudes change. Many fewer young people now drink and drive.

State power should be used sparingly and have regard to the rule of law, property rights and fundamental freedoms. These are among the principles in the Regulatory Standards Bill currently before parliament which aims to encourage more careful and considered use of regulation.

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