

# T17aP08 / Comparative Perspectives on Tobacco Control

**Topic :** T17a / Sectorial Policy - Health

**Chair :** Holly Jarman (University of Michigan)

## GENERAL OBJECTIVES, RESEARCH QUESTIONS AND SCIENTIFIC RELEVANCE

Tobacco control policies provide many examples of successful agenda setting, policy learning and, above all, substantial policy change. Driven by a cross-national epistemic network of public health researchers and advocates, governments across the world have acted collectively and individually to protect public health by limiting the availability of tobacco products. This emerging international political consensus in favor of tobacco control is represented by the World Health Organization's Framework Convention on Tobacco Control, which places binding policy commitments upon its signatories and is one of the most widely applied treaties of all time.

Despite these achievements, there remain many substantial obstacles to passing, implementing and enforcing tobacco control policies. Tobacco control advocates face strong opposition and lobbying from the well-resourced and highly-globalized tobacco industry. Some governments pass tobacco control regulations, yet struggle to fully implement them. Even when tobacco control measures are implemented, they are frequently beset by legal challenges. In short, the international consensus in support of tobacco control is fragile, and subject to national and subnational politics.

In many ways, therefore, understanding both the success of tobacco control policies and the significant challenges to passing and implementing tobacco regulation requires researchers to take a comparative perspective. Yet truly comparative studies of tobacco control policy are few, and far between. This panel aims to expand the network of scholars who study tobacco control in order to further understanding of comparative public policy.

## CALL FOR PAPERS

The panel chairs seek paper submissions for the 3rd International Conference on Public Policy which address tobacco control from a comparative perspective.

Paper proposals should indicate how they will draw on theories of comparative public policy, comparative politics, or comparative law to conduct their analyses. Papers must compare multiple cases across or within countries, multiple cases across time, or focus on a single case using a comparative lens. We welcome papers that use a variety of methodological approaches.

The panel chairs will prioritize paper proposals with the potential to make a contribution to public policy theory and our understanding of regulatory politics. We aim to seek publication of the best contributions through a peer-reviewed journal special issue.

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## Session 1

Wednesday, June 28th 16:15 to 18:15 (Li Ka Shing LKS 1 - 1)

### **Top-down, Bottom-up and Back and Forth Policy Processes in Unitary and Federal States: The Adoption of the Smoking Ban in France, Switzerland and Germany**

Céline Mavrot (University of Lausanne)

The proposed paper adopts a comparative approach on tobacco control, with a particular focus on a factor that has been overlooked in the literature: the influence of the type of state on policy adoption. In the paper, we compare the policy processes that have led to the adoption of smoking bans in public places in three countries: France, Switzerland and Germany. Our focus lays on the political debates of the national parliament in unitary France, and of the federal and member-states parliaments in federal Switzerland and Germany. By doing so, we seek at understanding the political, institutional and juridical factors at play in the adoption of the same tobacco control legislation in very different type of states (unitary vs. federal and European member-state vs. not European member-state).

It is acknowledged that in Switzerland, the subnational policy level has the leading role in the field of tobacco control because of the strength of the tobacco and of the liberal-economic lobbies at the national level. Thus, in this country, the member-state (i.e., *cantonal*) level forced the national level to regulate on the smoking ban by passing precursory cantonal legislations. In comparison, it is interesting to examine how a strongly unitary country such as France was nevertheless able to pass a smoking ban at the national level without the existence of a strong, potentially precursory, subnational level. Finally, the German case offers the occasion to observe a third configuration in which the policy process was neither bottom-up (as in Switzerland) nor top-down (as in France) but rather constituted of a back and forth policy process within a multilevel system. In this case, the federal level attempted to pass a national regulation on smoking restrictions but did not have the legal competence to do it fully, and encountered the strong opposition of some of the *Länder*.

We believe the comparison of these three cases can contribute to the panel by shedding light on the ways the type of state influences regulatory politics on tobacco control. We will focus on identifying the facilitating factors and the hurdles of legislative change in each particular institutional context. The study is based on a qualitative analysis of the national and sub-national parliamentary debates and legislations. Theoretically, we draw upon the literature on policy transfers (Dolowitz and Marsh 2000), policy learning (Bennett and Howlett 1992) as well as on sociological institutionalism (Fink 2007; Hall and Taylor 1997). At a time when big regulatory challenges are still being processed in many states around the world (e.g., plain packaging and advertising bans or restrictions), a reflection on the roads to legislative changes in relation to the type of state reveals an interesting perspective for future research in this policy field.

### **Comparing the debates and processes of e-cigarette regulation in Germany and England – an institutional comparative lens**

Stefanie Ettelt (London School of Hygiene and Tropical Medicine)

Benjamin Hawkins (University of Cambridge)

This paper uses an institutional comparative lens to analyse recent developments in tobacco control policy in England and Germany and explain differences in policy debates observed in both countries. Electronic cigarettes (e-cigarettes) pose a regulatory challenge to governments seeking to balance the potential health benefits for existing smokers against the risks to wider public health. In England, this has led to a major controversy within the public health community in which public health researchers and advocates concerned about the potential health risks from e-cigarette consumption, the dangers of e-cigarettes undoing previous tobacco control efforts, and about the tobacco industry strategically using e-cigarettes to re-establish their role in the policy making process, have been pitted against members of the same epistemic community who argued that e-cigarettes might provide a helpful alternative to smoking for those addicted to nicotine without

exposing them to many of the health risks associated with burning tobacco. This debate was much less prominent in Germany and the harm reduction argument was largely absent in public discourse.

