

Why we should never stop asking the tough questions

In law there is a basic requirement called rationality, which means that there must be a clear purpose for every law and there must be a reasonable chance that the law can achieve its purpose. This all sounds pretty clear but when you are working with a topic that are highly sensitive and emotive, it's not always straight forward.

The latest amendments proposed to the National Road Traffic Act is a prime example. The Bill seeks to combat road incidents and fatalities caused by driving under the influence of alcohol by reducing the level of alcohol in the blood (BAC) from the current level of 0.05 gram per 100 millilitres of blood to 0.00. In plain language, the Bill removes the current limit and makes it a criminal offense to get behind the wheel of a car if you have even the slightest trace of alcohol in the blood.

According to Arrive Alive, South Africa saw 14 000 road fatalities in 2017 of which almost 60% can be attributed to alcohol. There is no doubt that driving under the influence of alcohol is a serious problem in South Africa and you will be hard pressed to find anyone willing to disagree with the importance of tackling this problem head on. With an aim this pure it is tempting to support anything that seeks to achieve it, but that would be lazy policy making.

There is no doubting the aim of the Bill but that is only half the job, the other half is making sure that the means can actually achieve the end and this is where the difficult questions have to be asked. Will those currently breaking the law be put-off by making the law stricter? Will a heavier sentence not be a more effective deterrent? Has this worked in other countries? These are, without a doubt, difficult questions but one should never shy away from asking them. Evidence from Scotland and Ireland have shown that a reduction in the BAC levels had negligible results on road fatalities. In South Africa itself, the BAC was lowered from 0.08% to 0.05% in 1996 yet the road fatalities continued to rise.

Importantly for the agricultural sector, one has to ask what the effect will be on the wine industry and those it employs if a wine tasting or a single glass at a restaurant will put you over the limit? The sector employs approximately 25 000 direct employees on farm and cellar level but the number increases dramatically when you expand the scope to include wine tourism. Responsible tourists will need to make alternative arrangements to travel to and from wine-based tourism events but alternatives such as e-hailing services and taxis may not be readily available in some of the more remote wine growing areas. The industry itself was dramatically affected by the Covid-19 lockdown and employment figures from the 4th quarter of 2021 is evidence to that effect. The Western Cape and Northern Cape showed the most notable losses in employment opportunities in 2020 which co-coincides with the areas where viticulture is most present. The industry is now furthermore faced with a 16,1% increase in labour costs due to the equalisation of farm workers' pay with the national minimum wage. With this in mind, the impact of further losses in wine tourism and restaurant sales should be carefully considered when debating the merits of the proposed amendment to the BAC levels.

Perhaps the most important question one has to ask is whether a 0% BAC will actually lead to safer roads and whether there may be alternative mechanism such as increased policing, minimum sentences, differentiation between young versus experienced drivers that could achieve the desired result? By asking these questions, however difficult, the rationality of the Bill will slowly be revealed. We all want safer roads, that much is a given. But can a 0% BAC really improve the safety of our roads? This is the million Rand question that must be asked.

The Portfolio Committee on Transport will be hosting public hearings for the Bill within the month. If we are to find lasting solutions for the most pressing social challenges in this country then we need our MPs to ask these tough questions. A measure that is symbolic but ultimately ineffective will not do justice to the challenges we face. Whatever Parliament decides, one can only hope that the outcome is a rational solution that can genuinely make a difference.