Mapping the Role of Basic Rights in the Hungarian Tobacco Control: Who should be protected?

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Abstracts

This thesis examines the role of basic rights in the Hungarian tobacco control policy which will be effective in January 2012. The author argues that in spite of the importance of the right to health advocated in this context by non-smokers, other actors' rights should also be protected in the process of lawmaking. The research attempts to identify the various claims of rights which are at stake with the forthcoming ban and explore the possible conflicts arise from the legal policy. Four basic rights are at the core of the discussion: the right to health, the right to health care, privacy right and the right to information. Interviews were conducted with three groups of stakeholders (healthcare workers, the public and catering businesses) to connect the legal framework of rights and the empirical relevance. Opinion collected is analysed in relation to the different notions of rights. Further scenarios of special category of non-smokers (children, women and workers) are presented with respect to violations of their rights.

The thesis concludes with a discussion on the limitations of the sole reliance on legal policy as an instrument for tobacco control and calls for a combination of interventions and respecting individuals' rights.

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List of Abbreviations

ETS – Environmental Tobacco Smoke
FCTC - Framework Convention on Tobacco Control
GP - General Practitioner
HUF - Hungarian Forint (currency)
ICCPR - International Covenant on Civil and Political Rights
ICESCR - International Covenant on Economic, Social and Cultural Rights
NRT - Nicotine Replacement Therapy
OEP- Országos Egészségbiztosítási Pénztár (National Healthcare Fund)
SHS - Secondhand Smoke
UDHK - Universal Declaration of Human Rights
VAT - Value-added tax
VOC – Volatile Organic Compounds
WHO - World Health Organization

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Introduction

This thesis evaluates the legal policy in the Hungarian tobacco control programme in relation to the notion of rights. Specifically, the project tries to understand how the concept of rights can be included in the legislation related to tobacco control, such as smoking ban in public places and health warnings on packages. Before going into the study, some general background about smoking and public health is needed.

With publications in medical research in the past few decades, there is now a consensus that smoking is hazardous to health and is causing estimated 4 million deaths every year.[1] The proven linkage between passive smoking and illnesses in the 1980s had generated a wave of public attention on smoking. The World Health Organization (WHO) identifies smoking as a global epidemic and introduced the Framework Convention on Tobacco Control (FCTC) in 2003 (which entered into force in 2005)[2] Since then, countries have been progressively introduced various regulations to lower the consumption in their countries, such as the 2004 Irish smoking ban at workplaces[3] and the Italian comprehensive smoking ban in 2005[4].

About a month prior to the completion of the thesis, the Hungarian Parliament passed a new law of smoking ban which will be effective on 1st January 2012. At the time of finishing the thesis, the result of the ban is still highly uncertain and the evaluation of its effectiveness could only start at the post-implementation phase. Therefore this thesis focuses on a topic rarely

[1] WHO Report Condemning U.S. Tobacco Companies, The American Journal of International Law, 94:4(2000,) p.702.
[2] About WHO Framework Convention on Tobacco Control, http://www.who.int/fctc/about/en/ (accessed 9th May 2011)
[3] All eyes on Ireland's smoking ban, http://news.bbc.co.uk/2/hi/health/3565899.stm, (accessed 15th May 2011)
[4] Smoking Ban begins in Italy, http://www.dw-world.de/dw/article/0,,1453590,00.html, (accessed 18th May 2011)

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discussed in the literature of smoking legislations, the role of human rights in the legal framework of tobacco control. The discourse of tobacco control is dominated by the protection of non-smokers' health. While it is recognised as an important agenda, this thesis adds the dimensions of other rights to broaden the scope of deliberation. The principal purpose is to stimulate a more dynamic and balanced debate as it will be shown that other forms of rights have to be taken care of in a pluralistic society.

The thesis is composed of five main parts, the introductory part provides an overview of the problem of smoking in Hungary and the research questions. Methodological issues and interviews are presented in the second section (Chapter 1). The third part (Chapter 2) is the main content of the thesis, which is an assessment of how different rights can be unfolded in the Hungarian legislation, followed by Chapter 3, a discussion on the limits of the rights-approach to the legal policy and suggestions made to the current legislation. Finally, the thesis ends with a reflection on human rights and law.

Legislative Tools of Tobacco Control

WHO proposed 'MPOWER ' framework of tobacco control, it includes: M-Monitor tobacco use and prevention policies, P-Protect people from tobacco smoke, O-Offer help to quit tobacco use, W-Warn about the dangers of tobacco, E-Enforce bans on tobacco advertising, promotion and sponsorship, and R-Raise taxes on tobacco.[5] These five goals become the sign posts for the derivatives for a wide variety of legislative instruments: smoking ban in public places, plain packaging or pictorial warnings, tobacco taxations and campaigns on de-normalisation. Despite the variations from country to country, these instruments are legally

[5] WHO Report on the Global Tobacco Epidemic 2009: Implementing smoke-free environments, (Geneva, WHO,2009)

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defined and applied territory-wide to all citizens. For instance, the legal requirement of pictorial warnings means smokers see the standardised photo warning about lung cancer on their packets of cigarette. Since this thesis aims at exploring the claims of rights and tobacco control, it is unable to go into details about the specificities and logic, but readers who are interested can refer to the glossary where brief descriptions are compiled.

Attempts of tobacco control in Hungary

Figure 1 shows the total cigarette consumption in Hungary from 1951-1999. There is a general trend of an increase in total cigarette consumption though there is a slight fall at the turn of the century. Table 1 presents more recent data on smoking prevalence among Hungarians. The rate of smoking has been consistently higher than the EU average. These statistics demonstrates that smoking is a major public health concern in Hungary and amounts to health costs of approximately 379-397 million HUF in 2004.[6] Acknowledging the seriousness of the problem, there have been a few trials on tobacco control. The earliest attempt in the contemporary era can be traced to the 1960s.

Year	Male	Female
1986	49%	22.4%
1994	43.7%	26.6%
1999	53.1%	30.4%
2000	38.2%	29%
2003	36.9%	28.1%
2005	43%	30%
2006	44%	30%
2007	42%	25%
2009	44.6%	30.5%
EU-average-2006	32%	
EU-average-2009	29%	

Table 1: Smoking Prevalence of Hungarians 2000-2009(Compiled by author from multiple source [7]

[6] Attila Leitner, Smoking ban from 1 April in Hungary, http://www.tobacco-facts.net/2011/05/smoking-ban-from-1-april-in-hungary, (last accessed 25th May 2011)
[7] WHO Report on the Global Tobacco Epidemic, 2008, (Geneva, WHO, 2008), Special Eurobarometer 332:

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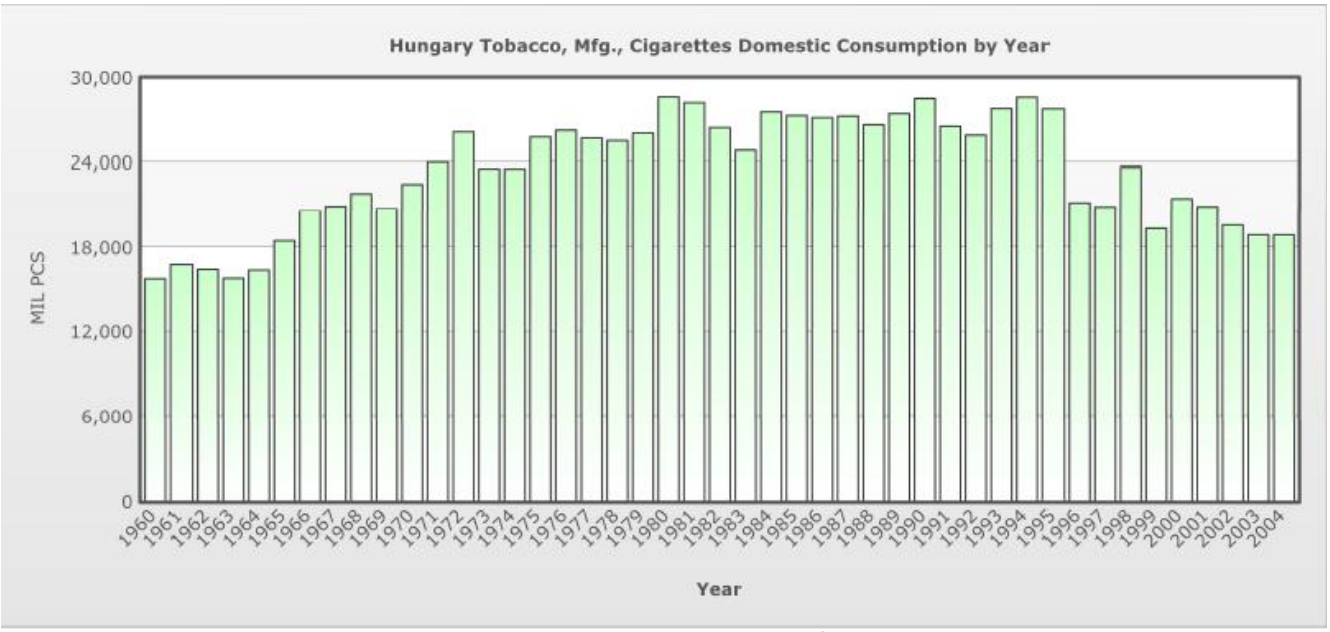

Figure 1: Total Cigarette Consumption in Hungary (1960-2004)[8]

	Percentage of Smokers	Percentage of Quitters
Hungary	36	18
Poland	32	22
Czech Republic	29	25
Slovakia	24	23
EU-average 2009	29	22

Table 2: Proportion of Smokers and Quitters in the Visegrad Group in 2008 (Reproduced by author from Hungarian source)[9]

Hungary signed the WHO's FCTC on 16 June 2003 and the treaty officially went into effect on 7 April 2004.[10] While neighbouring countries have reached some success in curbing the tobacco epidemic, such as Poland and Slovakia, Hungary remained a poor performer. Table 2 shows the proportion and smokers and quitters in 2008 in each country in the Visegrad Group (Hungary, Poland, Czech Republic and Slovakia). It shows that Hungary has the highest

Tobacco, (Brussels, TNS Opinion& Social, 2010), Tombor et al, 'Epidemiology of smoking in Hungary-a National Representative Study', Orvosi Hetilap, 151:9 (2010), pp.330-337.

[8] Hungary Tobacco, Cigarette Domestic Consumption by Year (1960-2004), http://www.indexmundi.com/agriculture/?country=hu&commodity=manufactured-tobacco-cigarettes&graph=domestic-consumption, (last accessed 28th May 2011)

9 A dohányzók és a leszokottak aránya (Proportion of Smokers and Quitters in the Visegrad Group), www.nol.hu/archivum/archic-490844, (accessed 20th Feb 2011)

[10] Parties to the WHO Framework Convention on Tobacco Control, http://www.who.int/fctc/signatories_parties/en/ (accessed 10th Feb 2011)

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percentage (36%) of smokers and lowest percentage of quitters (18%). An inquiry arises concerning the legislations of tobacco control, and in fact Hungary did have some forms of regulations. A few measures of tobacco control have been in practice, such as health warnings on packets and cigarette taxations. For instance, since 2005, smoking has been legally banned in a number of public places, including hospitals, government buildings and a few others. In 2010, a law further banning smoking in playgrounds and underpasses had been passed.[11] In the city of Budapest, public transport stops have also been selected as smoke-free points since February 2011.[12]

The Hungarian constitution guarantees the citizens' entitlement to physical and mental health and the state has a role in ensuring a healthy environment.[13] Recently, the Hungarian government proposed a stricter smoking ban in public area. After some setbacks and delays, Parliament finally passed a law on the 26th April 2011, which stipulates that a complete ban is to be effective on 1st Jan 2012.[14] This new legislation is comprehensive de jure because smoking is banned in most public places, including workplaces and restaurants. A period of adjustment is granted for the public to adapt to the ban, so a fine of 30,000 HUF would only be imposed from 1st April 2011.[15] Nevertheless, some exceptions are allowed, including permitted cigar lounges in hotels and places where food and drinks are not served. In addition to this, special smoking

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[11] Budapest bans smoking in underpasses, http://www.caboodle.hu/nc/news/news_archive/single_page/article/11/budapest_ban-1/?cHash=4999b94986, (accessed 30th May 2011)
[12] Smoking banned at BKV stops, http://www.caboodle.hu/nc/news/news_archive/single_page/article/11/smoking_bann/?cHash=4999b94986, (accessed 30th May 2011)
[13] Article 20(1) of the Hungarian Constitution, '(1) Mindenkinek joga van a testi és lelki egészséghez.' http://ic www.parlament.hu/irom39/02627/02627-0187.pdf, (accessed 20th May 2011)
[14] Hungary's public places and workplace smoke free from January 2012, http://www.euro.who.int/en/what-we-do/health-topics/disease-prevention/tobacco/news/news/2011/04/hungarys-public-places-and-workplaces-smoke-free-from-january-2012, (last accessed 25th May 2011)
[15] Attila Leitner, Smoking ban from 1 April in Hungary, http://www.tobacco-facts.net/2011/05/smoking-ban-from-1-april-in-hungary, (last accessed 25th May 2011)

areas will be established in places such as prisons and psychiatry institutions.[16] From the brief description of the smoking ban, a number of issues of rights emerge, such as the 'right to smoke' and the right to be in a smoke-free environment. This marks the starting point of the thesis and we can now proceed to the research questions.

Research Question

This thesis is comprised of three questions: **'What are the elements of rights in the legal policy of tobacco control?'**, **'What is the public's attitude to rights and the smoking ban?'** and the last question is '**How does the state balance the various claims of rights?**'

To answer the above research questions, the thesis does a right assessment of the legal policy on tobacco control. It combines an analysis on rights on the legal dimension of tobacco control and opinion of stakeholders. It reviews and explores the claims of rights that arise from the public discussions. This approach can provide a picture about how the public perceives the policy in terms of rights and the possible responses from the state. It is hoped that by examining the potential conflicts, some implications might be drawn for further improvement of the tobacco control legislations.

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Chapter 1-Theory, Methodology and Data

[16] Hungary approves tough smoking ban to take effect in 2012, http://www.monstersandcritics.com/news/health/news/article_1635298.php/Hungary-approves-tough-smoking-ban-to-take-effect-in-2012, (accessed 28th April 2011)

1.1 Theoretical Framework

The current research adopts a trans-disciplinary approach and combines three fields of study: public health, rights and legal studies. Most contemporary researches on tobacco control fall into one of the following categories, exclusively epidemiological study, public health advocacies or the political economy of tobacco trade. Since this research tries to explore different rights and their relations with tobacco control, it is useful to have an overview of a number of key concepts.

1.1.1 Right to Health

Rights have become a buzzword in today's world and have been enshrined in national constitutions and international covenants. However, what do human rights mean? In the Article 1 of The Universal Declaration of Human Rights (UDHR), it is stated that 'All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.'[17] Debates about rights often arise from the different interpretations to the term itself and its practical applications. Scholars disagree on whether a particular form of right is to be included or excluded in the understanding of human rights. Though remaining contentious, with development of human rights as an analytical tool in the past decades, some common understandings have now been consolidated. For example, most people would agree human rights include the right to education, shelter and food.

One theme in contemporary political and legal philosophy about right is the notions of negative right and positive right. Negative right largely refers to the non-interference into an

[17] The Universal Declaration of Human Rights, http://www.un.org/en/documents/udhr/index.shtml, (last accessed 28th May 2011)

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agent X to do P (an action). So negative right is about 'at liberty to do or forbear doing'.[18] Positive right is linked with entitlement of benefits[19]. One way of illustration is saying that person A has a right to play tennis in his garden is a negative right, no one should stop A from playing tennis in his garden. In this respect, health can be understood as a positive right because it demands someone, in practice the state, to be responsible (if not fully) for the health conditions of the citizens. For instance, when person E argues that he has a positive right to education, he means that someone (which is often the state) has to take an action so as to enable him to realise his goal of receiving education. Claims of rights generate multiple policy implications, perhaps the state should grant free education to E, or improving transport so that E can attend schools more conveniently. In spite of the different forms of actions endorsed, the aim is to increase the possibilities of E to obtain education, which is a right he is entitled to (regardless of what ground this right to based on). Rosen even famously argues 'the protection and promotion of the health and welfare of its citizens is considered to be one of the more important functions of the modern state'.[20] The relationship between rights and duties of the state will be further explained in section 1.1.3.

Yet why is health treated as rights? We agree that individuals are entitled to certain rights, such as the right to education, and in order to have these rights, one has to be in a certain health status. If an individual has access to certain goods (let's call it X), and if Y (being in a healthy state) is a condition to have access to X, then it affirms that we should have a right to Y, that means the right to health.

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[18] Joel, Feinberg, The Moral Limits of the Criminal Law, Vol. One: Harm to Others, (New York, Oxford University Press, 1986), p.7.
[19] T.L., Beauchamp, and R.R., Faden, 'The Right to Health and the Right to Health Care', The Journal of Medicine and Philosophy, 4:2(1979), pp.118-131.
[20] G. Rosen, A History of Public Health, (Baltimore, Johns Hopkins University Press, 1998)

While health is referred to as a human right, it is often understood as a goal that requires progressive realisation, which is stated in the Article 2.1 of ICESCR as:

> 'Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.' [21]

One commonly cited definition of the right to health is the 'enjoyment of the highest attainable standard of health'[22]. Contrasting to the right to shelter and the right to life, the right to health remained an area that lacks attention and violations are frequently witnessed.

I want to emphasise the distinction between the right to health and the right to health care and, which are conceptually different. The right to health is a broader concept than the right to health care. The latter emphasises the availability of resources and the distribution of healthcare resources. For instance, a typical research on the right to health care would look at how health care services can be shared within a community adhering to criteria like social justice. While the right to health also concerns this question, it widens the discussion by taking into consideration macro social factors such as education and environmental factors, which might be coined as the 'social determinants of health'. For example, government might restrict the use of volatile organic compounds (VOC) in wall paint to ensure citizens can live in a healthy environment.

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1.1.2 Conflicts of rights

Possible conflicts of rights may arise with smoking when different actors are taken into

[21] International Covenant on Economic, Social and Cultural Rights, http://www2.ohchr.org/english/law/cescr.htm, (accessed 15th May 2011)
[22] The Right to Health, http://www.who.int/mediacentre/factsheets/fs323/en/index.html, (accessed 20th April 2011)

account. These conflicts can appear in the form of inter-right conflict or intra-right conflict. Inter-right conflict refers to the conflicts of interests between claimants of rights. In the tobacco debate, there is a tension between the smokers' 'right to smoke' and the non-smokers' right to a smoke-free environment. Smokers may claim that the decision to smoke is an exemplary of individual autonomy and they should be freed from interferences. On the other hand, there is ample medical evidence on the harms of passive smoking and therefore, non-smokers request the state to step in for protection of their health.[23] There can be further subdivisions among non-smokers and in the discussions of this thesis, they include children, women and workers. They are in general referred to as 'passive smokers' as opposed to active smoking. In contrast, intra-right conflicts refer to the competitive claims to the same right from different individuals. In tobacco control, the conflicts of rights are also unfolded when a comprehensive assessment is conducted, how different types of rights of various actors are considered vis-à-vis one another. The interactions of various rights will be explored in detail in the next part of the thesis but first I will introduce the types of rights which would appear in the later discussions.

Other than the right to health and the right to health care which have already been explicated, three more rights could emerge in the tobacco debate. The first one is the 'right to smoke' which had been briefly mentioned. The 'right to smoke' might be interpreted as 'the right to make autonomous decisions free from unwanted interference about personal and intimate matters'.[24] According to this understanding, the 'right to smoke' is a liberal doctrine and stresses individuals' liberty. Next, there is the right to information. It emphasises how

[23] Such as the Non-Smokers' Rights Association, http://www.nsra-adnf.ca/cms/, (accessed 15th May 2011)
[24] Michele L. Tyler, 'Blowing Smoke: Do Smokers Have a Right? Limiting the Privacy Rights of Cigarette Smokers', Georgetown Law Journal, 86(1998),p.788.

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individuals should be able to gain access to information about tobacco products and healthcare resources. A peculiar characteristic of the right to information is that apart from possession of certain data, it also refers to the accessibility of the information, how easy or difficult it is for the citizens to find out information related to smoking, like product descriptions and cessation services?