This paper examines comparatively the policy processes and debates on e-cigarette regulation before and after the development of the EU Tobacco Products Directive in 2014. More specifically, it explores three observations that help explain why, despite policies being almost identical in both countries, e-cigarettes regulation became highly controversial in England, but not in Germany. The first observation relates to differences in the salience of the issue of e-cigarette regulation for public health communities in both countries, noting that concerns in England were driven by a rapid increase in e-cigarette consumption and the entrance of multi-national tobacco firms on the e-cigarette market, compare to Germany where consumption is still minor and the e-cigarette market has not attracted large firm. This is unsurprising given that smoking rates are still 10 percent higher in Germany than in England and tobacco control is less comprehensive. The regulatory approach also followed different institutional pathways that shaped the role of policy actors and processes, with Germany being more strongly influenced by decisions of the judiciary that, before the TPD, tended to close down regulatory options, while in England the regulatory approach was more centralised with fewer 'veto players' potentially limiting regulatory choices. The third observation relates to differences in policy styles that underpin efforts to legitimate public policy decisions. In Germany, legitimacy was largely derived from the application, and extension, of the existing legal regulatory framework, while, in England, legitimacy claims were mostly couched in terms of scientific evidence. In combination these observations allows us to appreciate that in Germany regulatory uncertainty was largely resolved through recourse to law and law making, while in England the uncertainty was expected to be resolved through recourse to scientific evidence. This finding confirms and adds nuance to previous comparative institutional analysis of contemporary public policy in both countries.

## **Who changes who? The Regulatory Regimes of E-cigarettes in a Comparative Perspective**

Alex Liber (University of Michigan)

Electronic cigarettes (e-cigarettes), provide nicotine to users by vaporizing a liquid rather than by burning tobacco leaves, making the product significantly less of a threat to human health than traditional tobacco cigarettes. If public policy can encourage tobacco cigarette users to move over to using e-cigarettes en masse, millions of early deaths from tobacco-caused disease could be averted. But, e-cigarettes have not been allowed to be sold in every country, and where sales are legal, e-cigarettes are often subject to regulatory apparatuses that are far stricter than anything combustible cigarettes ever faced prior to approval. I employ a sequential mixed methods approach to determining the factors that define and then change the state's regulatory approach to a novel product, in this case, the e-cigarette.

A database of global tobacco control policies in the vein of Joossens and Raw's Tobacco Control Scale, e-cigarette regulations, tobacco use patterns and institutional information was assembled to contextualize the environments in which regulatory policy decisions were made. Quantitative analyses determined that countries with stronger tobacco control policy development were more likely to initially heavily regulate the sale of e-cigarettes rather than choosing light-touch allowance of e-cigarette sales or an outright ban on sales. These quantitative results presaged the selection of country case studies who had strong tobacco control policy track records, but diverged when it came to e-cigarette sales policy. Singapore and Australia banned e-cigarette sales, the United Kingdom pursued light-touch allowance of e-cigarette sales while Canada, France, and Ireland heavily regulate sales. These country cases were compared along dimensions including their tolerance for public risk and capacity for policy learning. I find that countries that are more sensitive to public risk were less likely to change their e-cigarette regulatory regimes to allow sales while those countries demonstrating a capacity for policy learning began converging on a common type of moderate e-cigarette regulation.

## **Beyond diffusion and activism: the politics of tobacco health warning labels**

Holly Jarman (University of Michigan)

The widespread adoption of tobacco control policies is unquestionably one of the great successes of public health in the last century, but one that has been explored by only a few political scientists. The successful spread of the distinctive policy tools used in tobacco control –such as bans on smoking in public places and requirements for plain packaging of tobacco products- have been largely explained by either theories of policy diffusion or by narratives that focus on anti-tobacco advocates and powerful industry lobbies. In most cases, the argument is colored by public health researchers' normative commitment to the policies, so that diffusion and effective advocacy are inevitable while setbacks are uniformly due to industry. This paper, by contrast, argues that the institutional and political contexts within which advocates and industry operate are key to understanding how tobacco control policies of different sorts are adopted, and how they evolve over

time.

Focusing on the specific topic of health warning labels -which have evolved over time from small text-only warnings that 'smoking may cause cancer' to government control of the entire surface of the pack, including unpleasant photographic images and color schemes- the paper examines the politics behind the adoption of health warning labels in four countries (Australia, Canada, the United Kingdom and the United States). To do this, the paper presents findings from a larger project that applies a process tracing approach to the analysis of archived industry documents, government reports, laws and regulations between 1957 and 2016.

The paper finds, first, that certain configurations of institutions (particularly shared-rule federalism and judicial oversight) constrain tobacco control, and secondly that partisanship is very important in explaining the adoption of anti-tobacco measures. These dynamics are tempered over time by an overall shift from a politics focused on producers in the 1960s towards one oriented towards consumers. Warning labels originated as a compromise solution in a context where tobacco was both a major, widely accepted industry and a widespread addiction, but over time became reframed as an increasingly partisan consumer-protection measure.