Policy analysis

Explaining trends in addictive behaviour policy—The role of policy coherence

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A B S T R A C T

This article analyses addictive behaviour policy regimes – focusing on illegal drugs and gambling – in 19 countries over a period of 50 years. It compares how these countries have combined rules on the consumption and possession of cannabis and on the participation in sports betting with sanctions for violations of these rules. While theories of policy convergence can explain dominant trends in the way the combination of these policy instruments have changed, they cannot account for all of the empirical variation observed. Turning to Portugal, a case which deviates in both illegal drug and gambling policy from the expected trend, we show that explanations of policy change improve substantially when taking the concept of policy coherence into account. Specifically, we argue that changes of the policy status quo are facilitated when policy entrepreneurs succeed in shaping a perception of policy incoherence. In turn, when relevant actors are able to maintain a perception of policy coherence, the policy status quo is stabilized.

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Introduction

This article describes empirical patterns in the regulation of addictive behaviour policies; namely the regulation of gambling in the form of sports betting as well as illegal drug consumption and possession in the form of cannabis. Based on this description, we seek to explain policy change within and across these sectors.

Illegal drug and gambling policy have received relatively little attention by scholars of public policy when compared to topics such as social policy or environmental policy.[1] Gambling has attracted attention by political scientists in two contexts: On the one hand, gambling is studied as a phenomenon of policy innovation. Particularly the spread of state lotteries and casinos in the United States (US) has been studied in this context. Here, gambling policy is used as a way to learn about the interaction between factors that drive policy diffusion and domestic factors that obstruct or facilitate such diffusion. These studies tend to focus on the step leading from the prohibition of lotteries or casinos to a state controlled system of state lotteries (Berry & Berry, 1990; Jackson, Saurman, & Shughart, 1994; Jensen, 2003; Lutter, 2010) or privately licensed casinos (Calcagno, Walker, & Jackson, 2010). Such changes in

gambling policy are predominantly perceived to be driven by economic considerations as they are a source of fiscal income over which different jurisdictions compete. A contrasting perspective is offered by scholars who focus on gambling as morality policy in which matters of first principle are seen to outweigh purely economic considerations. While ideological opposition by religious groups can thus be a relevant obstacle to the spread of gambling liberalisation (Clotfelter & Cook, 1989; Pierce & Miller, 1999), the framing of gambling policy reforms in moral terms seems to vary across countries and over time (Euchner, Heichel, Nebel, & Raschzok, 2013; Ferraiolo, 2013). These studies generally, however, remain fairly restricted in their empirical scope.

Similarly, drug policy is either studied from a strictly sectoral perspective or through a lens of morality policy. Where a sectoral perspective is adopted, attempts to theorize causes of drug policy development or changes in drug policy regimes have been much less systematic. Explanations are rarely grounded in theory and often remain descriptive (Boekhout van Solinge, 1997; Chatwin, 2011; Houbourg, 2010; Loo, Beusekom, & Kahan, 2002; Uchtenhagen, 2010). Besides, drug control regimes and policy reform are frequently treated as exogenous variables whose effects and effectiveness are then evaluated (Babor et al., 2009; Hughes & Stevens, 2012; MacCoun & Reuter, 2004; Serge, 2003; Turnbull, 2009). Comparative approaches generally remain restricted in scope providing detailed descriptions of drug policy regimes in only few countries (Boekhout van Solinge, 2004; Goldberg, 2005; Hyshka, 2009; Tops, 2001). Although drug policy is regarded as one

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of the "classic" fields of morality policy (Knill, 2013; Mucciaroni, 2011), only few studies adopt this empirical focus. These contributions either focus on determinants of drug policy development in the US context (Meier, 1992, 1994) or analyse the role of framing in the drug policy-making process (Euchner et al., 2013).

This article compares addictive behaviour policy regimes across two sectors and 19 countries. By focusing on this country sample, we attempt to assess as many OECD countries as possible given practical restrictions regarding language skills and resources available. Thereby, the article addresses the *descriptive* gap in existing scholarship. Furthermore, by adopting a coherent theoretical framework for analysing patterns of policy change, we address the *analytical* gap in the literature on addictive behaviour policies. We find that when complementing theories of policy convergence by the concept of 'policy coherence' as an explanatory factor, empirical dynamics in addictive behaviour policy can be better understood.

The paper proceeds as follows. In a first section we introduce the commonalties and particularities of gambling and drug regulation as two sub-sectors of states' addictive behaviour policy regimes. Secondly, we present our theoretical framework for analysing policy change in these areas. In a subsequent section, we present empirical patterns and discuss to what degree our theoretical expectations are reflected by the data. Next, we present evidence from addictive behaviour regulation in Portugal which is identified as a deviant case in both sub-sectors. The paper concludes with a short discussion of the results.