Last but not least is privacy right**.** One succinct definitions of privacy right is Warren and Brandeis's claim for the 'right to be let alone'[25]. It asserts the individual has a legitimate claim to enjoy their lives by themselves. The above is a condensed outline of the different claims of rights which will be discussed at length in the thesis. In most cases, these conflicts involve overlapping areas which complicates the judgement to be made.

1.1.3 State and rights

So far we have been discussing the notion of rights and the potential conflicts, but one might raise the question why is it the state to protect our rights? Can't we defend our rights by ourselves and even if we possess the right to health, what is the justification for a state to bear a responsibility to realise our rights? Since political obligations and legitimacy are not within the scope of this thesis, the following illustration is only a brief response to these inquiries.

One argument is that the right to a smoke-free environment cannot be realised without the interference from the state. Tobacco smoke shares a similar character like pollution, and state regulation is the only way to foster maximum (but still not full) compliance. Clean air shares a distinctive feature with public good. Once clean air is offered, no one can exclude others from enjoying the clean air. On the other side of the coin, if a smoker contaminates the air

[25] S. Warren and L.D. Brandeis, 'The Right To Privacy', Harvard Law Review, 4:193(1890)

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with tobacco smoke, he is ruining a collective good. Air is borderless and thus regulations are needed if it is to be protected. Enforcement is another problem but assuming the state rules with legitimacy, then the state is the only overarching institution that is capable of imposing an all-encompassing rule.

A problem that remains unsolved is the issue of state obligations. We are entitled to a basket of different rights but one would rarely argue the state has a duty or an obligation to actively fulfil each of them nor it is necessary for the state to act so. Therefore, only rights that concern about entitlement would request an active state intervention. There is an observable connection between rights and state obligations. For example, when we discuss the right to health, internationally it is identified with state's obligation. On the other hand, one might also agree that we have a right to live next to the sea yet we would not make a claim that the state has a duty to realise this right. These examples show that there is no single criterion for separating rights that require a duty from the state and those do not. As the justification for health as rights has been offered in section 1.1.1, it will be not repeated here. It is sufficed to remember that having a claim of rights does not necessarily transform it into a duty of the state.

1.1.4 Enforcement of Legislations of rights

Regulatory statues are important but it in itself are far from being able of protecting individuals' rights. As argued by Sunstein[26], what matters for regulatory statues are the mechanisms for enforcement. Therefore, for lawmakers, considering the possible scenarios born from the legislation is important. For instance, in the recently proposed Hungarian law on

[26] Cass, R., Sunstein, After the Rights Revolution: Reconceiving the Regulatory State, (Cambridge, Harvard University Press, 1990)

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public smoking, the five metres requirement[27] becomes a problematic clause for interpretation, how to define a smoker violates the stipulated distance? From this perspective, the interpretation of the law would determine how the statue is to be executed and understood. Furthermore, another crucial aspect of the interpretation is the level of generality, the court has to take into account the 'reasonable understanding' of the particular provision. It can be debated what is reasonable understanding but the general idea is that the legislation ought to be kept at a minimum level of technicality.

Effectiveness of laws lies on the degree of compliance. The public has to be informed and given clear instructions about the scope of the laws and what the limits of the law are. This implies that in order to ensure a certain degree of compliance is met, resources are required for monitoring. A short remark is that enforcement of any legislation incurs costs. These could policing, monitoring, training of expertise, judiciary and many others. It is out of the scope of this research to devise plans for financing tobacco control policies, but allocation of resources is an indispensable element in the planning of tobacco control.

1.1.5 Paternalism

Legislations of tobacco control belong to the category of public health law and though endowed with good intention, the nature of the law itself is not without contention. A major objection to the regulation of tobacco control is 'paternalism'. It refers to the objection to the 'claim that the person interfered with will be better off or protected from harm'.[28] Putting it

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[27] Where to escape smoke-free Hungary, http://www.caboodle.hu/nc/news/news_archive/single_page/article/11/where_to_esc/?cHash=4999b94986, (accessed 30th May 2011) The five metre rule is that smokers have to stay away for at least 5 metres from places where smoking in not allowed.

[28] G., Dworkin, 'Paternalism', Stanford Encyclopaedia of Philosophy, http://plato.stanford.edu/entries/paternalism/, (accessed 24th April 2011)

in plain language, opponents dissent on the proposition that smokers are harming themselves and therefore, have to be told to stop this self-destructive behaviour. To be more precise, tobacco control can be classified as a form of 'legal paternalism'[29] as the laws 'provide support for criminal prohibitions'[30] which is based upon the aim of the betterment of a smoker. Or borrowing from Sunstein's explanation, the state is trying to 'transform' the smoker's preference by means of intervention.[31] For example, individuals smoking at public transport spots might be fined, considering that additional constraints are now imposed on smokers, they might become impetuses to quit smoking and thus the law motivates smokers to prioritise the preference of financial and health considerations over the preference of smoking.

It may be worth conducting a thought-experiment about pornography, which is analogous to tobacco control in several aspects. Pornography might be considered corrupting immature individuals, such as children and teenagers, but it is now widely accepted that an individual watching pornography in a private room is a private business, just as smoking. On the other hand, sales and display of pornographic materials in public is an issue because of various reasons, people may find it embarrassing to find such materials in public, and that is why some governments decided to regulate by restricting its sale to designated stores and adding a few more limitations, such as packaging. By fulfilling certain rules, an adult is able to get hold of pornographic materials and the private use of these items is legally protected.

It is at times argued that a government has to ban use of undesirable substance, ranging from drugs, alcohol, to junk food so as to protect the well-being of the greater population. The

[29] Joel Feinberg, The Moral Limits of the Criminal Law, Vol. One: Harm to Others, (New York, Oxford University Press, 1986), p.13.
[30] Ibid.
[31] Cass, R., Sunstein, 'Legal Interference with Private Preferences', The University of Chicago Law Review, 53:4(1986), p.1130.

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famous historical example of alcohol prohibition in the United States shows that the logic and the design of prohibition require stricter scrutiny.

Nevertheless, lawmakers are confronted with the dilemma that tobacco control is by its nature paternalistic because it is a principle of 'liberty-limiting', In public health, ideally legislations aim at helping 'individuals gain the knowledge, motivation, and opportunities that they need to make informed decisions about their health'.[32] Yet to achieve this ideal, that is to create a completely tobacco free environment in the present case,[33] who mean having zero tobacco consumption in the society. Pope demonstrates forcefully that in spite of the formulations of arguments, one would always end up with the impasses of 'hard paternalism'.[34] Thus the state does not have a legitimate claim of banning tobacco and rather has to adopt an alternative of regulations. So if tobacco control is inevitable and has to be carried out, the question would be how different rights are to be reconciled. Legislations have to be designed in a way protecting non-smokers' right to health, but also have to weigh the specific measure against the degree of paternalism. The state has to take into consideration the various claims to rights so as being able to draft legislations carefully.

1.2 Summary

Good legislations require sufficient deliberation in which different members can express opinion about the particular provisions and lawmakers could balance the different claims of rights. Concerning tobacco control measures, though there is a strong public health

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[32] Healthy People 2010, http://www.healthypeople.gov/2010/, (accessed 30th April 2011)
[33] Only 100% Smoke-Free Environments Adequately Protect From Dangers of Second-Hand Smoke: New WHO Policy Recommendations Point to Extensive Evidence, News Release WHO/26, (29 May 2007), http://www.who.int/mediacentre/news/releases/2007/pr26/en/index.html, (last accessed 31st May 2011)
[34] Thaddeus Mason Pope, 'Balancing Public Health Against Individual Liberty', University of Pittsburgh Law Review, 61(2000), pp.419-488.

appeal, it is still crucial to understand the subtleties about how individuals' rights are preserved while enhancing collective benefits.

1.3 Methods, Collection of Sources and Processing

The three issues discussed in this thesis (public health, right and legal studies) are highly technical subjects and professionals work within the specific field sometimes do not have sufficient understanding of the social reality. Researchers in public health focuses on the effectiveness of health programmes, philosophers debate about rights in an abstract format or in hypothetical scenarios while scholars of legal studies emphasises on the design and practicality of the provisions. Programmes in tobacco control draw the three elements together but a major loophole of the approach is a lack of public engagement. Public health officials conduct polls on the popularity of the law and philosophers argue intensively on the violations of rights, and lawyers are debating in Parliament about terminologies and politics. Each of them is doing a respectable job but the three disciplines do not communicate with each other and the public is isolated. Therefore, the thesis uses a philosophical framework of right as a basis, and the public health data as guides for structuring the questions in the interviews. Finally, interviews were conducted to understand how the public express their opinion about the particular policies of smoking ban which has relations with the concepts of right.

Sources for the study are composed of direct interviews and written comments collected from a variety of stakeholders. A total of seven interviews were conducted in Budapest, Hungary. In addition to that, three written comments were received.

The stakeholders interviewed can be put into three categories: health professionals, the mass and the catering business. The selection is intended to reflect a wide range of opinion

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and to discover how individuals from different social strata understand tobacco control in relation to rights. Public health professionals are comparatively well-educated and are experts in the field, they often represent the opinion of policy makers and the epistemic communities. The general public offers a glimpse into how ordinary citizens understand the ban. Lastly, people in the catering industry represent specific vested interests and might interpret the concept of rights differently.

Interviewees were asked about their opinion on the smoking ban. Clues about concepts of right in relation to tobacco control are analysed. Do they identify any conflicts of rights? If yes, how should the state deal with it? How does one's role change the interpretation of right in the smoking ban? Information of the interviews is used as evidence to reveal the roles of rights in the debate of smoking bans. Though interviewees might not employ the language of right explicitly, their requests for government actions can be understood as a call for entitlement to right.

1.4 Limitations

It is noted that materials collected from the interviews are only able to convey scattered information to the public opinion on the tobacco control policy. Compared to large scale survey studies, such as the Eurobarometer series[35], the present approach is incapable to offer a conclusive account of public opinion. However, this study tries to gather responses from different corners of the society, the public, catering business and the medical community. It is anticipated that with the public views, a better understanding at the micro-level can be achieved.

[35] Special Eurobarometer on Tobacco, http://ec.europa.eu/health/tobacco/docs/ebs332_en.pdf, (accessed 15th April 2011)

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Finally, due to time constraints and non-responses, the opinion of the Hungarian tobacco industry has not been captured in the current research. Tobacco companies are among the group of major stakeholders in tobacco control policies since their revenue and future business strategies are directly affected. The researcher had made an effort to send invitations to the tobacco companies in the country for interviews but no response had been given until the end of the research project and therefore, a decision had been made to exclude the industry's views in the analysis.

Though with the absence of the voice from the tobacco industry, it is hoped that by concentrating on the demand side of the cigarette consumption (as opposed to tobacco firms on the supply side), some in depth analysis can be made.

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Chapter 2 – Analysis of Interviews

Effective tobacco control requires a range of policies which are co-ordinated as a 'comprehensive' scheme. A comprehensive scheme refers to a range of policies of tobacco control are used, and each of them has an impact on the right of citizens. Due to space and time constraints, four themes will be examined in the thesis. They are the state and smokers' rights, state and non-smokers' rights, the third party's rights and a discussion on a special category of non-smokers, namely children, workers and women.

2.1 State and Smokers' rights

To start with, the dynamics between the state and the smokers' rights are examined. Tobacco control aims at reducing the number of smokers and the total smoking consumption, but a total ban is socially neither unacceptable nor desirable because it would require the state to regulate a lot of aspects in people's lives. Therefore, a balance between state intervention and individual autonomy is needed and reviewing the rights of smokers would give some insights on the adjustments of policies.

Right to Privacy

The right to privacy is at the forefront of the debate. It is understood as the non-interference from the state into one's private sphere. It may include the right on reproduction and right to expression. Though varies with jurisprudences and local contexts, privacy right in general aims at protecting individuals in pursuing their activities from state interferences. From this perspective, privacy right is a negative right, because the state is restrained from entering the private sphere of its citizens. One criterion that divides the private and public domain is the 'location' itself. For example, home is usually considered as the

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private sphere and the state does not have the justification to exercise its authority in the private sphere, such as in the case of a criminal investigation where the police enter with a warrant. In the case of smoking, smokers' privacy right has to be respected as well. For example, one interviewee expresses his disagreement with the normalisation discourse in tobacco control,

> no no no, it's still not about the public interests, it's like normalising you. As long as they're projecting this, they're there speaking like this, normalise yourself, I mean even doctors speak like this, I think it is ineffective because people have this illusion that they are different in many ways, and, so no body should care about that, so I admit it's lame but, it's **my private sphere, so don't intervene with it**. I know what's good for me, you know…
> (Csaba, smoker, 23)

To deepen the understanding of the stretch of state's power and the respect for the smokers' privacy right, John Stuart Mill's 'harm principle' might be useful. Mill's harm principle states that

> 'That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinion of others, to do so would be wise, or even right... The only part of the conduct of anyone, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign.'[36]

For Mill, the state's only justification of any interventions into one's live is to prevent harm to others. This means a person smoking at home, and as a result, harming himself and his own health exclusively, the state does not have a justification to interfere with the smoker's behaviour. If the state intervenes in the name of protecting the smoker's health, it is a violating someone's privacy directly.

Moving forward to discussion to smoking in public places, Mill's argument supports that smokers' privacy rights should be upheld as long as others are not harmed. The relevance of to the current Hungarian legislation appears in the proposed smoking ban in restaurants and at

[36] J.S., Mill, On Liberty, (London, Penguin Books, 1985)

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public transport spots. The fundamental logic of the prohibition is that second hand smoke (SHS) or environmental tobacco smoke (ETS) has a harmful health effect on individuals around the smoker. It is important to note that there are two inter-rights disputes. The first one is privacy right vs right to health. And the second one is the 'right to smoke' vs right to health. In both scenarios, the right to health is referring to the health of the non-smokers and are seen as the group of the 'being harmed'. In the first case, the privacy right of the smokers is overridden by the protection of the right to health of the others in public. However, it might be debated what the limits are of one's privacy right. The threshold of locality (discussed earlier) is by no means conclusive. Privacy right is not and should not be constrained solely by geographical location. One would agree that we could still be entitled to some forms of privacy right despite being in public places. A good example is the use of mobile phones. Mobile phone use is common on public transport, though one is physically being in a public environment, we agree that the person on the phone still possesses a right to privacy in terms of the content of the conversation, so that the state cannot make a legitimate claim to eavesdrop our conversations merely on the basis that the conversation takes place in public. Eavesdropping is regarded as an intrusion to someone's privacy. Nonetheless, to make the example analogous to smoking, what if some passengers complain the volume is too loud or the dialogues are obscene? There is no concluding answer to these dilemmas, but what is relevant to the consideration of the smoking ban in public places is the fact that privacy right exists in public places. Therefore, smokers can demand designated smoking places to be established as a solution to reconcile their privacy rights while not harming the non-smokers. Though there is the overarching concern about the right to health of the general public, respect for the smokers' privacy right should also be

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accommodated in the legislation.

Shifting the attention to the second issue about the 'right to smoke' and the right to health, smokers are protesting against restrictions on their liberty. What distinguishes the smokers' privacy right and the 'right to smoke' is the acceptance to the degree of prohibition. For smokers who defend their privacy right, they might accept bans on public smoking as long as they can smoke freely in designated places. Yet, for those who claim for the 'right to smoke', they treat any smoking bans as a violation of their rights. Therefore, although smokers can make a general claim for the right to smoke (valued as autonomy), there are deeper differences within them about the right they are referring to. The following is the opinion given by a restaurant owner of private space of smoking. She expresses the problem that there has to be some space that is exclusively for smokers so they can smoke while not harming the others.

> I think that it's ok not to smoke in any inside places, either it's a bar or a restaurant..but you got to have some small places, maybe closed area and people could do whatever they want. Or if you let the people smoke outside, then you got to let them smoke outside in front of your places because to think about those streets where restaurants are just close to each other, that means you couldn't go anywhere or maybe the other side of the street, so I think it's too strict…(Agota, restaurant owner, age 30+)

What has been highlighted here is the dilemma faced by the drafters of the law of smoking ban. While the state is protecting the right to health of the non-smokers, it is also trying to restrain itself from infringing upon smokers' privacy rights.

Right to Information

A second form of right which is often neglected in the discussion of tobacco control is the right to information of smokers. It refers to the state's responsibility of providing as much and as accurate as possible information about tobacco products. This means smokers should not merely be informed about the general health hazards of smoking, but also about detailed information such as the level of tar, which is the most harmful ingredient in cigarettes. One

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might question why the right to information is relevant to the right of a smoker. This is because the state has an obligation to provide essential information to the public so that they can make a better 'informed' decision. It is easier to understand when one thinks in terms of consumer protection. Putting aside the issue about the negative health impact caused by tobacco products, as a consumer of cigarettes, an individual can be interested in knowing the compositions of the cigarettes. Contemporary evidence shows that smoke contains 4000 different chemicals including around 400 cancerous toxic materials. there are over 700 chemicals used in the production of tobacco items[37], and tobacco companies often (though the intention is not clear) keep this piece of information from their clients. Therefore, smokers are misguided by the information they have. The importance of offering smokers more information is hoping that by knowing more in details, a more informed and autonomous decision could be made. What is interesting is that at this level of discussion, it is not an argument about health, it is merely about the provision of information on the product, analogous to food producers who are required to list what are included in the manufacturing.

At the next level of discussion, the element of health is added through debates about plain packaging and pictorial warning. Both tools serve the purpose of giving more information to smokers. For readers who are not familiar with the two measures, a brief explanation is needed. Plain packaging means that any promotional items would be removed from the pack, such as images of attractive models and logos. The aim is to remove the misleading marketing influence so that the consumers will make a decision purely based on the product itself. One could further challenge if plain packaging is required for cigarettes, then should we introduce

[37] Information provided by the Dr. Adam and Dr. David Tarnoki

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plain packaging on all products with harmful health effect? Yet as argued, tobacco products have a double harm effect: they harm the health of smokers as well as the potential victims of passive smoking, but most goods only harm the user, such as junk food and drugs. Pictorial warning is an additional reminder and can be a powerful tool to help people quit smoking. In the case of Hungary, the opinion is that it is more difficult to ask young people to quit smoking and introducing pictorial warning is worth trying.

> K: So you mentioned a lot of the participants are in their older ages, so is it more difficult to encourage younger people, in their 20s, 30s to quit smoking?
> U: Yes, it is very difficult, they don't perceive the danger, probably they don't feel (it) in the bodies, the damage. So we hardly see. I mean there might be some young people, but in the (our) group, we don't see the people.
> (Dr. Úrban from Budapest Smoking Cessation Centre)

> There is no Hungarian experience yet(on pictorial warning), but international experience suggests deterring images work. Because of this different civil groups actively lobby in Hungary for their introduction, so as to achieve similar results here. (Professor Sandy Vaci)

So Dr. Úrban's comment reflects the need to provide better health education to smokers and Professor Vaci observes support from civil groups to disseminate more health information via using health images. Even though such studies (about effect of pictorial warnings) are not yet available in Hungary, but the Canadian experience might able to shed some light on this. A common inquiry about the effect of pictorial warning or health warnings on the package is that smokers know smoking is bad for their health and continue to smoke, so what are the functions of these warnings? The answer supported by a lot of psychological studies is that there are constantly a large group of smokers who have considered smoking and are located in the middle of the pendulum. That means that if these groups of smokers are supplied with more information about smoking hazards, and this information is provided on a regular basis, then the impetus for quitting is going to be much stronger.[38] In other words, the right to information

[38] Interview with a Professor of Psychology, ' …so there're a lot of people who're on the edge, you know of all, so I'm going to quit, or I might not, there's a knife edge, people in the middle. And especially with smoking, because

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is a vital part of tobacco control because if smokers are informed about effective remedies, they do quit smoking.[39]

Furthermore, the right to information in smoking ban has two additional characteristics that need additional attention when drafting the legal policy. First, the right to information calls for specific messages. Other than the requirement that the content of the cigarettes has to be enumerated, the health impact should also be vividly expressed. Though it is common to find health warnings on packages, such as 'Smoking may cause cancer' and 'Smoking is hazardous to health', these types of warnings only offer vague information to smokers and do not have a real influence on smokers. A committed tobacco control campaign has to offer very specific information to smokers, such as 'Cigarettes cause 5,000 deaths every year' and '5% of lung cancer patients die in 6 months'. The right to information not only includes the negative side of smoking, drafters of laws can also consider what kind of additional help is available to smokers, such as sources of smoking cessation services and social support given to smokers. The advantage of this approach is that the smokers are not only informed about the negative side of the behaviour, but receive a further psychological feedback that they are not alone, e.g. messages like '60% of smokers quit smoking successfully in the last 6 months', or even information on quitlines on the pack. It means the legal policy has to work on par with different mechanisms of interventions.

