Callinan review largely backs Sydney lockout laws, but alcohol's role in family violence is a blind spot

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Publication Details
J. Quilter, 'Callinan review largely backs Sydney lockout laws, but alcohol's role in family violence is a blind spot' (2016) (September 16) The Conversation 1-4.
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Abstract
Two years after they were introduced, former High Court judge Ian Callinan's review of Sydney’s lockout laws was released earlier this week. Throughout this period supporters and opponents have been involved in a highly polarised debate about the laws' effectiveness. The early headlines on the report focused on some suggested "relaxations" to the laws. But its main message has largely been lost: it came down strongly on the side of the laws.

Disciplines
Arts and Humanities | Law

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September 16, 2016 2.09pm AEST

Sydney’s Kings Cross and CBD are safer as a result of the lockout measures, but it has come at a cost to the precincts’ ‘vibrancy’. AAP/April Fonti

Two years after they were introduced, former High Court judge Ian Callinan’s review of Sydney’s lockout laws was released earlier this week. Throughout this period supporters and opponents have been involved in a highly polarised debate about the laws’ effectiveness.

The early headlines on the report focused on some suggested “relaxations” to the laws. But its main message has largely been lost: it came down strongly on the side of the laws.

What did the report find?

The report found the government’s objective of reducing alcohol-and-drug-related assaults and anti-social behaviour remain valid. It also found that the measures introduced – including the 1.30am lockout and 3am last drinks – are achieving this.

It contains a genuine attempt to assess the principal objections of the laws’ opponents and supporters against the available evidence. Callinan placed great weight on the evidence of medical professionals and emergency service workers – described as having “the least or no self-interest” – and the statistics.

The numbers are compelling:
• a 45% reduction in non-domestic assaults in Kings Cross and a 20.3% reduction in the CBD;

• minimal evidence of displacement of violence to surrounding areas in Sydney;

• a 25% reduction in alcohol-related and serious critical injuries at St Vincent’s Hospital; and

• a 69% reduction in alcohol-related facial fractures requiring surgery.

The report recognises that while the Kings Cross and CBD precincts are safer as a result of the measures, this had come at a cost to “vibrancy” and the profitability of businesses, particularly live-music venues. Callinan’s sympathy, however, was less for the hip-pockets of licensed venue operators than for:

Musicians and other entertainers [who] have been adversely economically affected by the laws.

Motivated by a desire to alleviate these effects, the report cautiously invites the government to trial a relaxation of the laws’ most-contentious aspects: a half-hour increase in the lockout time (to 2am) and last-drinks time (to 3.30am) for “genuine entertainment venues”.

It also recommends the relaxation of the 10pm closing time for bottle shops to 11pm, with home delivery until midnight. This regulation operates across New South Wales.

**Who won the argument and why?**

It’s clear who won the contest. But why?

The easy answer is the data “spoke”: the evidence of crime and injury reduction was overwhelming. Opponents of the laws did not produce hard data on the adverse effects they asserted could trump the evidence supporters and neutral parties tabled.

Callinan was underwhelmed by contentions advanced without supporting evidence. For example, he said it was impossible to verify or contradict the claim that:

... creative people have left Sydney for Melbourne and are thriving there.

But this report wasn’t just about numbers. Running through it is a strong value judgement on the merits or otherwise of the “night-time economy” and the part of Sydney where it thrives (or perhaps used to):
I have formed the view that the two precincts at night were grossly overcrowded, violent, noisy, and in places dirty, before the amendments, but that after them, they were transformed into much safer, quieter and cleaner areas.

Note that behaviour that is universally understood to be undesirable – violence – is conflated with some rather more mundane urban blights: noisiness, dirtiness, overcrowding.

One of the few redeeming features of this world Callinan identifies as worth protecting is the artistic endeavours of musicians – hence the suggestion of a relaxation for "genuine entertainment venues".

The report seems to imagine a Kings Cross in which such artistic pursuits can somehow be extracted from the hury-burly that has always been a characteristic of this area at night.

A related message is that businesses and individuals should have done more to “adapt” to the new regulatory environment in which they found themselves, such as “slightly shorter performances earlier in the evening”.

But this is a pretty simplistic take on the ease with which venue operators could change the habits of a whole generation of performers and live-music fans. Any takers for a punk band performance at 5.30pm? But perhaps that’s not what Callinan meant by “genuine” entertainment.

Whatever the motivation for the proposed relaxation of lockout and last-drinks times, an extra half-hour is likely to be regarded as token. If the NSW government decides to go down this path, live-venue operators will also need to grapple with the devil in the detail. What will qualify as a “genuine entertainment venue”?

Callinan appears to endorse a Western Australian definition that would exclude pre-recorded music and that would appear to value entertainers over others:

Any definition would need to ensure that anyone engaged to play pre-recorded music does more than mechanically reproduce the creativity of others. An entertainer needs to bring his or her engagement some genuine additional creative element, otherwise it would be easy to evade the operation of the laws.

Sorry Tiesto and co., you probably need not apply.

The domestic violence blind spot

The report's most-troubling part has little to do with Kings Cross or live music: it is the
proposed relaxation of the requirement that bottle shops close at 10pm. Callinan concludes this makes:

... little or no contribution to violence and anti-social behaviour in the precincts, even less so when it is home-delivered.

But that is not really the point.

The review's terms of reference called for a statewide assessment of the restriction, especially in rural and remote communities. It is concerning that the report suggests the government consider relaxing this restriction, even as it acknowledges:

... such an extension may elevate the risk of domestic violence.

If crime rates were the trump card in the debate over the lockout laws, why were they pushed to the margins when it came time to reviewing the takeaway and home-delivery restrictions? The review should have refrained from making any suggestion for relaxation until a full evidence-based assessment of the likely effects on rates of domestic assaults had been undertaken.

This is yet another example of how debate, policy and law reform on alcohol-related violence tend to focus on public violence without paying sufficient attention to the role alcohol plays in “private” violence.