

Intoxication as Aggravating: An Ethical Analysis

MARY J. WALKER¹

¹ *Department of Politics, Media, and Philosophy, La Trobe University, Melbourne, Australia*

Presenter's email: <mary.walker@latrobe.edu.au>

Introduction / Issues: *Judgements about the effect of intoxication on moral responsibility are ambiguous: sometimes intoxication is judged to reduce blameworthiness for an action, at other times it is judged to increase blameworthiness. This ambiguity is visible in judgements of criminal liability and sentencing, such that offender intoxication may be regarded as either mitigating or aggravating. Australian legal practice has in recent decades moved towards regarding intoxication to increase offenders' blameworthiness. Intoxication may be treated as an aggravating factor in sentencing or justify charging an offender under a more serious offence category.*

Method / Approach: *This paper provides an analysis of legal treatment of intoxication as increasing blameworthiness, and questions this practice from an ethical perspective. It draws on methods of applied philosophical ethics and recent theoretical work on moral responsibility, to develop an analysis of possible ethical justifications for regarding intoxication to increase blameworthiness.*

Key Findings: *The analysis indicates that intoxication can only be regarded as increasing blameworthiness in cases where the offender has a history of intoxicated offending; however in these cases its role as an aggravating factor is superfluous.*

Discussions and Conclusions: *The paper provides a normative argument that current practices surrounding the legal treatment of intoxicated offenders are not justifiable in terms of offenders' blameworthiness. If these practices are justified, this must rest on their effects for deterrence or community protection.*

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