The second point to note about the right to information concerning smoking ban in

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people know it's dangerous in many countries that they're on that knife edge. That you know a little push and they'll be on one side or the other…So you're already in smoking, helping people in countries where those people are already in high education, and have knowledge about smoking, you have a fair number of people whom these warnings could really make a difference' (Geoffrey Fong, Professor of Psychology from Canada)

[39] Barbara Wilson, 'Social Determinants of Health from a Rights-Based Approach', in A. Clapham, and M. Robinson, C. Mahon and S. Jerbi, Realizing the Right to Health, (Zurich, Ruffer & Rub, 2009), p.71

public places, and this is highly relevant to the forthcoming Hungarian smoking ban. Smokers have to be notified clearly about where they are allowed to smoke. This is to minimise conflicts and confusions. Introducing a comprehensive ban is one possible option to eliminate the confusions. This is because smokers have to be reminded especially in the initial stages of the legislation that they are not allowed to smoke in certain public places. If there are too many exceptions, such as places offering alcohol are allowed to smoke, then not only the smokers, but also the catering businesses would get confused. Whether they should allow diners to smoke? If there is no universal and complete ban, the catering businesses would fear that non-smoking places would be losing business to smoking places, this is told bluntly by Agota and Martin, both from the catering business in Budapest.

> …it has to equal for everybody because I don't wanna see my guests going to other places where they're allowed to smoke. (Agota, restaurant owner, age 30+)

> So if we're banning cigarettes, I would say to ban it everywhere, not to establish smoking and non-smoking places. (Martin, smoker and restaurant owner, age 50+)

By adhering to the principle of right to information, the state can provide clear instructions to smokers through signs in public places and announcements. Making this information visible is crucial because under the system of criminal law, knowledge is one category of affirmative defence. It would not be justified to prosecute smokers while they have a lack of knowledge about the laws. In other words, ensuring the public is clear about the respective legislations is important because of its consequence on the prosecutions.

There are two more points before ending the right to information of smokers. The right to information has a role in smoking ban in particular because of the addictive nature of cigarettes. Like any form of addiction, once someone gets addicted, it could be very difficult to change one's behaviour. Ingredients are a main component of product information; therefore,

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without sufficient information provided on the product specifications, the customer is not making an 'informed' decision. Therefore, there is room to argue whether it is a truly free choice made by smokers when so much information has been omitted while it should have been provided.

The second point is connected to the discipline of the tobacco industry. The tobacco industry often argues that they are serving smokers who are already aware of the health hazards of smoking and yet decided to smoke. From the analyses above, we know this is not necessarily true. Moreover, tobacco companies care about businesses and would struggle to bargain with the state on how stringent the ban should be, Professor Vaci gave his opinion on this:

> I suspect they sponsor the hospitality industry's push back against the introduction of smoke free restaurants and bars. The tobacco industry has also been very forceful in offsetting any tax increase with a price cut, so that addicted people can carry on with their addiction, without feeling the deterrence of higher prices.

If it is agreed that the right to information of smokers is a right that should be achieved, then legislation is one of the few (if not the only) means to bind tobacco producers to include the required information. In other words, the state is competing or in negotiation with tobacco producers on what information is included or excluded so as to realise the right to information of smokers.

Right to Health Care

Lastly, a final right that relevant in the relationship of state and smokers is the right to health care. As explained earlier in the thesis, the right to health and the right to health care are distinguishable concepts with the latter having more emphasis on the distribution of medical resources and services. The right to health care is an issue in tobacco control because of its burden on the health care system. Smoking results in chronic diseases which might not emerge

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after years of smoking. A person who is over-smoking today is likely to die from smoking tomorrow, he might be diagnosed with lung cancer 20 or 30 years later. This has implications on the demand of healthcare services needed. The question is: should these smokers be entitled to equal benefits as non-smokers in their medical coverage or should there be differences between the two groups because of the different choices of lifestyle?

One conventional method adopted by the insurance industry is to charge individuals differently according to their health conditions. For example, one of the respondents, Professor János Mucsi, a specialist on internal medicine and respiratory diseases and the elected president of Hungarian Alliance for Tobacco Control, suggests that Hungary could consider adopting the Swiss model in which customers are charged according to their smoking status. The logic behind this is that smoking is a hazardous behaviour and has a high possibility of causing serious illnesses, the insurance company would accordingly adjust the amount of premium to be paid, given other things being constant, a non-smoker would be paying a smaller premium compared to a smoker because he is classified in the less-risky. At the first glance, this appear to be sensible, a person who involves himself in a risky activity should be paying more while a person who opts for a healthy life should pay less. However, recalling the fact that many smokers were not making an informed decision, for instance, a lot of smokers took up smoking while they were in teenage under peer pressure, should they be penalised because of some bad decisions they had made earlier in their lives?

The time dimension of smoking complicates the issue of justice in health care. From a practical point of view, it is indifferent whether one had smoked 2 cigarettes or 10 cigarettes in one's life (it is unlikely the two person would be significantly different in their health given

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other things being equal). The largest difference is probably between heavy smokers and those who never smoke. Nevertheless, taking up an addictive behaviour when one is not fully informed, it is difficult to justify that smokers should be punished with their access to health care services. It is at least at the level of public healthcare that a justification for the distinction s made on the basis of smoking habit is not plausible.

The point I wish to make is that distribution of health care resources should be need-based. As long as a person is in need of certain types of medical services, he should be able to receive it. For example, a lung cancer patient who used to be a smoker might need an operation and based on the right to health care, he should be able to get it. Thus, on the level of access to healthcare, smokers and non-smokers ought to share equal footing.

Another theme concerning the right to healthcare of smokers is the availability of smoking cessation services. This component is often connected with the general healthcare services of the country. Smoking cessation services is an element of assessing whether smokers enjoy the right to health care. This is because it is a type of service provided exclusively to smokers and is key to the health improvement of smokers. A non-smoker does not need smoking cessation services and if smoking cessation services are not made available to smokers, one can say the duty of the right to health care has not been fulfilled by the state. As mentioned earlier, smoking cessation is related to the general healthcare provision of the nation because of physicians' major role in it. Dr. Robert Úrban, a psychologist in charge of the only smoking cessation centre in Budapest, makes a comment about an insufficient input from the Hungarian doctors in smoking cessation work,

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> The other problem is that …majority of the physicians do not perform even the basic intervention regarding smoking because they are not reimbursed I guess...ok, we can understand they have to do many things,…,so they have a high number of patients they have to treat, but they don't give all the time to…

Smoking cessation is a type of secondary medical service, like other specialist services, such as psychological counselling, which relies heavily on referrals. It means that smokers often visit smoking cessation centre after advised by their general practitioner (GP). Another form of right which overlaps is the right to information since smokers might not be aware of the availability of such services and if their personal physicians do not inform them about it, they probably do not know how to have access to these resources. In the Hungarian context, what is even more worrying is that even physicians are ill-informed about the existence of such cessation services. For instance, in one of the questionnaires collected from physicians, someone indicates that quitline does not exist in Hungary, but in fact Dr. Úrban's centre does operate a quitline.

> Problem is that population doesn't know where to find a quit help. No quitlines exist. The problem might originate from not effectively organised system
> (Dr. Adam Tarnoki and Dr. David Tarnoki)

The lesson drawn from this contradiction is that the realisation of the right to health care of smokers depends partly on the availability of services, but also on the information that smokers can have access to. In the situation when physicians are unaware of the cessation services, how can we expect smokers to be well-informed? Furthermore, there is evidence that smoking prevalence among healthcare professionals is relatively higher than the western counterparts. It has been found that the rate of smoking in nursing students, medical students and pharmacy students are 48.2%, 36.3% and 23.3% respectively.[40] This lack of awareness of smoking as a health issue among healthcare professionals hinders the help a smoker can receive

[40] Bettina, F., Piko, 'Does Knowledge Count? Attitude Towards Smoking Among Medical, Nursing and Pharmacy Students in Hungary', Journal of Community Health, 27:4(2002), p.272.

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from the healthcare professionals.

Another indispensable problem is financial resources. To what extent should smoking related treatment be included in the reimbursement of the medical care protection? For instance, here are responses from physicians.

> smoking cessation is not reimbursed in Hungary (neither the office hour, nor the medicines)….(Dr. János Mucsi)
>
> In addition, some methods (for example. biomechanical therapy which is not validated) are not funded by the OEP (insurance). This hinders quitting.
> (Dr. Adam Tarnoki and Dr. David Tarnoki)

They show that there are few incentives in motivating smokers to quit, neither information about cessation services nor financial resources is given. Furthermore, medication on smoking cessation continues to be a category where heated debates arise. There is medical evidence which proves that combining medication and psychological counselling would achieve the best result of smoking cessation. Therefore, whether medication like the nicotine replacement therapy (NRT) is included in the medical reimbursement scheme affects the right to health care of smokers. If we take into account the strong correlation between socioeconomic status (SES) and smoking in Hungary[41], which means a lot of smokers are from the lower stratum of the society, usually less educated and have unhealthy lifestyles. If cessation therapy is not covered by the medical insurance, that is the National Healthcare Fund in Hungary, (Országos Egészségbiztosítási Pénztár-OEP), in which the state acts as an insurer, it is unlikely that they would be able to afford the medication or the cessation services. The vicious circle would be that smokers with low SES are unable to discontinue the habit because of inability to afford the treatment. This would result in a vicious cycle because have already developed a dependence on nicotine, and external help is essential for successful attempts of quitting. If

[41] Johan, P. Mackenbach et al, 'Socioeconomic Inequalities in Health in 22 European Countries', The New England Journal of Medicine, 358:23(2008), pp.2468-81.

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these aids are absent, there is no impetus to pull them out from the mire even if they have the will. Conditioned by real difficulties, they would choose to go on smoking in spite of the public health efforts in promotion.

In a nutshell, three rights have been discussed in the relationship between the state and smokers. They are the right to privacy, the right to information and the right to healthcare. As demonstrated, in order to avoid a paternalistic approach of tobacco control, smokers' rights have to be recognised and the observance of these rights is conducive to the effectiveness of the smoking ban.

2.1.1 State and Smokers who comply with the law

To further explore the different scenarios, this section examines the relationship between the state and smokers who are willing to comply with the smoking ban. Apart from the three rights illustrated earlier, there is a dialectic relation between the state and smokers who comply with the law.

What is interesting in this relationship is that smokers voluntarily give concessions on part of their rights in return for the state's protection of the same right, the 'right to smoke'. Let's take the smoking ban at public transport spots as an example. Smokers who comply with the law are forgoing their 'right to smoke'. Nevertheless, smokers receive something reciprocally from the prohibition. First and foremost, their 'right to smoke' has been enhanced since there are now clear guidelines informing them where they are allowed to smoke. One common misconception about smokers and tobacco control is that smokers are often depicted as inconsiderate because they are harming the health of surrounding people while they are smoking. Through communicating with various smokers in the interviews conducted, an

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important message conveyed by the Hungarian smokers is that they are concerned about consequences of smoking on others and they are willing to make an effort to minimise the disturbances. Moreover, smokers welcome a clear stipulation. The following conversation illustrates it.

> K: …..but when you light a cigarette….(T: you mean the general smokers?), yeh, perhaps you know you'd disturb others.
> T: …this kind of people will mind disturbing any other kind of people, so they're like, avoiding situations, for example, when you're among non-smokers, you won't lit a cigarette, or you're walking away to a more open area where there're no people around or only smokers around….But usually you asked 'if you don't mind' or something like that. I don't think it's a polite question because most people took it as a polite question, because they're already lighting when they are (asking)… I'm really being serious trying to ask…people answered it in a polite way when they shouldn't, they should say 'yes, I mind', yeah..I won't (be) offended , I'm asking because I really wanna know. (Csaba, smoker, age 23)

One of the interviewees, Martin, speaks as a heavy smoker in favour of the smoking ban in bars,

> I am a heavy smoker but I don't care if I can't light a cigarette. I go to bars in Italy and also in Austria and also wherever..in Britain it's the same, smoking is not allowed, it happens, I mean I don't really mind, I will light my cigarette outside. (Martin, smoker, age 50+)

The dialogues demonstrate that some smokers accept the ban and are willing to adhere to the prohibition accordingly. Smokers try to minimise their harm on others while they are smoking. It makes them feel more comfortable with smoking if they can be ascertaining that they are not disturbing anyone. They acknowledge the concerns of the non-smokers and try to prevent the annoyances, such as by asking people around the table. The forthcoming Hungarian smoking ban would be valid from 1st January 2012, in which a comprehensive ban will be imposed in most restaurants, a clear and uniform message is delivered to the smokers, smoking is strictly forbidden in certain indoor places. What is preserved by smokers is the 'right to smoke' in open areas, though smokers are no longer allowed to smoke inside restaurants, but to flip the argument, the connotation is that it is acceptable for smokers to smoke in open public areas and non-smokers have to learn to respect that. The two groups would be able to share the public space in a manner that both parties agree. In reality the conditions could get more complex, but

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the general idea is that law can be an instrument to create a buffer zone between smokers and non-smokers. On one hand, the state attempts to protect the right to health of non-smokers by preventing the passive smoke, while on the other hand, the state also tries to create a private space that is exclusive for smokers, thus minimising the harm but respecting smokers' personal choice. In other words, as long as smokers are willing to obey the specific restrictions on smoking, they in return have the state's protection to smoke at designated areas, such as special smoking rooms. The demarcation of public space serves as way of harmonising the different choices of smokers and non-smokers.

A frequently mentioned theme by smokers concerning the smoking ban is that the prohibition itself does give an impetus for them to quit and thus could be understood as an indirect benefit of the right to health triggered by an action of the state.

> K: …if the government bans smoking in all restaurants? What do you think about it?
> T: I think it does help the case because smoking now is an individual addiction and a personal problem, but because especially I'm smoking, I feel like they(referring to the authorities) have to force it down on some level because even if you don't care about your health, er..dating a girl is more difficult, you always feel you're smelly around and you feel uncomfortable on a level…and I think this public ban is successful in other ways, for example, yes, first, it seems a bit cruel to ban it especially in environments where you get used to it, for example, for a beer for something, you get extreme amount of cigarette, but especially because of that, because it's situative, it's just a manner, a habit, most people can find a way…..still not an addiction for them, (if) they can't smoke in a pub, then I think they won't.
> (Csaba, smoker, age 23)

Even though not explicitly, the interviewee expressed that the smoking ban performs as a catalyst that prompts smokers to re-think smoking as a habit and might open up an opportunity to quit or lower the current consumption.

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2.1.2 State and Smokers who refuse to comply with the laws

The previous section examines how the smoking ban could be understood as a method of securing the right to health and privacy right for smokers complying with the

restriction. This part will explore the effect on the rights of smokers when they refuse to comply with the law. Does it mean they will lose their rights?

Before looking into the linkages with rights, let's first have a look at a quote given by one of the interviewees:

> but for example, I feel comfortable at a table when everyone else is smoking….but you're looking at other people and see if they are lighting a cigarette or not, or you already know them and know that oh most of them are smokers, yeah the difficult situation is one or two non-smokers…then somehow you automatically seeing others are lighting a cigarette, so why would you be different? (Csaba, smoker, age 23)

Assuming that the above scenario takes place in a restaurant after the ratification of the smoking ban, those smokers who decide to light a cigarette are apparently in breach of the law. Yet, what is highlighted in the speech is that the compliance of the regulation seems to be highly contingent upon what is conceptualised as a private space, in the sense of social networks, rather than in the ordinary sense of public area. In the current scenario, the interviewee would not hesitate to light a cigarette if the majority around the table are smokers, despite some uneasiness. On the contrary, if one is within a group of non-smokers friends, then probably one would tend to refrain oneself from smoking. This presents how privacy right in relation with smoking ban is transformed by social contexts. For smokers, privacy right has two meanings, a designated area to smoke and a space to socialise with other 'smokers'. Fruzsina, who is a social smoker, treats smoking as a major part of social cohesion.

> F: I think it brings people together, for example when I smoke a little bit more, like when I was working in a restaurant when I was 17, you don't have too many breaks, you either go to the bathroom, or go eat or smoke, so if you don't smoke, you have one third less of the time to rest…and also they will chit-chat outside, so I think it's a very significant thing to bring people together. …that's the only way to get away from the job and get to know people…I'm smoking because I have a couple of beer or something…(Fruzsina, social smoker, age 23)

The lesson learnt from the above story and a lot of overseas examples is that compliance with smoking ban relies heavily on self-regulations[42]. There is no doubt that additional resources

[42] Thanks for the reminder by Professor Amos on this, she quotes the successful experience of the smoking ban in

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such as finance and manpower resources would facilitate the implementation of the legislation, however same as many other legal codes, self-regulation takes up the majority part of enforcement. The issue of enforcement will be further dealt with in Chapter 3 of the thesis.

Now I wish to turn the attention to a more specific context regarding the autonomy of smokers who refuse to obey the law. Most people would agree that part of the reason for us to obey the law is the threat of punishment, such as a fine or imprisonment. Smokers face a similar situation. Hypothetically they do have an option to choose to obey the law or not to obey it. The majority would probably also agree that the more certain one is about the strength of enforcement, such as the presence of police, the higher the probability that one would conform to the regulations. Considering smoking which has an additional characteristic of harming a third party, a smoker might also take that into calculation. Imagining a smoker is at a train station (with signs and public announcements reminding him that smoking is prohibited at the station), and there is no one around him, should he be allowed to light a cigarette?

So far the discussion about tobacco control rests overwhelmingly on an account of human rights and a utilitarian reasoning, but when it comes to the problem about smokers refusing to obey the law, there seems a missing gap to be filled. Naturally this is an issue with any kinds of legislations, but the particular importance for smoking ban is due to its strong emphasis on the public health dimension (the harm to other's health), thus a further justification would be essential to defend one's position on this.

The two types of right conflicts might be able to offer such a justification. Intra-right conflict in which the right to health care of non-smokers is hurt by the behaviour of

Ireland in which self-regulation was the determining factor of compliance.

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smokers. The argument is not that straight forward and requires some explanations. It is clear that both smokers and non-smokers are entitled to the right to health care, and no one should be denied health services if need is the only measurement. In the case that a smoker refuses to obey the smoking ban while nobody is around, it is true that one can argue he is only damaging his own health. Nevertheless, an inter-right conflict remains between smokers and non-smokers. It is because medical resources are limited and if a smoker decides to damage his own health, that means he is taking more than a fair share of the medical resources from the pool, and as a smoker is requesting more from the healthcare system, he is hurting the right to health care of a non-smoker, in which case fewer resources would be left available. The message here is not merely that there is an intra-right conflict, but showing that even when the harm principle is inapplicable in certain circumstances, there could still be further justifications to persuade a smoker to obey the law.

2.2 State and the Non-Smokers' rights

On an equal footing as smokers, non-smokers also enjoy certain rights with the tobacco control policy. Other than the famously quoted right to health, two more rights, the right to information and the right to healthcare, will be reviewed.

Right to Health

To start with, the right to health of non-smokers is in essence about how a state maintains a smoke-free environment. The Hungarian constitution pledges to provide a healthy environment to its citizens. According to Article 21(1) of the recently amended constitution, 'Hungary recognizes and enforces the right of everyone to a healthy environment'[43]. However,

[43] Article 21(1) of the Hungarian Constitution: (1) Magyarország elismeri és érvényesíti mindenki jogát az egészséges környezethez ., http://www.parlament.hu/irom39/02627/02627-0187.pdf, (accessed 20th May 2011)

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there are limits to the legitimate exercise of a state's power to keep the environment smoke-free. To what extent can the state exercise its authority to circumscribe a smoke-free environment for non-smokers? The ideal (from a non-smoker's point of view) would possibly be that no one smokes at all, but we know that in a pluralistic society, different personal choices have to be respected, so knowing the boundaries of state intervention is crucial for preventing unnecessary coercion in public health laws.