Empirical patterns in addictive behaviour policy

The regulation of drugs and gambling are two key sectors of addictive behaviour policy. We compare these two areas because in both sub-sectors policy-makers face very similar challenges. On the one hand, they have to find an ideal balance between the potentially conflictive first principles of (a) their obligation to ensure citizen's personal liberties and (b) their obligation to protect citizens from harm. Furthermore, while the costs of social ills related to addiction are generally higher in case of substance abuse, costs related to the development of pathological gambling are far from negligible (Becker, 2011). Therefore, policy-makers have to, on the other hand, balance the objective to (c) minimize potential social costs associated with the development of addictive behaviour and the objective to (d) exploit the economic potential of hazardous activities, such as taking drugs or gambling.

Whether the resolution of these trade-offs is perceived to be legitimate depends to a large extent on whether these trade-offs are perceived to be resolved in a coherent way: does the framing of a policy output correspond to the actual output in a logically coherent way? Scientific evidence about the likely effects of policy outputs plays a key role in determining whether there is such a logical connection or not; in other words, whether there is policy coherence or policy incoherence. A large-scale liberalisation of addictive substances and activities which is framed as a measure to protect citizens from the dangers of developing addictions can only be perceived to be a coherent reform if strong scientific evidence actually supported the underlying causal chain. Since this is not the case, policy output and its justifications would likely be perceived to be incoherent.

To find an optimal balance between conflicting principles and objectives, policy-makers have two different sets of instruments at their disposition: rules and sanctions. By defining rules, policy-makers regulate to what degree the legal access to gambling and drugs is restricted or allowed. The definition of rules enables regulators to influence the availability of addictive substances or activities to the general public and provides them with the opportunity to exploit their economic potential. By establishing sanctions, policy-makers define how tolerant they are towards rule violations; i.e. towards the illegal possession of drugs and the illegal participation in gambling. Comparative criminology suggests that sanctions are not only used for their potential to deter people from violating rules and their ability to re-educate infringers but also as an instrument of symbolic politics (Nelken, 2002). We describe empirical developments in addictive behaviour policy by focusing on the policy-mix consisting of different instruments regulating the access to addictive substances and activities as well as of different instruments sanctioning rule violations.

On the rules-dimension, we focus on the general regulatory paradigm adopted by policy-makers. To capture this paradigm in the context of drugs, we focus on two central consumer-related activities: cannabis consumption and possession. Here, we distinguish between permission, partial prohibition, and prohibition. In the permissive model, both consumption and possession are permitted (at least for personal use). States which completely prohibit the possession but do not (or only to some extent) ban the consumption, fall into the partially prohibitive model. The prohibitive model represents the most restrictive form of cannabis regulation. States completely prohibit both consumption and possession. In the context of gambling, we focus on sports betting other than horse-racing which has enjoyed a more liberal status than other forms of sports betting in most countries in our sample. Again, we distinguish between three regulative paradigms: prohibition, state monopoly systems, and market systems. Under the prohibitionist model, gambling activities are completely forbidden. In contrast, in state monopolist systems, policy-makers decide to offer a legal supply of gambling activities and services. These are exclusively provided by a state monopolist, usually a state-owned company. Finally, market systems allow private or commercial actors to offer gambling services and activities to citizens. These suppliers usually have to apply and pay for a license given out by public authorities.

The sanctioning dimension measures the severity of punishment associated with a central consumer-related illegal activity in each sector. Regarding cannabis, we measure the legally defined sanction for a person in illegal possession of a small amount of cannabis for personal and recreational (not-medical) use who is a first-time offender and not addicted to drugs. Thus, the sanctioning dimension does not take into account illegal possession under aggravating circumstances, e.g. with the intention of dealing in drugs. In the context of gambling, we measure the sanctions for the participation in illegal sports betting. Depending on the regulatory paradigm, this reflects the participation in sports betting in general (prohibitionist model), in sports betting offered by other suppliers than the state monopolist (monopolist system), or in sports betting offered by unlicensed suppliers.

The sanctioning dimension for both policy fields consists of 15 categories of possible sanctions, which are ordered according to their severity. We consider administrative sanctions (e.g. loss of drivers' licence) to be the weakest sanction, followed by the imposition of a fine. Custodial sanctions start with category 3. Specifically, categories 3–5 indicate sanctions where short (3), medium (4), or long (5) prison sentences can still be substituted by fines. Categories 6–8 capture sanctions where short (6), medium (7), or long (8) prison sentences can either be substituted or complemented by fines. Categories 9–14 indicate systems in which offenders face mandatory prison sentences of short duration without (9) and with (10) additional fines, of medium duration without (11) and with (12), and of long duration without (13) and with (14) additional fines. The scale ends with a life sentence in jail as most extreme form of sanction (15).

Fig. 1 captures the resulting patterns and developments in addictive behaviour policy. The vertical dimension reflects the regulatory dimension. Prohibitionist models are coloured in black.