A major difficulty with smoking is the borderless nature of the smoke. Therefore, the state has to choose between (at least) two plans, either partial separation such as smoking and non-smoking areas in restaurants or a comprehensive ban, in which smoking is prohibited in certain places, for example, schools and government buildings. One question arises: how far it is an individual's responsibility to avoid smoky places? What if a non-smoker enters a premise which is not classified as a smoke-free zone, does the state still have an obligation to guarantee it to be smoke-free? This opens up the debate about what places should be labelled as smoke-free. The forthcoming Hungarian smoking ban will be a comprehensive one and smoking is virtually banned in most public indoor areas, in addition to the existing prohibition in schools, kindergartens, playgrounds and government buildings.[44]

The concepts of moral right and legal right[45] can be helpful in analysing this dilemma. Moral right is independent from law, social or cultural contexts, and therefore sometimes might be referred to as natural right or universal right. The classical example is the right to life, which is usually regarded as inalienable because it is critical to our survival. Legal

[44] A. Amos, S. Sanchez, M. Skar, P. White, Exposing the Evidence-Women and Second Hand Smoke in Europe, (INWAT-Europe, 2008), http://www.inwat.org/images/pdfs/inwateuroshsreport_final.pdf, (last accessed 29th May 2011)

[45] Joseph Raz, 'Human Rights in the Emerging World Order', Transnational Legal Theory, (2010), pp.31-47.

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rights are rights that emerge by legal constructions. One example is the right to trial, which is a right created by the legal system and guarantee that each suspect is entitled to a trial before any penalties are imposed. This might sound confusing and I hope the following illustration would help explain the differences between the two. This distinction could help us to derive a scope of the state's responsibility of protecting individuals from passive smoke. Assuming an extreme case in which an individual (let him be called X) claims that the state has to protect him from all passive smoking because he has a right to health and he should be entitled to a 'highest attainable standard of health'. Does the state have a duty to achieve that? I would argue X has a moral right to this highest attainable standard of health but he does not have a legal right to the highest attainable health. It is because on a theoretical basis, it is justified to argue an individual should be 'enabled' to achieve the best possible status of health, but in practice, the tension between different individuals' claims to rights do not allow the state to commit solely to fulfil this claim. In other words, by differentiating between moral right and legal right, we can argue that a legal right to a smoke-free environment is the second-best option for non-smokers.

Still, one could debate that the legal right to health could be designed in a way to satisfy the needs of the non-smokers. Nonetheless, when the drafting of legislations is taken into consideration, law makers have to strike a balance between different claims. Interaction of rights and politics in the law making procedure results in a certain degree of arbitrariness in the legislation. What I aim at demonstrating is that resorting to a legal right to health instead of defending a moral right to health could be a solution to the disputes on the limits of smoke-free environment.

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Right to Information

Right to information is another claim of right made by non-smokers. Whilst smokers are entitled to information about smoking and health, non-smokers are also entitled to the same right yet the type of information distributed to the two groups are different. Information given to non-smokers has a stronger preventive element because if they are sufficiently informed, they would be less likely to pick up smoking. As explained earlier, the majority of smokers pick up smoking at the time when they are not being fully informed about the harmful effects of smoking and thus, it is believed that by supplying non-smokers with sufficient information in advance, it would be effective in preventing them from lighting the first cigarette. The group that is usually being targeted for the prevention strategy is teenagers and kids in schools. Here is a comment made by Professor Sandy Vaci, President of Hungarian Respiratory Patients Society and a civil advocate for tobacco control.

> The key thing is that smoking prevention (preventing the development of smoking addiction) needs to start early, at elementary school. The percentage of smokers is higher among younger people in Hungary. Young people tend to smoke as an act of rebellion, then get addicted. To be effective, education needs to happen at a very early age (before age 10). Once young people get addicted it is very difficult to persuade them to give up their addiction.

Professor Vaci's comment shows that the right to information, including both messages that smoking is not unique and coupled with health hazards is a necessary package. Information also has to be accessible, meaning that the language used in promotional materials should remain as simple as possible. That explains why pictorial warning can be powerful because even illiterate people could understand the message easily. One of the interviewees, Dr. Robert Úrban, expresses his opinion on plain packaging.

> They plan to introduce this picture warning on the packages. There is always a debate about it, but we don't know about how it affects the Hungarian smokers. Hungarian smokers are somehow special. But that would be a good step, a good further step to further encourage discussion about this issue, and of course this type of picture warning is good for everyone, even for those who have a low reading level.

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A related issue about the right of information is the so-called 'denormalisation' approach of tobacco control. It is not sure how effective this would be if implemented in Hungary but it might serve as an alternative. The basic idea is that tobacco companies have been successful in the past few decades of establishing cigarettes as an act of fashion, especially among youngsters as a sign of peer association. What is relevant to the concept of the right to information is that it tries to revert the public discourse by introducing an alternative attitude towards smoking with support from medical evidence, these could be lung cancer rate of smokers, life expectancy of smokers etc. Details of the programme would determine the degree of paternalism of the tobacco control programme. Sounding paternalistic as it seems, there is a possible option of state neutrality. In order to safeguard the non-smokers' right to information, the state does not have to attack the tobacco industry directly or demoralising the act of smoking itself, but rather the public is provided with substantial amount of information before making a decision. A final note regarding the right to information is that the public, and especially non-smokers, should also have access to information of the tobacco industry. For example, in the United States, due to litigation cases, a large number of documents of the tobacco industry have been revealed and these are valuable and convincing sources of proof that the tobacco manufacturers have been misleading the public for many decades.[46] Nevertheless, this could be difficult in execution because of the resistance from the tobacco industry. The firms can argue that business secrets are not to be leaked. These information are not exclusively for non-smokers, they can also have an effect on smokers, but for non-smokers,

[46]See Roberta B. Walburn, 'Essay: The Role of the Once-Confidential Industry Documents', William Mitchell Law Review, 25(1999), pp.432-436, Michael V. Ciresi, Roberta B. Walburn and Tara D. Sutton, 'Decades of Deceit: Document Discovery in the Minnesota Tobacco Litigation', William Mitchell Law Review, 25(1999), p.477.

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the access to industry documents is an instrument to present objective evidence which helps prevent taking up the habit at the first place.

Right to Health Care

The last right to be examined in this section is the right to health care. For non-smokers, what is at stake with smoking about the right to health care? Since financial resources are scarce, there is limitation on how far a state can guarantee the medical services provided to the general population. The argument introduced earlier is that even when a smoker harms only himself when not complying with the law, one is still adding an extra burden to the healthcare system and exhausts the healthcare system. From empirical evidence, it is shown that smoking related medical expenses can be greatly reduced with bans on smoking. For instance, this is the information given by one of our respondents:

> The health impact of smoke free legislation is immediate. In a few months the rate of MI hospitalizations is down between 10 and 30% depending on the country.
> (Dr. Adam and David Tarnoki)

This gives an overall impression about how costly smoking-related diseases are. If one recalls at the beginning of the thesis, the healthcare costs of smoking amounts almost 400 million HUF in 2004.[47] This intra-right conflict puts the state in a dilemma, from a human right perspective, the state cannot refuse the provision of health care to smokers which means that if there is a high smoking prevalence in Hungary (which is the case at the moment), and assuming that the occurrences of various illnesses caused by smoking are similar as in other countries (there are genetic differences across races but should be negligible), then the implication is that if Hungary is not effective in tobacco control (which is also the current situation), on a relative scale, the state has to invest more resources in tobacco related medical services, such as

[47] Attila Leitner, Smoking ban from 1 April in Hungary, http://www.tobacco-facts.net/2011/05/smoking-ban-from-1-april-in-hungary, (last accessed 25th May 2011)

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cardiovascular diseases, and in return that means resources for other services, for instance, maternity and childcare would suffer in due course. The strong claim of the non-smokers is that the burden brought by the smokers caused an unnecessary harm to the right to healthcare of the non-smokers. To put it in another way, the state would be forced to make a decision about spending between smoking and non-smoking related medical services and it seems that a trade-off is inevitable unless tobacco control is to become effective.

2.2.1 Special Categories of Non-smokers

As smokers can be sub-classified into groups, non-smokers can also be further divided according to the respective interests and rights held by them. In the remaining part of this section, the issue of rights in three kinds of non-smokers will be reviewed. In sequential order, they are children, women and workers. These three types have been identified as the special categories among non-smokers because each of them has unique contexts and claims to rights concerning smoking.

2.2.1.1 Children

Prior discussions about the right to health in the thesis revolve around the conflicts of rights among different individuals, but the debates were about smokers and non-smokers as adults. This section narrows the focus to adults as smokers and children as non-smokers. Children belong to a special category of non-smokers because of their status as minors and would require state intervention for protection. Minor refers to the fact that children are unable to protect themselves against violations of their rights. In legal terms, minor has another connotation that is associated with the capacity for reasoning, but this is not what it is referred in the current context. Within the arena of tobacco control, children should be entitled to at least

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two rights, the right to health and the right to information. There is ample medical evidence demonstrating children suffering from various kinds of diseases because of SHS[48]. For example, children exposing to passive smoke is more likely to develop respiratory problems like asthma and allergies. Instead of arguing children as general victims of passive smoking, I want to make a justification about children's right to health in the context of family.

If one agrees with the propositions in the previous sections that non-smokers have a right to health and smokers have a right to privacy, then when it comes to the case of children, there are further subtleties. The first thing is the physical vulnerability that was mentioned above, in which children are more prone to harm by passive smoking. If this is the case, then a claim can be established calling in the state to intervene to protect the health of the children as they are the future generations. The welfare of future generation depends partly on today's investment from the state. Therefore, this is a special interest that generates social benefits in the future.

The second problem I want to concentrate on is the dispute in a parent-child relation. Specifically it is a problem of smoking at home, where the right to privacy of parents and the right to health of children come into direct conflict with one another. Home is typically classified as a private area, so a smoker could make a claim that he ought to be allowed to smoke (assuming the argument of healthcare is non-existent). However, with the presence of children, the whole scene is changed. Moorby argues that 'Children are already powerless to evade the dangers of smoke-filled homes and should be able to rely on the states' police and

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[48] Dana Best, 'Technical Report-Secondhand and Prenatal Tobacco Smoke Exposure', Pediatrics, 124:5(2009), pp.1017-1044.

parens patriae powers for a remedy.'[49]

'The following are three responses from interviewees expressing their concerns about children's health.

> you see a dad smoking right next to his child in the playground. I mean I see from time to time, I wonder, what are you doing? (Andi, with a baby 16months old, age 30+)
>
> when it's about kids, I think then it's not only your private sphere because of passive smoking, that's why I'm totally in support of banning smokers out of most pubs, because other people has the right to free air. (Csaba, smoker, age 23)
>
> you're standing at the bus stop with your five year old kid and someone standing next to you is smoking, so it's not just you, but your child, and when it's raining, there are these small stands, and the smoker is standing below it, there's you and your kid and everyone, you have to breathe in the smoke… (Fruzsina, social smoker, age 23)

From the three comments, one can argue that there is an implicit consensus and appeal that children are vulnerable than adult non-smokers and should be better protected from the state. Smoking at home means two things, first, children are unable to defend themselves, (rationally a child probably will be know that smoking is bad until at least 4 to 5 years old). Second, they are virtually 'trapped' in that smoking environment because unlike teenagers or adults, they are not mobile or allowed to leave the house as a protest against smoking.[50] Imagine parents smoking in private cars while they are driving, children are unable to protest nor can they leave the car. Under such circumstances, only the state could perform as the guardian to safeguard the right to health of children. The right to health of children overrides the privacy right of their smoking parents and the state is the gatekeeper. Therefore, children's vulnerability urges the state to prioritise children's welfare.

Other than the evident issue of right to health, the right to information is an issue at stake concerning smoking parents. A major worry from public health officials is that children

[49] Michael, S., Moorby, 'Smoking Parents, Their Children, and the Home: Do the Courts Have the Authority to Clear the Air?', Pace Environmental Law Review, 12(1995), p.851.
[50] David B. Ezra, 'Stick and Stones can Break my Bones, but tobacco smoke can kill me: Can we Protect Children from Parents that Smoke?', Saint Louis University Public Law Review, 13(1994), pp.547-590.

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growing up in a smoking environment, seeing their parents smoking (regardless of the actual consumption), there is a generational effect. For example, here is a finding from a research conducted in the Czech Republic concerning children's attitude towards smoking.

> 'Children watch their smoking relatives and the situations when they light cigarettes, how they inhale the smoke, and what they do with the ash. Because of their strong emotional relations to these smokers in the family, the children form positive attitudes to smoking behaviour from a very early age.'[51]

It means that children are more likely to pick up smoking in later stages of life because of an observable life-style pattern. It is understood that childhood experience and familial patterns have a substantial impact on the development of an individual, therefore, the right to information calls for effective public education so that children could learn the potential health hazards in spite of seeing parents smoking regularly. The obvious problem with protecting the rights of children against smoking is monitoring and enforcement, how can the state ensure smoking parents are not harming children? Ezra delicately made a few suggestions, including decision on child custody, burden of child abuse and neglect and making use of tort remedies.[52]

2.2.1.2 Women

The second group of particular concern is women. There will be two discussions in this section, the first discussion is more about women as victims of passive smoking at home. After that, the issue of pregnant women will be explored. To begin with, there is medical evidence demonstrating that tobacco smoke could cause serious harm to women's health[53]. Whether the detrimental effects are more serious than among men is a question of debate. It has been argued that female passive smoking reflects an imbalance power relationship between

[51] Drahoslava Hruba, Iva Zaloudikova, 'Where Do Our Children Learn to Smoke?', Central European Journal of Public Health, 16:4(2008), p.181.
[52] David B. Ezra, 'Stick and Stones can Break my Bones, but tobacco smoke can kill me: Can we Protect Children from Parents that Smoke?', Saint Louis University Public Law Review, 13(1994), pp.547-590.
[53] Women and Smoking: A Report of the Surgeon General, http://www.cdc.gov/tobacco/data_statistics/sgr/2001/complete_report/index.htm, (last accessed 20th April 2011)

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male and female. Women often become passive smokers because their partners are smokers, although in Hungary, there is also a large population of female smokers[54], and thus compared to the global pattern, there is a narrower discrepancy between the two genders on smoking. Nevertheless, given a situation in which a male partner is a heavy smoker while the female is not, the woman would tend to tolerate than to voice their discontent. There are various reasons behind this and one can refer to existing feminist studies.[55]

Epigenetic proofs have been formulated to argue about harm to the foetus. The future baby can be harmed in two ways. The classic scenario of passive smoking would be a smoker smoking beside a pregnant woman. The following quote from Andi, a mother, shows the difficulty for pregnant women to avoid passive smoking in Hungary.

> You try to avoid it, you can't completely avoid it, try to go to non-smoking places... it's just something you have to put up with basically. (Andi, baby 16-month old, age 30+)

This is not novel and could be resorted to a general right to health argument, or one might make a claim that a 'double-harm' is made, to the pregnant woman and the foetus. The case that sparks off a heated debate involves a smoking pregnant woman and the health of the foetus. There are possibilities that the foetus absorbing passive smoke would have all sorts of health problems or even deformations. The contention arises when the evidence of epigenetic is examined. It had been revealed that women who have been smoking and continue smoking throughout pregnancy, their offsprings would have a higher chance of developing a crave for smoking, and more importantly, the implication is that the offspring would have a higher tendency of developing a habit of smoking[56]. The debate is not whether the epigenetic evidence

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[54] Referring to the statistics in Table 1.
[55] Robin Appleberry, 'Breaking the Camel's Back: Bringing Women's Human Rights to Bear on Tobacco Control', Yale Journal of Law and Feminism, 13(2001), pp.71-96.
[56] MD,Cornelius, N., de Genna, 'Prenatal cigarette smoke exposure: Effects on offspring.' Wakschlag LS, topic ed. In: Tremblay RE, Boivin M, Peters RDeV, Barr RG, eds. Encyclopedia on Early Childhood

is sufficiently persuasive, but given these medical proof established (which will likely to be the case with the rapid technological changes), does the state has a legitimate claim for pre-emptive intervention i.e. forcefully banning pregnant woman smoking by surveillance? In the area of drug use, there are already countries which require physicians reporting to the police if illegal drug use is found in pregnant women. The argument is clear, which is granting a right to health to the foetus via a pre-emptive interference. It is pre-emptive because the potential harm is estimated and the strategy is to eliminate all risks to achieve maximum protection (health of the baby to-be-born). There is no doubt of the good intention behind the intervention but the related issues should be examined. First, one must not forget that smoking is an addiction, unlikely developed nor will it be gone in one day. The following is an example:

> Sometimes happened that young mother when they expect a baby and they're told that this is unhealthy for the baby, then some of them, not too many, stop abruptly. But when you go to a hospital, you see in the courtyard, females smoke at the entrance, even in winter times.
> (Dr. Peter Jozan)

It is interesting to see how Dr. Jozan made the emphasis that these pregnant women continues smoking during child-bearing and in winter times, the message is the would-be mothers decide to smoke outside in spite of the coldness, indicating the severity of addiction. Nevertheless, it would be inappropriate to assume women who smoke during pregnancy do not care about the health of their offspring. Thus the problem is these women had been smoking before the pregnancy and it is not easy to quit immediately when one learns about the pregnancy.

Secondly, there is the unanswered question about the level of state intervention. If the interest of the future child is so important, does it justify that the state could promote a

Development [online]. Montreal, Quebec: Centre of Excellence for Early Childhood Development; 2011:1-8. http://www.child-encyclopedia.com/documents/Cornelius-deGennaANGxp1.pdf., (accessed 30th May 2011)

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policy like compulsory testing on drugs and tobacco use of these women? To further complicate the situation, it has been found that it is easier to convince a smoking woman to quit during her first pregnancy[57], and the reason is that if there is no serious health consequence with the first child born, then the women would not perceive the smoking associated harms to be so great. They would think 'nothing happened for my first child, so why should I stop smoking for this second pregnancy?' Furthermore, if there is strong epigenetic evidence, then does it justify that women who are smoking should not be allowed to bear a child? There are no easy answers to these questions, and this is essentially because issues like bodily rights of women, environment for childhood development are regarded as beyond the realm of state control and therefore, understanding the different rights involved is a small first step.

2.2.1.3 Workers

Tracing the history of earlier efforts in tobacco control, one would find a substantial amount of materials on occupational health, and it was where most policies on smoking ban were first discussed. Work safety is undoubtedly a prominent topic in public discussion, especially industrial accidents are frequent in sector like mining and construction. Similarly, workplace smoking has been a recurring theme in tobacco control. Study conducted established linkages between the type of occupation and one's smoking habit.[58] Workplace is a central target in policies aiming at the realisation of the right to health because individuals work for long hours, for instance, at least 7-8 hours a day and are being exposed to tobacco smoke for such duration have serious consequences on one's health.

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[57] Personal Communication with Professor Amanda Amos, Professor of Public Health at the University of Edinburgh

[58] F. Hruba, et al., 'Socioeconomic Indicators and Risk of Lung Cancer in Central and Eastern Europe', Central European Journal of Public Health, 17:3(2009), p.120.

With respect to the current proposal of the Hungarian smoking ban, the debate centred on smoking in the catering business. Rather than discussing the customers' right to be in a smoke-free restaurant and bar, workers' 'right to a smoke-free workplace'[59] is the focal point. The claim that workers have a right to a smoke-free workplace is based on two metrics: duration and autonomy. The situation faced by workers in a smoking restaurant is similar to the case of children. Long working hours means that a waiter is likely to be exposed to continuous passive smoke in an intensive way. Moreover, workers do not have a choice to leave the premise because they are working there. Further taking into consideration that Hungary has a high smoking prevalence, implying smoking is an accepted norm in restaurants; workers are placed in a difficult situation. Imagine you are a non-smoking waitress, working 9 hours a day behind the bar table serving customers and the majority of customers smoke in front of you, the combined health hazards would be huge. Before continuing our discussion, here is a response from one of the interviewees operating a bar in Budapest.

> we're trying to take care of our colleagues somebody standing by (this place) for more than 12 hours (a day)..and in this condition, it's really disastrous to fight with the guests, sometimes they do not really understand having a non-smoking section inside the bar there is, it's important, because anyhow, you keep taking care of that, and also, that they are standing for long period of time, so they have a rest, they sit down or whatever, but imagine you're in a bar, drinking all alone and this smoky, it keeps coming to your face, I don't know why they don't understand. (Agota, restaurant owner, age 30+)

Agota's comment exemplifies that the potential opposition would be from guests who consider this as an inconvenience and prefer a place where they could smoke. Due to the severity of the health impact, non-smoking workers have a strong claim for state intervention into the issue of workplace smoking. When asked about how employees could be guarded against passive tobacco smoke, Martin told the technological solution.

[59] Ann H. Zgrodnik, 'Smoking Discrimination: Invading an Individual's Right to Privacy in the Home and Outside the Workplace?', Ohio Northern University Law Review, 21(1995),p.1239.

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> it's a smoking bar, we had ventilation systems and air-conditioned systems which can change up to 13,000cm^3 of fresh air in every single hour, which is a lot. So that means even though it's a smoking place, you never have to go out for fresh air. (Martin, bar-owner)

In addition to that, he mentioned that his new bar (plan for opening in May) will remain a smoking bar because of business considerations.

> K:And do you plan to be a smoking bar?
> M: yes, of course, because right now we're talking about business, so until people can smoke…And when the legislation comes, we'll just take the ash trays away…
> (Martin, bar-owner)

Unfortunately, due to the pervasiveness of smoking among the workforce itself, the agenda of a smoke-free workplace is not a very salient in the public's discussion. Both Agota and Martin share the opinion on this.

> K: Do you have any concern about the health of your employees since they're exposed to so much smoke?
> A: Well, the situation in Hungary is a little bit different because we have certain types of youngsters working (in the catering industry) mainly…s imply they just don't care, and the other thing is simply themselves are also smokers, because they have a certain kind of pleasure going on. Working long hours and working with people, and the easiest solution is to go to the back and they smoke over there… (Agota, restaurant owner)

> K: And since you're a restaurant owner, when it comes to occupational health of your workers, how can you protect them? Like in a smoking bar?
> M: Listen, most of the barkeepers are smokers, so it's not that… (Martin, bar owner)

Concluding from the interviews, only weak attention is paid to the health of workers at workplace. The issue tends to subside as the labour in the catering business is mostly smokers and thus, the issue tend to subside. Nonetheless, it is exactly because of this lack of attention and social pressure that further deprive minority (non-smoking workers) of their right to health. Therefore, the state is the final resort if the rights of the workers are to be upheld.

2.3 Smokers, Non-smokers and Who Else?

In the previous two parts of the thesis, the state vs smokers' rights and the state vs non-smokers' rights relationships have been assessed. This section concentrates on the possible conflicts of rights beyond the smoker / non-smoker dichotomy. Since some of the discussions have already been covered in earlier analyses, to avoid repetition, this section will be a brief

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recap.

As shown in section 3.1,3.2 and 3.3, while the state makes an attempt to balance the various rights with an imposition of the smoking ban, there are possibilities that both inter-right (such as the right to health of non-smokers vs the privacy right of smokers) and intra-right (such as the right to health care between smokers and non-smokers) conflicts emerge. As a result, the state is a crucial player in this leverage relationship. The state acts as a mediator and adjudicating the assignment of resources to each camp.

Among the potential conflicts of interests, the demarcation of smoke-free places requires further examination. So far the analysis only handled the conflict about a private/public dichotomy in which the public space has been understood as either a smoking place or a non-smoking place. Nevertheless, from the interviews conducted with locals in the city of Budapest, the local context about tenants in the neighbourhood has to be included in the debate. Before continuing with the discussion, the following is a short illustration by a local café owner.

> K: ……So what's your opinion on the (smoking) ban on public places?
> M: … I'm not afraid of losing guests or things like that…(K: I thought that was your primary concern..) No, no, no, (the Italian experience on smoking ban was told here)… if they(the guests) can't smoke in the bar, they will go to the sidewalk and in front of the bar they will smoke. And it's absolutely normal in Italy. **But it's absolutely not normal in Hungary.** … let's say only three people are standing outside, one of them is telling a joke, the other two will laugh, which will be loud. On the same minute, the bar will be sued by the tenants above it. (K: Argh…because it's a form of disturbance?) That's it.
> (Martin, bar owner)

Martin is not alone on this line, Agota, another restaurant owner, shares a similar view.

> you got to take a bigger look at those restrictions and the laws which belong to opening a restaurant because when you run a restaurant, you depends on the opinion from the neighbourhood, which means if you're being noisy or loud or whatever, or your people (guests) are noisy or loud, they (the residents) can at anytime report it to the police and if you keep having these reports, then it would mean that all of a sudden they can shut you down because you know you're bothering the neighbourhood. (Agota, restaurant owner)

The significance from the above conversations is a third party's interest could also be at stake. Martin's opinion reminds us tenants form another class of stakeholders, and should

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be part of the calculus in the legislative process. The third party's interest raised in Hungary is the potential noise disturbances which is an unintended consequence of the legislation. We can assume that if the noise pollution argument is added, tenants would rationally argue for their right to a quiet environment. Knowing that most of these bars serve customers from late night until midnight and after, residents who live above have reasonable justifications to request a quiet neighbourhood. Nonetheless, one of the interviewees think foreign experience can be applied to Hungary as a solution.

> K: One of the restaurant owners worry that when people smoke outside, it would cause disturbances to the neighbourhood.
> F: yes, it's possible, but I think there's a solution. For instance, in the UK, they can make an extension of the bar, a small area, I think there's a smart solution.
> (Fruzsina, social smoker, age 23)

Borrowing from economics, the debate can continue with the argument that the 'undesired' aspect of residency could be reflected in the price of the property and therefore, the habitants are somehow compensated since they should have known prior to moving in. If we try to resort to a right argument, it is not sure first of all, if the right to a quiet environment is an absolute right when compared to privacy right and a right to a smoke-free environment. Second, it is difficult to turn the right of a quiet space into an easily defined legal right. Disturbances could take various forms and in principle could be found anywhere, and this poses great difficulties in translating into legally protected rights.

Summing up the debates in this session about the conflicts among the different right-holders, the state's position emerged as a decisive factor balancing competing claims of right. In most contemporary societies, the state tries to uphold neutrality in public affairs so as to maintain a proper balance between individuals' claim of rights and the collective benefits. Yet, on tobacco control, the state neutrality argument is relatively weak since the nature of the

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ban itself is endowed with the vision of improving public health, and this dominant position has forced the state to endorse the stance that smoking is bad, as a result, what the state can at best achieve is an assessment of the rights involved and avoid any parties making disproportional sacrifices. It is also the recurring theme of this thesis.

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Chapter 3 - Discussion

3.1 Limits of the Legal Approach

Different types of rights have been mapped out in the previous sections, and it has been demonstrated that the drafting of legislations has to be cautious in handling the conflicts of various rights. Nonetheless, there are restrictions on how far the legislations could defend individuals' rights. In this chapter, a few aspects that are central to an effective programme of tobacco control are explicated.

3.1.1 Sensitivity to Smokers' Socio-economic Status

Existing public health literature stresses the vitality of incorporating a dimension of the 'disadvantaged' groups in tobacco control policies [60] Disadvantaged group is often identified as individuals who score low on a series of socioeconomic indicators, who have few resources for improvement of life. For example, individuals with little education, lower income and often live in a less well-off environment, i.e. relatively poor neighbourhood. These people are at the bottom of the society on almost all if not all aspects of life, these include employment status, household income, gender, education level and many others. As highlighted previously in the discussion of the right to health care of smokers, SES correlates strongly with smoking in Hungary. Teenagers and pregnant women are the two main groups that have to be given special attention when designing a tobacco control campaign. There are two immediate consequences of this, first, these people are likely to pick up smoking at a very young age and second, the harsh environment is not conducive to quit smoking. What is also relevant to Hungary is the fact that a considerable proportion of smokers in the country are female.

[60] Eric, T. Moolchan et al, 'Addressing tobacco-related health disparities', Addiction, 102(2007), pp.30-42.

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On the other hand, the scenario of female smoking is not completely bleak in Hungary as Dr. Robert Úrban, a physician who runs a smoking cessation centre in Budapest made the comment about the clients he received.

> K: And what is the gender ratio of your clients, proportion between male and female?
> U: It's a good question, I don't have this statistics. I should have. …..The impression is more female. You mean our clients' socioeconomic status?.....These are mostly er….low and middle educated people. But there're also some higher, professionals as well. Even I had a client who is a pathologist… (Dr. Robert Úrban)

Yet, one has to bear in mind that those attending the structured cessation programme (that lasts for six weeks) are probably those who are more health conscious in general and therefore, taking the initiative to seek for smoking cessation services. Therefore, in a middle-developed country like Hungary, being able to identify the scocioeconomic profile of an average smoker would be essential for an effective tobacco control programme. Furthermore, myopia is another problem associated, as told by one of our interviewees below, which might be even more strongly tied with smokers from poor environment.

> K: So on one hand, people know about the hazards of smoking, but on the other hand, they contradictory continue to smoke?
> F: it's because they think I'm young, smoking won't hurt, my blood in perfect, but in 20 years, everything will come, but they don't see it… (Fruzsina, social smoker, age 23)

In short, an effective tobacco control programme requires being sensitive to the SES of smokers otherwise the measures might not reach the particular groups.

3.1.2 Social Support in Smoking Ban

A second issue that emerged in the interviews and is also absent from the present smoking ban in Hungary is the element of social support. This is an aspect of tobacco control policies that closely linked to the first issue of socioeconomic disadvantage. Being in the disadvantaged group, such as the large amount of homeless people and single moms, means that few incentives and support are available for smokers to quit and it is also more likely for underprivileged teenagers to pick up smoking because their parents and peers smoke.

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The question is not that we are aware of the precarious conditions of the disadvantaged smokers, but how can social support be built up to facilitate the particular legislations. In other words, while having the smoking ban as a legal instrument, what the respective support are to the law, and these social support is especially crucial in cessation attempts.

Experience from the medical community seems to suggest that the media and health workers are the main sources of social support when the ban is introduced. Consider the following quote:

> …..but the problem is when we built up this centre, we wanted to base our work on referrals, by physicians. But the problem is that physicians do not refer too many people, so we couldn't do much work if we only base on physicians' referrals…But somehow it's difficult to motivate physicians to refer patients….
> (Dr. Robert Úrban)

It shows a structured smoking ban needs a lot of social support, and physicians do play a key role as they act as intermediaries between the patients and cessations services. If smokers who are motivated by the smoking ban to quit smoking fail to get into liaison with the right service providers, the ban would remain ineffective.

Besides support from physicians, community support has also been proved to be essential as complementary tools in smoking bans. Smoking ban is about how the whole society works together to help the smokers and quit as well as preventing the young people to pick up the behaviour. Stigmatisation on smokers has to be avoided because we understand smoking is a form of addiction and therefore the individual have little control over it. Instead, by offering social support to the smokers, the burden of blame is shifted to the product itself, so it is cigarette which is the origin of the problem because a lot of them took up the habit at an early age and was not well-informed about the negative impact of smoking. On this respect, Hungary does not have a favourable environment for tobacco control even with this forthcoming ban:

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> … though I can personally feel that the situation is changing, the attitude towards smoking is changing, but the environment is not supporting to quit smoking…the general attitude in the society is still hesitant towards tobacco control, then it's not good for the centre…(Dr. Robert Úrban)

The positive sign is that the existing programme at Dr. Úrban's cessation centre does include this social support component in their current counselling services and it might serve as a basis for further expansion with this smoking ban.

> W: And how does the counselling help the smokers, could you describe it in more details?
> U: Ok, so the counselling has two main active ingredients, one is the problem-solving..….. Other active ingredient of the pillar is the social support, there is a voice, there's somebody who listens to them. There is somebody who cares about them, how they feel, and we express hopes and positive attitude that they can quit smoking if they want to quitting smoking…

In short, what has been raised by the medical professionals is the vitality of support received by the smokers who intend to quit. The support has to be continuous and sustainable, since the chance for relapse varies. For instance, the present cessation programme in Budapest has a 6-month follow up services and individuals who relapse after quitting are welcome to return for future attempts. A favourable social environment does not emerge on its own, but is to be certain extent being created artificially. What is relevant here is how the argument of the right to health can be employed to gain support for establishing an atmosphere conducive to the implementation of the smoking ban.

3.1.3 Focus on Primary Prevention

A final theme about tobacco control policies is the focus on primary prevention. From the point of view of public health, the tobacco control policies can be divided into two directions. Smoking cessation service is characterised as secondary intervention and to correspond to the highest attainable status of the right of health, primary prevention is even more important in the long term perspective of the smoking ban. This is because it prevents even starting of the habit. If primary prevention is successful, the public is better protected from passive smoking. In short, primary prevention is essentially about early education and general

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health promotions. Professor Vaci, president of Hungarian Respiratory patients Society and a civil advocate of tobacco control in Hungary, stresses smoking prevention has to start as soon as before 10 years old.

> The key thing is that smoking prevention (preventing the development of smoking addiction) needs to start early, at elementary school. The percentage of smokers is higher among younger people in Hungary. Young people tend to smoke as an act of rebellion, then get addicted. To be effective, education needs to happen at a very early age (before age 10). Once young people get addicted it is very difficult to persuade them to give up their addiction. (Professor Sandy Vaci)

The focus on teenagers is important because they are often unable to make a current judgement and that might be probably due to a lack of "accurate" information. The apparent argument that follows would be to strengthen education as part of the programme about the negative consequences of smoking.

Even though smoking among teenagers is still a major issue in Hungary compared to western countries, there are clues of changes. The following is an account given by Andi, a mom of a young baby.

> …I have a few cousins who're kind of 14,15 of age.. there is like, a bit of a trend, you're trendy if you're not a smoker. And I have a few cousins, who's in this group, 'Hey! I don't smoke', and they're all joining this group. I think that's certainly a positive peer pressure as well, which when I was a teenager, of course we didn't have facebook and that wasn't, you just walked through it…definitely that's a new thing that I've seen from my family and invited other teenagers to come in, as soon as I know she doesn't smoke….
> (Andi, mom with a 16-month old baby, age 30+)

Social changes often take a lot of time and especially smoking is a habit deeply entrenched in the cultural and social norms.

3.1.4 Enforcement

A brief discussion will be made on enforcement before closing the thesis, since it is an unavoidable agenda that has to be dealt with.

> K: So you mentioned there are restaurant owners who take the law seriously and those who don't…
> A: For example, me, I take it very seriously. If the law is done, I would take it very seriously, I would say no more smoking inside. But I think there are owners who simply couldn't make it through. To be honest, I would understand them ..(Agota, restaurant owner, age 30+)

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> L: Um…you know the law that you can't smoke on public transport…but again, how do they enforce it? I mean, some people do, but if you don't put pressure on people, it the peer pressure that has to come from, you know, it's one thing that you know, it's really nice to introduce the law and the legislation, but if they don't put it into force, like in Greece, I've heard that it's totally not working. There, smoking is a huge problem.. it has to come from the people. …you know, I try not to kick people off...but I think it has to come from people like me, non-smokers to put pressure on you know, on other people, so I tell people off if I see someone smoking…(Andi, mom with a 16-month old baby, age 30+)

Agota and Andi's comments reveal some fundamental challenges faced by the authorities on enforcement. The assessment of rights which had been discussed in this thesis is helpful for drawing some macro boundaries for legislations. Nevertheless, the actual enforcement of particular legal clause would depend very much on the officers who are executing the orders. For instance, Agota mentions some restaurant owners might not be able to afford renovating the place to improve the ventilation and Andi worries the law would be ineffective, as in the example of Greece. As raised earlier, there are unforeseen conditions emerge from new legislations and these would be main obstacles for the smoking ban, for example, the catering business might use different tactics to avoid complying to the smoking ban, how can the state respond to these problems? Only if these ad hoc situations could be solved can a genuine smoke-free regime be achieved.

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Chapter 4: Conclusion

To conclude, this thesis started by discussing the smoking epidemic in Hungary and introducing the notion of rights. Then by examining the different scenarios and actors, an account is provided in elucidating how the claims of rights are made and how these claims could result in conflicts. More importantly, what had been demonstrated is the intertwined relationships of the various rights. The language has been frequently applied in the contemporary world but there are few reflections on the potential disputes or even misuse of the notion.

On the other side of the coin, revealed from the assessment of rights in tobacco control is the greater picture of paternalism of state actions. There is no doubt that many public policies were initiated from good purposes, but the unintended consequences can be detrimental when the policy is carried out. As shown in the above analysis, the tension between individual (smokers' liberty and privacy) and collective benefits (the right to health of non-smokers) is always present and it is a question that has to be handled with caution. When compromises are necessary, as in the current Hungarian smoking ban, on what ground are these decisions made? In addition to this, through the interviews with the public, a lesson learned is the importance of public deliberation. How can a state protect its citizens' rights while the public is not even aware of their own rights, in this case, the public is 'forced to be right-holders'. While this assessment of rights in legal policy is insightful, many practical questions are still left open and have been illustrated in the final section of the thesis. Law is an instrument which involves a certain degree of arbitrariness, in particular concerning the interpretations and enforcement. It is for this reason that law has to be supplemented by other tools, like information exhortation

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and building social support, to produce a balanced policy outcome. Individual rights is a core value in human society but not the only important one, when it is directly confronted by other values, such as liberty and collective benefits, what is the solution? Making more laws might is unlikely to resolve these disputes and recognising the limitations and boundaries of law is essential.

Lastly, the thesis started as an attempt to combine public health, right and legal studies. Recalling the problem of mutual understanding in the researches of tobacco control, this thesis tries to integrate the three disciplines as well as allowing the voice of the stakeholders to be expressed. Although the sample size of the current thesis is small, it nevertheless marks a first step to show that researches on rights need not be purely theoretical nor study on public health can ignore the problem of rights, particularly demonstrated by the conflicts of rights are empirically valid.

The Hungarian smoking legislation will be effective on 1st January 2012, how different actors' rights shall be balanced and to what extent the law can be implemented and enforced can be fully assessed after the law come into force.

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Appendices

Appendix A: Interview Transcripts

All interview transcripts and written responses collected are included in this appendix, every effort has been made to ensure accuracies. Full transcripts are presented here when available, the writer bears the sole responsibility for any errors.

Interviews conducted in Budapest, Hungary

Interviews have been conducted with medical researchers, smokers, non-smokers and restaurant owners on the implementation of tobacco control in Hungary.

1) 17th March
Professor Péter Józan
Hungarian Public Health Association
Central Statistical Office
Focus of interview: Health Statistics on Smoking Prevalence in the Hungarian population and public health policy in Hungary

W-Winne Ko
J: Dr. Péter Józan

J: The Central Statistics Office (CSO) is one of the main institutions collecting health statistics. The Central Statistical Office had always been part of the central administration, it's an office, under the juridical authority at the moment because of the changes under the Ministry of Public Administration. This relationship is in fact has no influence on everyday work of the office. The office has responsibility collecting, publishing and analysing data on economy, social things, including pensions and unemployment and also, health, collecting data on utilisation of institutions but also on morbidity and mortality.

W: Is the health survey carried out annually in Hungary?
J: No no no, we have a national health survey that started last year (2009). For instance, the relationship between socioeconomic status and health. Besides this health interview survey, there is regular data collecting system. And every year the CSO publishes a book on health statistics, where you can find many valuable data, in a regional context and with time terms. In the statistical year book(because we have the fact sheet), you can find the data on consumption by households, and then per capital consumption of alcohol and tobacco, using certain internationally accepted units of calculation.

W: Does the CSO provide the data for the European Health Survey?
J: Yes, the CSO provides the data and since 2004, our data are calculated using the recommendations of the EU. Therefore, the data are accepted to the EU and they are conformed to the EU criteria.

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W: Is there a big difference in the statistical methods used by the EU and the CSO?
J: Not really. Comparing to the development of the country, the Hungarian statistical methods have traditionally been fairly reliable, as much as statistical services can be. We keep the aggregate data for the populations and have some techniques to control the reliability of the data, but of course, some are more reliable and some are less reliable. But coming back to health statistics, our morbidity statistics are reliable and I may say fairly accurate. So we know the number of deaths for sex, age, according to the data calculated from the death certificate, in which you can find the two data, the dates of death and birth. Also, the death certificate uses the recommendation of the WHO standard, But traditionally the Hungarian CSO hasn't been satisfied with the which is requested as a minimum requirement by the WHO. There is the so-called death statistical datasheet. And in the death statistical datasheet, you can find data on education attainment, on employment status, family status, domiciles, and also certain data which are relevant from the point of view of social stratification.

W: How is the health statistics done in the regions?
J: They have so –called directorate. There are seven regions, including the central Budapest, earlier when the county system prevailed, we have 19 county offices, but not anymore. It was considered there were too many. Certain statistical procedures are decentralized, in the countryside, due to labour force, less expensive, and the use of electronic connection between our decentralised directorates/offices and the CSO.

W: You mentioned the morbidity, the number of smoking population
J: By survey, the health interview survey, are you a current smoker? Have you been a smoker? If you have been a smoker, when did you cease to be a smoker? To calculate it by age and sex, and demographic data.

W: How big is the sample size of the data?
J: The last sample size was a little bit more than 5,000, within a 10 million population. So it's a certified random sample. At first it was certified that all the important type of settlements are in the sample. And within the settlements, the sample is random.

W: There is an estimation of around 10% deviation about the number of smokers based on various questionnaires and surveys. Do you find it acceptable?
J: Well, this is a difficult question because almost 20 years ago, I was responsible for the health interview, then also in 2003 and 2010. And I am not sure that they are comparable because there're so many changes in society and politics and structures and methods. But what I can say of course as in every country, more male than female smoke. But you know the trend, because of the stagnation in male, so there is an increase in female smoking. If we look at the mortality data, we have (Hungary) has one of the highest mortality rates in lung cancer, but it stagnates for men and increases for women. And also as a personal experience on the street, probably more young female smoke than young men, especially in services, probably more female work than male. Since it is forbidden to smoke at the workplace, they come out and smoke on the streets.

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W: Do CSO do any policy recommendations?
J: No, this is not our responsibility. Of course when we interpret the data, we say that from the point of view of health policy, what we recommend to be useful, but also successful. But this is the responsibility of the ministry, which is responsible for the health of the population. In the current structure, we don't have the Ministry of Health, but the Ministry of National Resources, and part of ministry is responsible for the health. And also, the Parliament used to discuss legislations to restrict smoking in public places and one of the most reliable sources of making money of the state is tobacco tax.

W: When you are presented with different data, how can you deal with it?
J: Well, there is an institute, which is a background institute, the institute of health promotion, and they have connections with similar institutes all over Europe, in order to change the used, to get the experience on how to change the situation for the better, especially for the Scandinavian countries, the UK, and also in France and Spain, Italy, recently there is a much serious legislation that restrict tobacco smoking. So I may say that the very large increase in smoking is over, it stagnates, then it comes down a little.

W: What are your speculations for the stagnation in the growth of number of smokers?
J: It's a multicultural phenomenon. One reason might be the impact of health promotion, marketing, eating healthy food, don't do something that's unhealthy, doing physical activity, it's no longer trendy to be a smoker. But first of all, cigarettes are extremely expensive.

W: There is high smoking prevalence among Hungarian physicians.
J: I don't know. But the doctors in Great Britain What I observe abroad: Japanese were chain-smokers, Italians smoke a lot, also French males have stronger cigarettes, I don't know the situation in Hungary.

W: Do you observe a linkage between smoking alcohol, and other behaviour?
J: Those who are alcoholic are practically smokers, but smokers are not always alcoholic. It's a different enjoyment, because alcoholic is a problem mainly among the unskilled and semi-skilled workers, general labourers, with low education attainment, and they start to drink as young men, teenagers, there's also peer pressure. They drink Hungarian spirit and beer, much less wine because wine is much more expensive. So upper middle class, they use different wine and beer, but not exclusively any of them. But workers with low skills, like those working in the construction industry, migrant workers from the countryside, they started the day by drinking spirits and finished the day with beer. They do not drink during the day at work, it was common 30 years ago that they drink even at work, but not anywhere.

W: You mentioned the trend of increase in young female smoker…
J: Yes, this is a problem. Teenagers…
W: Do you have idea why this is so?
J: Fashion. Especially the tobacco industry is very clever in advertising, 'if you want to be a young, trendy woman in the society, then you smoke Camel'

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W: A lot of foreign tobacco companies came into Hungary after the transition in 1989…
J: In fact the foreign tobacco companies bought the Hungarian tobacco industry. But this happened not only in the field of tobacco industry, but in every branch of industry. Because it was a state-owned industry, out-of-date, and this was part of the privatisation process.

W: Do you have any information concerning cigarette smuggling in Hungary?
J: There are two important illegal imports, tobacco and spirits. But this is the competence of the police and the border police and for CSO, it is even impossible to estimate the amount of illegal import.

W: Do you have any statistics for the tobacco taxations?
J: What do you mean? The proportion of taxation?
W: Yes yes yes
J: It is huge, but I don't know, it's enormously high.

W: Is it possible to compare statistics in the 1970s, 80s and the present day?
J: To put a long story short, it is not really comparable. If you want to compare, the total change in Hungarian society and what was the way of lives 20, 30 years ago, it was a completely different price system. Everything was different so I am afraid these comparisons of time-terms are a very risky business. In Tobacco, there is no striking change. I mean in smoking. And if there is change, that is what I've already told you, definitely not the increase. But in drinking habits, probably there is a change because we have now a different labour market. During the earlier socio-political regime, it was a closed society. There was no migration and there was officially no unemployment. And since there was no unemployment, people were not afraid of losing their jobs. For that reason, discipline was very weak at firms. But now the firms are in general private firms, and they don't tolerate the lack of discipline, since there is now the unemployment rate and people may lose their jobs. Not only the well-educated, but certainly people are more and more achievement, at least money-oriented, and to make money and to be successful, means health conscious, because if you are sick, you cannot be material or money-oriented. You need health because there is a fairly tough competition.

W: How strong do you think this mentality is in the society given that successful people can be heavy smokers?
J: Well, what I wanted to say is first of all, this is in the field of drinking. Well-educated people, especially young well-educated people definitely smoke less than 20, 30 years ago.

W: Is it a form of socializing to be a smoker?
J: Not anymore.
W: But I can observe there are a lot of smokers in universities, for example.
J: If they're causal smokers, even if they don't smoke everyday, they smoke quite often. I know some people, again females, who usually don't smoke when they're alone or when they work on the laptop, but they gather in a certain circle, at home, some of them smoke, but again, I also know certain circles, that the house owner would say 'Please don't smoke here'. In my

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apartment, neither my wife nor me smoke, when people visit us, they don't smoke. It's not a difficult situation.

W: How do you view the health promotions on 'passive smoking'?
J: Yes, but this is at the very beginning. And environmental policy is fairly weak. A good environmental policy needs two things, money and determination, motivation. So cleanliness and air pollution or households use out-of-date techniques in winter. Cars are old (5-10years), in such a physical, psycho-environment, it is extremely difficult to tell the people that indirect smoking is bad for you, especially for the little ones and the old. People don't care too much.

J: Well, this pessimism, I don't to say, but this is a national endowment. Hungary is a small country and the neighbours, I mean during history, on the west they have always been the Germans, either the Hapsburg or the large German Empire. In the south and east, they were either the Turks, Russians, in the 13th century, the Tartars. So to do something opposite to the geo-political situation, and an independence country, it's relatively (…) And on the other hand, the Hungarian Kingdom was started more than one thousand year ago. But then we lost our independence, it's a long history.

I'm not sure the Hungarians are more pessimistic than the Russians. It is not always reliable and accurate when you read something after a study or polls by Gallup or firms, which is in the field of doing surveys and behaviour.

W: For many years, the Hungarian male has a very high suicide rate…
J: Yes, it is true that the male has a high suicide rate, especially in the south-eastern part of the country.
W: Is there any reason for that?
J: Well, if you are interested in it, you need a lot of time and so many publications and books, if you go to library, you may stay there for years and read it. Suicidal behaviour of certain social strata, in farms, isolated farms, and much more Protestants, Chauvinists, even Roman Catholics. But it is a simplistic answer. It is true that suicide is stigmatised, as it is stigmatized people are in Roman Catholic Spain.

W: The tobacco tax had been increased quite a lot…
J: Yes, many times

W: Do you observe a strong influence on the smoking habit caused by an increase in tobacco tax?
J: There are researches (that show) certain addictive things only temporarily by changes in prices, sooner or later you started it again, very few people say that well, I don't want to make the state rich so I don't smoke.

W: But you mentioned it's not cheap…
J: It's not cheap, but still from a psychological point of view, physiological point of view, there are very convincing explanation if dependence had been developed, it's extremely difficult to

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change it. Usually people can't do it alone, they need some professional help.
W: In general how do people pick up smoking? Is it peer pressure or fashion?
J: Both, peer pressure and fashion, they go hand in hand.

W: Within the population, normally how young do people pick up smoking? Teenage years or?
J: Teenage years.
W: And then they would?
J: Yes, continue. Sometimes happened that young mother when they expect a baby and they're told that this is unhealthy for the baby, then some of them, not too many, stop abruptly. But when you go to a hospital, you see in the courtyard, females smoke at the entrance, even in winter times.

W: Apart from the Ministry of Health, are there any other institutions that work with the CSO?
J: Well, for instance, certain statistics on epidemic, for instance, flu epidemics, it is the responsibility of the national institute or national centre of epidemics. Flu epidemics or viral diseases. But I guess that at least 85-90% of our statistics are produced by the CSO, but very special statistics is produced by certain institutions. For instance,(but it is not our business, I mean) financial statistics are compiled by the national bank or criminal statistics is the responsibility of the policy and ministry of internal affairs.

W: And from your experience of dealing with health statistics, what are the general observations between socioeconomic status and the health conditions?
J: What you observe in Hungary by and large, is very same as in the rest of the world, but the details are different. Those who have higher education, more money, they are healthier, they have longer life expectancy and they consider themselves to be healthier.

W: There are questionnaires that survey on how people view their health subjectively…
J: Healthy, very healthy, satisfactory, feeling uncomfortable etc
W: What is the logic behind this question?
J: This is the result of a very long, internationally accepted experience, it is a reliable predictor of the real situation. Except that females consider themselves less healthy than males, but they live longer. But this is not a Hungarian.

W: So this self-assessment of health has some correlations….
J: Yes, in certain much less developed countries, it is because of the weak empowerment of women, in rural area and such as the sub-Saharan Africa. But in the very developed countries, the case is that males seem to be healthy (many of them), but they die eight, nine years younger than the females.

W: One final question. The Parliament is debating the smoking ban, do you think it will have a big effect on changing people's behaviour or attitude?
J: For the long run probably.
W: Do you consider it to be too strict?
J: You know, probably it's too strict for those middle-aged and old people, who are addicted to

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smoking. It is not strict to those people who are not. And if they are young, go into a restaurant or a sweet shop, they have a right to expect I don't want to be an indirect smoker. And for instance, when we go into a restaurant and the waiter asked us where do we want to sit, and usually the bigger space is for the non-smokers, there is a small corner for the smokers who can smoke.

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2) 17th March
Professor Robert Úrban , Psychologist
Leader of the only smoking cessation center in Hungary
Focus of the interview: efforts in helping smokers quit smoking

K: Winne Ko
U: Robert Úrban

U: We decided to apply for a grant for this center. And Pfizer, the pharmaceutical company, also has a foundation which supports this type of anti-tobacco activity. So we applied for the grant and we got the support, it's the first time that (an organisation) from Hungary got the support from this foundation. We got the money and we built up this centre.
K: And when was it?
U: When was it? It's a good question. We have it this year, last year. We worked since, officially we started to work before, but officially we worked from January 2010.
K: So it's quite new.
U: Quite new, and we had one year to set up this center, so that was 2009. So we started our activity in September 2009 and we started in 2010. So we still have the money for this year, and then we are going to face the problem about how to finance this centre because you need to look for other foundation, other support, maybe government support. But it is very difficult in this time.
K: But there's the smoking ban coming, so maybe (the government) will give you some support ?
U: But you see this smoking ban seem to be eluded. They announce that they change the deadline, have you heard about it?
K: Yeah, I was a little bit disappointed, I thought they would have voted (for) it, I waited and checking the news, and so they are not gonna vote for it today.
U: It happened a several times and even I mean that in this time, which pass this point. Because several years ago we tried to push this law (in 2007), but they didn't even get into the Parliament. And this time is the farthest we could get and I think there's the lobbying against the law and wasn't successful enough to push.

K: So you referred to the lobbying groups, who are they? Are they tobacco companies and restaurants?
U: I think mainly tobacco companies. And that's my impression. I don't know by fact that restaurants are promoted by tobacco companies. So it's not easy to speak against the law by tobacco companies but it's (easier to speak through the catering businesses)

K: So according to your experience, how to get people motivated to quit smoking after having been smoking for 10, 15 years?
U: My impression here is that there is a large group that wants to quit smoking due to health reasons. They are older people, maybe they're suffering from health problems, such as even cancer, and this type of issue, they are a large group of our clients and they suffers from smoking-related diseases. And there're also people who want to quit smoking because of

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financial reasons. It's not always obvious that the primary issue is that (financial reasons), because it is very easy to say I quit smoking because of my health. But somehow they mentioned that besides my health, it's also (because of) the money and that's all. These are the main reasons.

K: And from the experience in the programme run by the centre, is it very difficult since there is a chance of relapsing after 2-3 weeks?
U: Of course, but you know, here that those who participate in a full counseling session, we have 6 sessions, so we observe approximately a 40% success rate in 6 months. So it's quite good, but this is among those who finish all the 6 sessions. There are those who drop out or those who doesn't really start. In the group, those who remain, of course when we start the group, there is a large drop-out. So we don't start a group when there're 15 or fewer people. Because we know that 4 or 5 (people) will drop out in the beginning. So those who stay in the group we see an even higher quite rate at the end of the group. So for those who finish the 6-month programme, the quit rate is about 70%.

K: And how are the six sessions structured? How do you assist people in quit smoking?
U: We apply those guidelines that are published in international literature, very basic, preparation for quit date. So these sessions are highly structured. It starts with the motivations, and then setting a quit date. Preparing for the quit date. And after the quit date, we work with the , that's the, we strive to use those evidence-based methods that are used all over the world.

K: So you mentioned a lot of the participants are in their older ages, so is it more difficult to encourage younger people, in their 20s, 30s to quit smoking?
U: Yes, it is very difficult, they don't perceive the danger, probably they don't feel in the bodies, the damages. So we hardly see. I mean there might be young some people, but in the group, we don't see the people.

K: Do you have plans to start the (campaign) targeting at young people? Because during old age, peoples' bodies are already heavily damaged by the tobacco.
U: Yeah yeah yes, as you know from the science that the best (the highest benefit) of quitting smoking is when you quit smoking before 35. So that's quite () What we try to do is to use communication means, for example comic and reality shows with family monitoring, you know where people live together. And we started many these types of communication means, but the problem is when we built up this centre, we wanted to base our work on referrals, by physicians. But the problem is that physicians do not refer too many people, so we couldn't do much work if we only base on physicians' referral, that's why we started other means. But in our budget, we didn't plan communication costs because we didn't want to spend huge amount of money on bill-board advertising, because bill-board advertising is not very useful. So what is useful is the referral system. But somehow it's difficult to motivate physicians to refer patients.

K: Actually I look into the statistics, it is striking that there is a high smoking prevalence among physicians themselves. I would consider it as unusual because physicians themselves acknowledge the harmful effects of smoking. And if you're a physician and a smoker, it'd be

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difficult to persuade your patient to quit smoking because of health impact. How do you understand this situation?
U: Actually I don't know where do you find any statistics? It (depends on) the how old the statistics are because it is changing slowly among physicians. Check the data for health statistics. But that's true, if a physician smokes, then it's very difficult to advise the client to quite smoking.

K: And from the clients coming to the centre, did you find out how people first take up smoking?
U: Age?
K: Yes, or what kind of occupation or background?
U: You mean our clients' socioeconomic status?
K: Yeah yeah yeah.
U: These are mostly er….low and middle educated people. But there're also some higher, professionals as well. Even I had a client who is a pathologist, she …..

K: And what is the gender ratio of your clients, proportion between male and female?
U: It's a good question, I don't have this statistics. I should have.
K: It could be just an impression.
U: The impression is more female.

K: And what is your opinion about the current tobacco policies in Hungary?
U: The problem is that we still don't have strong devotion towards tobacco control in this country, I don't know how our colleague could manage this new government, to reach that far. Then we face the problem that there's no communication, there's not enough communication about smoking, maybe the activity by the government. There're only some advertisements on TV about nicotine replacement. And so though I can personally feel that the situation is changing, the attitude towards smoking is changing, but the environment is not supporting to quit smoking, and that's our problem. Because we have this centre, and we need patients --clients inflow, but if the general attitude in the society is still hesitant towards tobacco control, then it's not good for the centre (I guess).

K: Do you think it's a good idea to promote the idea of 'damages of passive smoking' in the tobacco control policy? Do you think it's applicable to Hungary?
U: It might be a good argument. I think that this country and the people are quite selfish, actually, they do not see the complexity of the behaviour. So now when we try to promote this (smoking) ban, it's about secondary smoking, exposure to tobacco smoke. And that's why people have to learn that what they do have an impact on others, and sometimes it's difficult for Hungarians to learn. That's my very subjective impression about the country. The other thing we need to discuss is the physicians' attitude. Did you manage to talk with other doctors?

K: Yes yes, I manage to talk to one of them, and he told me it's about the enforcement (of the ban), because the government doesn't, you already have this regulation you know, no smoking

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in public institutions and public places, but it doesn't seem the government devote resources, you know, to do this special policy…
U: Yeah…that's what I want to emphasise…that even here in speaking for this, or even they make this law, but they don't provide resources, who's going to implement the law and who's going to enforce the law….that's the problem. The other problem is that physicians er….not me, not all, but majority of the physicians do not perform even the basic intervention regarding smoking because they are reimbursed I guess...ok, we can understand they have to do many things, (yeh) so they have a high number of patients they have to treat, but they don't give all the time to.. (W: and I think their salary is not very high)…yes yes… (W: I mean compared to a lot of countries, I was very shocked when I learn the salary received by physicians here, usually in other countries, doctor get paid pretty well…) yes, actually being a doctor is a pretty good job in another country, not in this country..(W: but not in Hungary)

K: And among your patients, what is the most difficult part when they try to quit smoking?
U: It varies from client to client, you may ask Animia (the staff). But my personal experience is that to set up a quit date, that's difficult, the last few cigarette, to quit the last few cigarette, that's the most difficult part. Actually in my practice, I didn't note very serious withdrawal symptoms, I didn't notice any very very serious withdrawal symptoms, so that's …. But when they actually quit, they get it quite easily. When we set a quit date, there's always a delay….

K: When you first set up this centre, you might have discussed the idea with other physicians, and what are their views? How do view this kind of…
U: Yeah, we started with a survey among physicians, we did focus groups, among physicians and among the possible clients. We did both quantitative and qualitative surveys, what we got, we received a very possible attitude. But it is easy to say anything positive about the centre and doing the job. So about what physicians can do and cannot do, what they perceive the advantages of this centre, in the survey and in the discussion.

K: In general, how do the Hungarians view as an activity and behavior, what is the public perception towards smoking?
U: My impression is that it is my business, even a politician can say I have the right to ruin my health. I think that's quite a characteristic
K: Is this something special about this country? Or?
U: I think it belongs to the individualistic culture, it is a very individualistic culture.
K: So it would be very difficult to tell people, you know, you should care about others…
U: Yes, (W: So they'd say I want to die...) they would say it's my business. If I want to die, that's my business. I think Hungary has one of the most individualistic culture.

K: Ok, maybe it's just a side question, but do you observe the correlation between smoking and alcohol? Because I talked to a statistician, and he told me actually everyone is alcoholic is a smoker, but a smoker is not necessarily an alcoholic.
U: Not necessary, yes, of course I think that's true that those who are alcoholic, it's very likely that they're smokers, those who're smokers, not necessary are alcoholic. Sometimes we have clients who are obviously intoxicated, so we couldn't work with them until they are free from

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the influence of alcohol.

K: And they're trying to quit smoking, apart from these groups and small communities, do they have to take pills or medication?
U: Ok, you know, in the evidence, the guidelines say that the combination of counseling and pharmaceutical treatment produce the best, together they produce the best result. …. We don't provide pharmaceutical treatment. In our contract with the Pfizer Foundation, we are not to promote Champix[61], so this is in our contract. Of course we have to mention there are medications and if someone wants to know about medication, even nicotine replacement, therapies or even Champix, or Varenicline[62], of course we provide information, but we don't promote them. And that's one of our difficulties because in other countries, such as United States and the UK, they provide these drugs, even for free, but we couldn't do it here.

K: But from your opinion, would adding pharmaceutical therapy make the counselling more effective?
U: That would be more effective, and more attractive to smokers. If they get medication for free, that is very attractive for smokers. Because sometimes the smokers don't really understand how a counsellor can help them, first they have to quit on their own.

K: And how does counselling help the smokers, could you describe it in more details?
U: Ok, so the counselling has two main active ingredients, one is the problem-solving, that the smokers are told how to solve problems, (of course problems related to smoking), such as what would they do in those situations that they used to smoke before, how to solve this problem, how to solve craving and the problem related to stress. Other active ingredient of the pillar is the social support, there is a voice, there's somebody who listens to them. There is somebody who cares about them, how they feel, and we express hopes and positive attitude that they can quit smoking if they want to quitting smoking. And of course there are some other techniques, feedback, philological feedback because that's a very easy feedback for the client, how they start to decrease their smoking rate, and after the quit rate, there's a clear zero, so they can how it changes. And we also use diary methods, they do smoking diaries, which means they have to write down how many cigarettes a day, and even a weekly diary that every cigarette should be written down. But this works for some people, and doesn't work for some. But if we ask them just to write down how many cigarettes they smoke a day, it works.

K: So how long does it take on average for a client to quit smoking, a month or?
U: So this programme we use here takes six weeks, but the quit date is usually set up somewhere in the middle, second or third week.

W: Is there a substantial difference, like between heavy smoker, chain smoker, and less heavy smoker. Is it easier for less heavy smoker to quit?

[61] a medication for smoking addiction
[62] a medication for smoking addiction

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U: No, usually heavy smokers are difficult, even they don't come here. We couldn't see in the group smokers who smoke 10 packs of cigarettes a day. But you know, it varies a lot. I have a client who smokes a lot, she quits smoking very successfully, and I was amazed. On the other hand, I had clients who smoke a few cigarettes a day and he couldn't quit that, he smokes 4 cigarettes a day. So it varies. We know that those who smoke more might have more withdrawal effects, and more difficulty, more relapse. But that is very much influenced by personal issues, personal values, personal characteristics.

K: And you had psychological counselling. So from your perspective, why is it so difficult for people to quit smoking, is it because of the biological effect or more due to the psychological motivation?
U: I think many factors influence it, but I see the difficult to quit smoking when someone is stressed in daily life. And we don't push these people, they have lost their jobs…So I think it's biology, psychology and even sociology that many factors are at work here.

K: And among your clients who quit smoking successfully, will they bring further friends to come over?
U: Sometimes, not frequently, but sometimes it happened. It may happen more often in the telephone counselling in the group.

K: So how successful do you think this centre is, after running for a year or so…What else do you think you can do in the future and what are the major problems you have to deal with?
U: So first strategy is to exist, and we frequently give interviews for the media people, just our existence let this topic, just that we exist I think it contributes to the discussion about smoking. The problem is how long we (will) exist, this is a problem of money and the foundation. And I am not that optimistic and positive about that. That's our main challenge to find …now. Because it's quite expensive to run the call centre, because we call them, we call the smokers, so we have to pay our bill. And smokers usually use mobile phones. (W: Yes, it's quite expensive to call on mobile phones here)

K: And do you provide follow-up after they quit smoking?
U: Yes, six months (W: So the programme is 6-weeks long…) there is one month after that and we measure the quit rates after 6 months.
K: And can they come back if they fail?
U: Yes, they can come back.

K: And do you think there's enough public discussion about smoking and tobacco control in Hungary?
U: Oh we would love more. Because if there's public discussion, we have clients. Because that's the earned media[63], you know the concept earned-media? (W: yeah yeah) The earned media is our way to promote because we don't spend money on promotion.
K: But do you think it's effective for the government to ask people not to take the first cigarette,

[63] Earned media refers to publicity gained via promotional efforts other than advertising, especially through discussions initiated at the grass-root levels.

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(U: arh, the prevention..), yes

U: Both, I think both are important, the prevention work is also neglected in Hungary, the tobacco prevention work. Um…yes, both are important. Do you know MPower, the publication by the WHO?
K: Well, I was a little bit surprised, because Poland in the 1990s used to have a similar, or even a higher smoking rate (than Hungary), but now they're performing much better.
U: That's true, they might have other, they built up smoking cessation centres, they financed them , I know some colleagues in these types of centres, I don't know how many centres, they have, but they're funded by the government. Of course this is not the only, but this is one main importance, you know MPower, this monitoring, providing information about risks, warning, sort of things.

K: And actually I think the taxation of tobacco in Hungary is actually quite high, 56, 57%...
U: It's not high enough, still, I think the taxation is a very good tool to reduce tobacco in international studies. I have a student, a German student, because I teach at university. And we have psychological training in English, and he told me that in Hungary, it's difficult in Hungary not to smoke, (W: It's very cheap), it's so cheap, the taxation is not high enough.

K: And do you think it'd help if they put images on packages?
U: They plan to introduce this picture warning on the packages. There is always a debate about it, but we don't know about how it affects the Hungarian smokers. Hungarian smokers are somehow special. But that would be a good step, a good further step to further encourage discussion about this issue, and of course this type of picture warning is good for everyone, even for those who have a low reading level.

K: And do you think the penalty for smoking is high enough, because now they introduced the smoking ban on public transport points and the fine is 50,000 HUF…
U: Yes yes, if you talk about the amount of the fine, then it's a matter of question how they're gonna enforce it. Practically anyone…and people can easily..ok, sometimes it works for a while, but we don't know how long will it last..

K: I know you're not really into politics, but do you think the government doesn't have a real determination in enforcing tobacco policy?
U: I don't know, it was very promising in the beginning, but now they have shifted the decision, I suspect that they have other issues that they consider, maybe the money they can get from tobacco products, the taxation, that they have to keep the level of income of the country, they are afraid that they'll lose the money. (W: the revenue), yes the revenue.
I suspect that is the problem here, I don't know…um…I think there's no unified political …
K: There're some educational programmes for school kids as well, do you think they're effective?
U: Are there any?
K: Yes, I checked their websites, they have these fancy photos, different age groups…
U: Yes, okay, I think the problem is that these websites..I don't know the degree of reach to the

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target..because I am not aware of any systematic education programme in Hungary.
K: But do they include education in schools?
U: I think no one knows that what happen now in school regarding smoking. Sometimes I do prevention stuff in school….I don't know…it's not systematic, it's not supported, there's no resources for that. Sometimes teachers complain that they don't have resources, not financial, they don't know how to do it. (W: They were not trained) Yes, they were not trained how to do it effectively (with emphasis)

K: But in general how do you think about health promotion in Hungary, maybe not just about tobacco control, but alcohol, drugs…
U: So we have three main issues, alcohol, tobacco and obesity. Obesity is now the third issue. And none of this is curbed, I am not aware of any good prevention programme targeting these issues. Alcohol is foremost neglected, we have high rates of mortality from tuberculosis, which is an indicator of alcoholism, and even the government announced you have the freedom (W: You can do Palinka at home), yes yes, so that's everything. So there's no alcohol politics. We had alcohol politics before, but now we don't have. Um…the issue now what they try to do with obesity, again some form of taxation, healthy food, but the problem here..health promotion is um…I can say that..I think health promotion is designed by physicians, that's a very very bad point. Because physicians can think of only in terms of medical models, they focus mainly on screening. So they have many screening that is secondary prevention, and they don't have primary prevention. And of course screening is promoted by pharmaceuticals as well, because if you screen more people, you find more sick people…Cholesterol level and others, they are important as well, but they're not primary prevention, it's secondary prevention. It's not about ….promoting health is not just preventing a further deterioration of health. So the primary prevention would be an important issue but they don't really care about it.

K: Is it because it requires a lot of resources?
U:A lot of resources, different models of thinking, and if physicians are involved, then they can only think about the medical parts.

K: The final question is that with this debate about the new legislation, how optimistic are you?
U: I'm not optimistic…I was very optimistic..but not now..because I don't see what happens behind the curtain. And I'm really sorry that between this government cannot be proud of, it's the thing that they can really show how European they are…that they follow the trends in the EU…
K: Do you think it's because of the tobacco companies?
U: I don't know, because it's a small country, and the big tobacco companies might behind the curtain and influence ..

K: Have you heard anything about the tobacco smuggling?
U: Yes, this is another argument that is against the tobacco control…If they increase the taxation, the tobacco smuggling would increase…But I don't think it's a good argument because tobacco smuggling is another issue and the taxation should be increased. But that's the usual argument, if they increase the taxation, more tobacco would be smuggled.

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3) 8th April
Andi Lustak
Initiator of the group Budapest Mom
(http://www.budapest-moms.com/2010/09/smoke-free-in-budapest/)
Focus of the interview: opinion as a non-smoker and a mom; effort in expanding public smoke-free places

K: Winne Ko
L: Andi Lustak

K: So I just found your group online and how did you start it?
L: Well, it always annoys me and we relocated to Budapest three years ago. And you know, smoking is always a big issue in Hungary, I mean (K: yes yes), among the population, you know, it's part of the Eastern and Central Europe anyways, the smoking rate is really high, especially among young people. It has something to deal with tobacco companies being able to advertise as much as they want, there're now some rules, but compared to Western Europe, it's still…

K: Were you from Hungary?
L: I'm from here, but I've lived in the UK…so..and we came back in the winter, you know, you notice that in the winter because you go out, no matter it's a restaurant, it's half smoking, it's the same place, occasionally they make an effort to make it separated, it's never like a 100%, and most of the time your table will be right next to a smoking one. (K: So how do they do it?) They don't. They just basically designate a few tables as non-smoking and (K: But the smoke will just spread) yes, It's one area, so unless they have a separate room, sometimes some restaurants do, you feel like entering into a smoky place…people I guess, a lot of people I think just accept the way it is.

K: So how did you find out all like these smoke-free restaurants?
L: I researched it and I go to places, if I find something, I just put it up. That's what I encouraged a lot of people to do, because obviously to some people, like moms, it's more of an issue..it's very hard in Hungary….the baby side, but these two things usually come together, you find the non-smoking restaurants will be the child-friendly one as well. There so you see some efforts from the restaurants like (), I'm not sure if you know the place, it's a really nice restaurant in Buda, sort of more like a local place, and now they have like er.. at the weekend, it's non-smoking. So you know, you see some efforts from some restaurants, usually there's always some sort of foreign influence, like (), I think it's American, so maybe the management is definitely foreigners, so…But I think, I don't know, last couple of years, I thik there's definitely a trend as well, I don't know if you can call it a trend, but you see more and more of this like trendy places, that you know try to be non-smoking. Sort of try to cater different audience. But you know there's still a lot of people smoking. And the issue is these places they're afraid that once they turn into non-smoking, they lose half of their customers basically. It's just like any other country, I mean, I witnessed in the UK when they introduced the law there, a couple of years ago, so, you know, they have the same problem, the public was freaking out, but then they realised that actually nothing like that happened, actually quite the opposite, they found a

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completely new customer base, people who did not use to go out or just go out occasionally, now it's really nice to go out, and not come home smelling like a chimney.

K: So you had your pregnancy here right?
L: Yeah, part of it.
K: So how did you get through it, I mean when you were pregnant, then you have to avoid all these smoke
L: Yeah, you try to avoid them, I mean. You try to avoid it, you can't completely avoid it, yes, of course you try to avoid it, try to go to non-smoking places, you know, try to go to places that are very shudder than other, but, yes, it's just something you have to put up with basically.

K: And do you have smokers in your family?
L: Um…not anymore. My parents used to smoke, **I** used to smoke when I was 18, everyone goes into there you know, or maybe not everyone.
K: And how did you quit it?
L: I never was a regular smoker, I was you know…it was social pressure I think (K: when you hang out with friends), I was never a regular smoker, a pack of cigarette would last a week. You know, going out and have a drink in my hand, and it kind of went through this, and sometimes it was ….it was nice, you know, it was just a couple of years in my early lives and in my early twenties, late teens actually…so yeah, I was never a regular smoker. I mean, both of my parents smoked. My dad quit on my 14th birthday (K: Oh, that was good) and my mom quit, she quit a lot later. She kind of went back and forth, back and forth, …..more than 10 years.

K: And actually in Hungary there's an interesting phenomenon, more female smoke than men now
L: Is that right? I don't know that.
K: Yeah, and you don't observe that?
L: Um…I don't know if I've noticed that, I mean you noticed a lot more younger girls smoking here….you know the law that you can't smoke on public transport…but again, how do they enforce it? I mean, some people do, but if you don't put pressure on people, it the peer pressure that has to come from, you know, it's one thing that you know, it's really nice to introduce the law and the legislation, but if they don't put it into force, like in Greece, I've heard that it's totally not working. There, smoking is a huge problem. Every Greek person I met in London, they're heavy heavy smokers. Like, literally it's really bad, I've never seen that bad…even French or Italian are not like that….(K: yes they're chain smokers) they are really chain smokers…um….yeah, it has to come from the people. …you know, I try not to kick people off, but if I see, I think just they've introduced this non-smoking law in the subway, kind of visible, (K: but still you can see cigarettes everywhere) but I think it has to come from people like me, non-smokers to put pressure on you know, on other people, so I tell people off if I see someone smoking…
K: But how do they respond to it?
L: Er… I have tried that a few times and they put that out…I think it was actually quite new when they introduced it, ….so maybe they didn't know, …you know, I try to do that, but not in an aggressive way. (K: in a polite way) in polite way…..you know, saying that you're not

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allowed to smoke now, so could you out that out? so I think that has more to make things really change, because ….so it has to come from the rest of the people.

K: And I don't know if you've noticed that recently there's this debate in the Parliament.
L: Yes.
K: About the smoking law…and they actually haven't passed it yet
L: Really? I didn't see that, I thought it's submitted.
K: Yes, it was submitted, but it's suspended for voting.
L: Really? I didn't know that, I was really hopeful…See, that wasn't publicised in the Hungarian media at all…I haven't seen anything….interesting…
K: I don't know, ..some of the MPs said we need to make some final amendments, so let's delay it a little bit…
L: See, again, I mean I'm not surprised, really, you now I didn't see it's gonna be that quick, you know I think the tobacco lobby in this country is still very strong. You know..um..I mean I can't give you stats or anything, but you just see the advertising, they try to cut it down and they're trying to regulate it.
K: Yes, I thought it's illegal to have (tobacco) advertising, I mean you can't sponsor..
L: Yeah, not anymore, but I think the lobbyists are still very strong.
K: Yes, the restaurants…
L: And the tobacco companies…If you, again, it's political issue, isn't it? Because if you look at tax issues, there's re a lot of tax that comes in, you know, go into the Treasury or into the public money from the taxes from tobacco…so it's all political, isn't it?
K: So it's strange, it seems that the taxation doesn't work here…I mean compared to the EU level, Hungary has quite a high level of taxation on tobacco, but still people are not quitting…so the price doesn't seem to affect their smoking behaviour.
L: Yes, but if you look at the price, it's still so cheap, compared to the UK, in the UK, one pack of tobacco would cost you like five pounds, minimum four, and here…I mean it's huge, you can get ten packs with that money, so you know until they really, ..I mean it's really cheap to get hold of tobacco…so until that changed, I think there won't be a major shift to be honest.

K: And how do you see Hungarians in general care a lot about their health?
L: Er..that's a hard one to answer. If you look at the society and how healthy we are, I mean it's still a big issue, alcohol consumption, smoking, I mean, because I've moved to the UK for ten years. Ten years ago if you go to the market, um…or in the early nineties, it was really hard to get hold of stuff, if you went for vegetables…and now everything is imported and you can get hold of…the whole set of bio, organic..but again it is just like in any other country, it's expensive, the average person is just not gonna spend (K: so much on grocery), so much on the healthy stuff, because it is a lot more expensive. You know, that's nothing new I guess. So now, in terms of like..in Hungary you know, again, the winter is bad in terms of smoking, …because smoking is becoming less of an issue. It's still an issue, but you survive, it's a lot better, because kids, because generally you can sit outside in this weather, so that helps. But the winter, er..it's still an issue, but it's still, in the winter you just don't go out basically. It's unless you know it's occasionally, but then you have to put on coats and everything.
K: And do you think there's enough education in the schools, you know, because you have to

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start really to ask kids not to start smoking.
L: I'm not sure about that. When I was at school, there was no education about that. Maybe in high school, you kind of knew that of course smoking is unhealthy, it can cause lung cancer and all sorts of thing, and now I wouldn't know, how much is in the education because we don't see much of it on television where people can get an idea on that,

K: Well, I certainly would think there should be more propaganda and promotion on health, I mean in the UK they've got really good TV commercials, even children telling parents to stop smoking.
L: Yeah, I mean here you can't smoke at the playground and I think 300 m from schools and nurseries, (K: but it is again the problem of enforcement), exactly, and you see a dad smoking right next to his child in the playground. I mean I see from time to time, I wonder, what are you doing?

K: So now you're a parent, you're a mom, she'll grow up one day, you know, there's a chance she might pic up smoking, how are you gonna deal with it?
L: It's a tough one because I know from my childhood that anything that is forbidden, you kind of need to find that out for yourself, to be honest, so I don't think you can, I don't know, I think my attitude towards it would be quite liberal,…..when I was really young, I tried it out I hated it 'whoa…….I couldn't breathe, you know, but you have to try it out, I think it's a stage for most kids, that's when they picked it up. But it's actually interesting because I have a few cousins who're kind of 14,15 of age..and it's actually quite interesting because there is like, a bit of a trend, you're trendy if you're not a smoker. And I have a few cousins, who's in this group, 'Hey! I don't smoke', and they're all joining this group. I think that's certainly a positive peer pressure as well, which when I was a teenager, of course we didn't have facebook and that wasn't, you just walked through it…definitely that's a new thing that I've seen from my family and invited other teenagers to come in, as soon as I know she doesn't smoke, you know, that might be a good thing. I wouldn't, I don't know. It's a hard one, you can't ban it. (K: They would be more rebellious) yeah, exactly, so I think hopefully ..there would be an impact…

K: And so basically your strategy of avoiding second-hand smoking is not to go to those places?
L:Yeh, not to go to those places and ….I mean, it's hard because we've just moved to this area and actually in this area, there're not that many (non-smoking) cafes, so you see them more and more but……still, there's this café, there're two tables right at the beginning of the café, it's really nice, there's nothing else that we can go to here, so we still go and sit in the non-smoking section, because they have the high chair, and they even have toys for the children, it's completely outrageous, and I've even tried to ask them, and they were like, 'well, you know, it's not our decision, it's the management's decision', but you know that they are scared that they'll lost their customers. I think Eastern Europe and Budapest and some other cities, it's kind of the culture of being Eastern Europe, the sheek, you know, it's still free in a way and kind of avant-garde…so it almost comes with a package you know…..maybe I should be more active..

K: But do you find a lot of moms, parents who are concerned about this issue?
L: Oh, totally, like all the people I hang out with, 99% are non-smokers. And you know, they

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actually find that…and they're actually contributing to finding new places…yeah..and I have to change the page and try to get more people (K: it's always difficult to mobilise someone) yes, I mean yeah how much we've achieved, maybe 500, in the first few couple of months…If I find them on facebook, I add them on….but it's hard…compared to the city is huge..you know, not that many…

K: You know this healthy thing is still more general among expatriates, but you know, people who are relatively wealthy and in better situation, I mean…
L: Yeah
K: If you talk to a homeless person in the metro station and he wouldn't be able to understand it.
L: Yeah, um..I don't know, probably, socially it's um..yeah, I mean less well-off people tend to smoke, yes, it's usually parallel with higher-educated..I guess that's probably true.

K: So do you have any final comments?
L: I am really disappointed about this legislation, I mean I didn't know….really disappointing, there's one thing you mention, I'm not sure if you knew, Vienna has got, I mean Austria has got more smokers than Hungary, I was really shocked by that, and you go to Vienna, it's the same as Budapest, it's really difficult to find a non-smoking place, which I though it's a Western-Eastern divide thing which turns out to be not…..any comments? I mean currently non-smokers, we just have to get together and mobilise and put pressure, I think pressure always have to come from society and other peers you know…it has to come from an average person…it's really annoying because sometimes you know it's sort of a common sense…

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4) 11th April
Csaba Tóth
Student at the Central European University
Smoker from Szegad, Hungary (male, age: 22)
Focus of the interview: experience as a smoker and opinion of the forthcoming smoking ban

K: Winne Ko
T: Csaba Toth

K: When did you start smoking?
T: I started it when I was 18 (K: Oh, it was a bit late), that's really late.
K: And why did you pick it up?
T: Um..in my memories, I was in (K: high school?) yeah, no, at high school, I never smoked, that's interesting, I was in sort of a summer camp organised by my fellow people and we were acting for a play, for every summer, in a specific place in Hungary, there was this summer festival and we're supposed to give in a play every year. But you know all the actors are heavy smokers, especially in this part of the world, kind of a normal thing in the social framework to grab it up, so it was like they offered me and I was rejecting after a while, and then (K: so you couldn't resist the temptation?) first it tasted awfully but somehow I took it up as a manner or something.

K: But you must have tried it before?
T: When I first tried it, I was 16, and surprisingly it was a conscious thing. I counted smoking when I was 18, that was the moment that I bought my first pack, but I was really conscious of what I was doing and I was grabbing my last free air in the street and I decided to go for it. I don't know why, maybe it's a identity thing, I wanted somehow to identify, you know, that was a hard period, still when you're 18. (K: Yeah, I mean the peer pressure is huge).. I wanted to be identified with certain type of group

T: And most surprising, for example, this movie experience is always pushing. Once you did realise that it's an artist thing, (K: I didn't realise that),at certain maturity , you realise it's an artist cliché or something…so they're actually using it for something. And for example in your teenage or watching all these films, (K: yes, perhaps I didn't pay so much attention to these smoking scenes), yes, many movies have smoking scenes.
K: Did your parents react?
T: Yeah, it's interesting, um..my mother gave up smoking now 30 years ago, she was a smoker, when we were little kids, and my father is a smoker and he is giving up really gently right now, he's smoking less and less, so I happen to be the chain smoker in the family now, but it wasn't the case, so both of them were heavy smokers in my little childhood. Because in this area, most (K: everyone smokes), everyone smokes, and my father was a bit more pissed off because of the financial of the whole, surprisingly, (K: well, it's still cheap), er..it's not supposed to be cheap according to a regular family, Hungarian family budget, (K: OK), so it's like, even worse when you're a student. So spending that much money, I can still remember he says, 'Yeah, I was also

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thinking talking about how it would ruin your health but just look at me, I think it's useless because I remember back then' so I think that's why he chose this financial argument, to be a bit more rational, or be a bit(K: to be a bit more realistic) not that phony, you know, (K: But it didn't have any effect on you) it didn't have any effect…when you're starting you know, my grandmother once discovered it, poor grandmother, she was really pissed off, she's ultraly, artificially pissed off by that…that's what she's supposed to behave like, or I don't know, but it wasn't, I mean it was a liberal family, so they won't punish me on that (K: How did you get the money then because back then you didn't work) er…yes, we received a certain amount of stipend, back in this university too, that gave me the financial independence because I didn't have to spend more on anything else, just to drink and smoke, basically, just to eat, but I also got my lunch at home, so…

K: Ok, so I mean compare to when you were 18, when you first started smoking, do you smoke more now or?
T: I definitely smoke more now, there are some days I go for more than a box…I don't know, 20-ish, on my worst days, maybe 25, but not more, I can't take more…I thought about smoking with pipes, because that sound like a solution and classy and something but you can't manage to smoke with pipe every time, getting into the addiction, and there's one more interesting detail that, I was trying to conceal my smoking from my parents for two years. Then in 2006, it turned out that (K: they realised..) yes, and it also turned out that…I also realised that they know it for a while, so it's just like a game of, you know, I'm just taking a stroll or something, and everybody, they were smokers, they know, (K: Yeah, you were going out to have a cigarette), they didn't mind but it was kind of weird when I lit my first cigarette in front of my father, it was really awkward you know, when you're playing a role in another way, but you can't play it in front of your parents you know… (K: But perhaps at that moment, you might feel 'oh, I'm mature now, I don't know, I'm like my dad now..'), sort of when I tried to analyse it back, to read it back somehow, it sounds like, it was a sign of independence when I can buy something for myself, yeah, and you have your own box, you know and it's a sign, ya I can afford it for first and I can do whatever I want…
K: I don't think there's a legal age about when you can get cigarette?
T: Well, there is a legal age, exactly it is 18. In the first year I had trouble getting my cigarette because they were always asking for my identity card. And they're really picky on that, every shop keeper asks for your identity card when you try to get cigarette and smoke, especially if you seem a bit younger…

K: So what do you know about the health hazards about smoking?
T: (K: Well, you must know some..) we're pre-educated on that, because my grandfather died because of that lung cancer (OK) but I was too young, then ,and..but I also always conceal myself with other old examples from my family because my great grandfather, who I didn't know him, lived until 91, but he lived in the countryside and he started smoking when he was 8. How my grandmother told the story, it was like, as her father told her that great grandfather was already independent in the household, they lived in a farm and he was independent in the household and one day when his mother asked that 'what do you want for return from the service because we're going to the market for the whole day and you're keeping the household',

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he just answered, 'don't, don't, don't, don't bring me any types of chocolates, bring me cigarettes', and his mother was really proud of him, 'now you're a grown up man'…(K: Wow..) so back then in the countryside, peasants society, you can always grab these photos, when the young boys are taking their photos, they all have cigarettes in their hands, or when you're going to take a photo back in the 20s, you should always have a cigarette in your hand even if you don't smoke it. (K: So it's a gesture) yeah, and it is the cultural thing…I mean from the 19th century. And I think most of the Hungarian youngsters now, men and women, try to smoke a cigarette at some point in their lives during…(K: because people are around)

K: And did they teach you anything about the impact of smoking? Like in schools
T: What I know…I don't know the exact physical procedures…….it's really painful, slow death..(K: so they show you graphics?) make breathing even a problem at some level….it also affects your heart, and your organs…once an old Gypsy lady found out that I was smoking and she said, 'Just just put it down, it's ruining your organs, I won't let you do this',(K:Oh, I though all the Gypsies smoke) ..it's great social activity, like with professors, you get the best ouf of it when you're smoking, you're like two or three, …(K: it's like a private little conversations) , it's in a situation like you feel you can have small talks with your professors, (K:it's making things less formal), yes, absolutely…

K: So are you worried, I mean do you feel scared, when I'm 80, 90, I'll end up in really poor health because I smoke so much when I was in my twenties.
T: Yes, health is supposed to be important but I'm always concerned about myself that I can get out of this because it's all over my control, even if I die because of this, that'd be my choice, and somehow you have to pick your death. Yes, I was told that this thing is so regional……

T: And I realised that in Western Europe, once you've convinced the population that it's against public interest, then (K: they'd stop doing that) yeah…but in Hungary, if it's against public opinion, then it's like 'Oh, come on, so let's do it', (K: so I think it's little more rebellious sentiment), yeah, and it seems the state policy in Hungary is that oh we have all these taxes from smoke, so we should reinforce people to smoke.

K: How much is a pack of cigarette on average?
T: Cheaper or the middle?
K: Well, the normal one.
T: So the middle ones, it's like for a pack of Caramel, because you can get it everywhere, now it's 610HUF, (K: Ok, that's not too bad), it's not too bad and they've got, they've just got a carton price recently, because now there's some competition between tobacco producers because of this tobacco legislation, trying to be more attractive, so recently, a few months ago, the cheapest cigarettes was 570 HUF. But now it's like 520HUF. (K: Wow, that's really cheap. Well, I'm not a smoker, and what's the difference between the more expensive ones, do they taste better or?) Er…depends on the smokers, some devoted smoker are, really have their brand, and now, after passing my obsessive part of smoking, I really take the cheap, the more bearable ones, so there're even cheaper ones, but they're not really cigarettes. So..um..I only go for the cheapest. Do you take the Hungarian brand or the foreign ones? Yeah, there's one surviving

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Hungarian brand now and this is the Sofiana, in Pec, that produces tobacco product, all the others are like international brands…from..to Dunhill in scale you know...But I don't feel the real difference between the brands…the ones that are smellier and the others are not that much…

K: I don't know, but I could see these female brands, they have really nice boxes. At some point, I just feel ok if I'm a smoker, then maybe I would....(T: that's only marketing) yeah yeah..

K: So what's your opinion about this coming smoking ban? Ok, let's first talk about if the government bans smoking in all restaurants? What do you think about it?
T: I think it does help the case because smoking now is an individual addiction and a personal problem, but because especially I'm smoking, I feel like they have to force it down on some level because even if you don't care about your health, er..dating a girl is more difficult, you always feel you're smelly around and you feel uncomfortable on a level. It hasn't got any sense in it, I have no reasons to protect it, and I think this public ban is successful in other ways, for example, yes, first, it seems a bit cruel to ban it especially in environments where you get used to it, for example, for a beer for something, you get extreme amount of cigarette, but especially because of that, because it's situative, it's just a manner, a habit, most people can find a way…..still not an addiction for them, (if) they can't smoke in a pub, then I think they won't.

K: I think it's more difficult to ask pubs and bars to ban smoking..
T: But once you get the legislation, you have to, (K: Yeah..) because you're paying the fines, not the consumers…
K: I mean I've talked to some owners and they definitely think if you don't allow smoking in a bar or pub, they would lose customers.
T: I don't think they're right because people coming for the alcohol consumption, (K: But isn't that alcohol goes hand in hand with smoking?) You can smoke anywhere, if it's only about smoking, I think it's a secondary activity, from experience. (K:OK), so I won't abandon a bar just because it bans smoking. Yes, it's more comfortable, but you can't you won't, and most people I think can manage with that, and even they can find out that if they don't smoke that much, it doesn't cause any kind of physical problems, it's the psychological in most cases.

K: Have you come up with any physical problems when you smoke less, do you feel..
T: No..well…the first is freaking out, 'Oh, I don't have it', and the second (thing) at my level is you're getting more sensitive, you skin, get irritating a bit and somehow you haven't got patience with other people, even with your friends, (K: because you're so used to it), yes, after a while, the only thing that can make you concentrate is to get one cigarette. And nothing else, it's like obviously lurking behind your toe, I don't think it's the psychological anymore. So it's a little difficult, but I only need 2 weeks of quiet environment somewhere, that I can't really smoke, I can't really buy it, anywhere, and maybe that would, because that feeling only for three days and if you can manage to do that, not in a university environment, because you need your mind, you need your focus, but otherwise, take two weeks out and live through these three days, I think it's manageable.

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K: And when it comes to the increase in tobacco tax, how much do you think the government has to increase to further stop personally for you not to smoke?
T: You never stops smoking but you can do a good decrease by I don't know, maybe starting from around 700HUF, or over 700HUF, it's making it more difficult. But still, there's a large amount of smuggle of cigarettes in the country, the border guards used to be part of the game.

K: Did you ever try to get like illicit cigarettes?
T: Not directly, but I smoke illicit cigarettes as most in the population I mean, because we're near the border, (K: Romania?) Romania got more expensive cigarettes now, I've recently been to Cluj (a city in Romania) and a pack of cigarette was like 900HUF or something, So I mean (900 HUF) is like the psychological borderline of buying a pack of cigarettes…if it's reaching a 1000 HUF like in England, you're trying to do it (the illicit trade) for a while and…but it's unreliable because after a while, they ceased to…the shipments have been ceased..because I think most of the smokers are not that addict, for example, most of my friends can stop smoking for two weeks, and (K: So it's more like social smoking and…) social smoking and most of them are social smokers. For example, banning smoking in pubs will decrease their eagerness to smoke I think, maybe I'm too idealistic but we've never tried it, let's try it now.

K: And what do you think about well, because Hungary still doesn't have this picture on this box, these pictorial warnings, what is your personal opinion?
T: I think they tried to introduce this, but I'm not really aware of to which level this constitutes to giving up smoking.
K: Let's say here's a pack and we've got this photo here, (T: Yes, I'm aware of it), these ugly lungs…
T: Ugly lungs, but I haven't seen any statistics to what extent it contributes to not buying a pack of cigarettes.
K: But when you see them, what are your responses to that?
T: Yeah, my response is restriction, but my addiction is stronger and I think it's not worth to perceive smokers as such dumb people and not aware of that. It's like educating about what you already know, because it's not that simple. But maybe to the majority can have some effect, most of them are also not aware of the effect. And but I think most of the addict, the real smokers are totally aware of the risks.
K: But the addiction part and the environment..
T: Yeh, it's just..if you're not a smoker, you just can't understand that, it's just stronger. In fact they can put the pictures of …..so it makes no difference.

K: So, have you ever tried to quit smoking?
T: Um…not seriously, and I mean, I had some promises and vows and everything, but most of them were not serious. I knew in the moment I took the oath I know I won't do it.
K: But what make you first take the oath, to have this thought about quitting smoking?
T: Well, when I notice that I'm starting to get really into it, and that I'm smelly all the time. I think it varies for individuals, but appearances is one of the reasons why..once you realise it has no advantages, you're on the track.
K: But still because of this social smoking…

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T: Yes, you always have these smokers around, so you're not alone and you're not supposed to get it out. After this year when I moved to Budapest, I was constantly in a group, and most people are smokers, and you never ask question because you know that these questions are….
K: So there're more smokers around you back home?
T: There were more smokers around me, yeah….And now there're fewer smokers…and in a environment that you finally started to consider about giving it up but for good…

K: But do you think it makes you feel less stressed? I mean especially when you have exams…
T: It makes you feel you're less stressed, yes, let's put it this way, yeah, because, first of all, it's also a good way to procrastinate, I just need one smoke, yeah…or two? And yeah, you can compare it to like when you're nervous, you just took out your mobile and do something, random thing…it's the same thing as cigarette I mean, it's a regular activity and you can somehow relate it to normal situations, when you're tranquil, when you're relaxed, and when you light a cigarette, you get into the () stage, for example before an exam or something, and that can help…

K: And are you aware of any help or smoking cessation services, around you?
T: Yeah, I don't know, most of the time I feel them ineffective, artificial somehow, because in Hungary, you don't call cigarette an illness or a real problem, for example, most people still have doubts about for example, whether psychology is a real discipline and…..It's just getting money from you, it's not..you god knows your problems, then you got psychological problems, you can cope with that, if you can't cope with that, then you're not normal….and we have this whole conservative attitude, and it's really far away, look at our country, we have our issues, and I think we're really far away of considering smoking as a real disease or illness, or something…
K: You have other problems and priorities…
T: Yes, smoking is a problem but you know, in this Eastern Europe ways, it's just like a social problem and it's not something you'll go to doctor with, still, for example, if you have an heart attack, you turn to the doctor and every doctor keeps on saying to you give up smoking because you have real physiological problems already. But before there's no control, they're not supposed to do anything. Maybe there's suppose to be a lung check-up or something, but no body takes it seriously. That's also about the authority of the state in this country. When the state is telling me something, no one listens to it because it's so lame…

K: So, if there's a scale from 0-10, how much do you care about your health?
T: Yeah..I don't like this scales, but I'd say I'm always the kind of person that my health is less important than let's say for example, my activities, my liberty or something, I admit that it's fault and it's my fault, I think uniformised solution is not always effective because you have to tell somebody how to live and we do care about your health, that has a message that be somehow productive of change in the system, I think, that..behave like a normal person, you are not normal, and be normal….because we're called the individualists, (K: yeah, and you should care about the public interests), nonono, it's still not about the public interests, it's like normalising you. As long as they're projecting this, they're there speaking like this, normalise yourself, I mean even doctors speak like this, I think it is ineffective because people have this

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illusion that they are different in many ways, and, so no body should care about that, so I admit it's lame but, it's my private sphere, so don't intervene with it. I know what's good for me, you know. But for example, when it's about kids, I think then it's not only your private sphere because of the passive smokers, that's why I'm totally in support of banning smokers out of most pubs, because other people has the right to free air. (K: That's why I'm not going out that much because I don't want to get my clothing stinky…) yeah….you can have some smoke-free places, already. They're mostly in the city, in the outskirts they still don't care. The big, regular customers are mostly local, most of the restaurants for example, they can ruin your taste. They can ruin your appetite, and everything, I admit it. So…I'm always the kind of person who cares less about myself, always try to care about others, lighting a cigarette when I feel if somebody is disturbed by that.

K: But for the general populations, do you think they don't care about others?
T: er…
K: I mean I wouldn't say so..but when you light a cigarette….(T: you mean the general smokers?), yeh, perhaps you know you'd disturb others.
T: Yeh..but….I think there're two personalities in this case, the one is I don't care, it's my life, I really don't care about other people, and that's why I started smoking to express my extraordinary, and that's why he or she wouldn't ever care about disturbing others. The same person is for example listening (to) radio as loud as they can. And the other person is took up smoking exactly because of shyness, this less self-esteem back in the teenage, and this kind of people will mind disturbing any other kind of people, so they're like, avoiding situations, for example, when you're among non-smokers, you won't lit a cigarette, or you're walking away to a more open area where there're no people around or only smokers around, then you can form your different flocks, there's always this flock philosophy. And but for example, I feel comfortable at a table when everyone else is smoking….but you're looking at other people and see if they are lighting a cigarette or not, or you already know them and know that oh most of them are smokers, yeah the difficult situation is one or two non-smokers…then somehow you automatically seeing others are lighting a cigarette, so why would you be different? But usually you asked 'if you don't mind' or something like that. I don't think it's a polite question because most people took it as a polite question, because they're already lighting when they are.. I'm really being serious trying to ask…people answered it in a polite way when they shouldn't, they should say 'yes, I mind', yeah..I won't offend, I'm asking because I really wanna know.

K: So a final question. Did you watch that little clip on youtube?
T: Yeah (K: How do you think about it?)
K: I think it has the power because they present you with an already dead person, and hearing the speech of an already dead person, in a way that you'll hear it, that's It's not explicit, it doesn't take you as a dumb person, it's powerful but the problem is after 5 minutes, I'll end up like this so, so what? Who cares, yeah…Actually people do care but you're trying to make them believe they don't care……

K: Do you have any suggestions?
T: In general? (K: Yes, in general) I don't know, maybe that's a field when you have to

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somehow practice authority, I mean, in a sensible way. Banning smokers out of places seem authoritative, I think it’s useful because there is an ulter reason, you don’t have to blame yourself and you don’t have to blame the others, I can’t help it, it’s up there, that’s a reason or excuse not to smoke.

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5) 12th April
Martin
Bar Owner (male, age: 50+)
Focus of the interview: opinion of the forthcoming smoking ban on the catering business

K: Winne Ko
M: Martin

K: The interview will be on your personal opinion as a restaurant owner. So what's your opinion on the (smoking) ban on public places?
M: Um….I do afraid, but not because of the ban itself, because I don't really think, have you been to Italy? (K: No, but I'll be going..) Italians are heavy smokers, in Italy they ban smoking 3 years ago, before that, it was quite impossible to think of Italy, any place that you're allowed to smoke. And it came out that it works. So I'm not afraid of losing guests or things like that…(K: I thought that was your primary concern..) No, no, no, well it came out in Italy that there're good places where people are going and there are not good places that people are not going, and it doesn't matter if you can smoke or not. I mean, those places are good places and people went there, they went there also after the banning. And those places people don't go anyway, they don't go either, so I'm not afraid. But, I am afraid of another reason. And the other reason is that, because Italians are loud, (K: Do you mean they're noisy or?) yeah, Italians are loud, they're loud…and because they are loud, it means that if they can't smoke in the bar, they will go to the sidewalk and in front of the bar they will smoke. And it's absolutely normal in Italy. But it's absolutely not normal in Hungary. (K: You mean people don't want to go outside?) No no no, it's no problem because (with the law) people don't have other choice, if you want to light a cigarette, you have to go out and outside you will light a cigarette. But let's say only three people are standing outside, one of them is telling a joke, the other two will laugh, which will be loud. On the same minute, the bar will be sued by the tenants above it. (K: Argh…because it's a form of disturbance?) That's it. And try to imagine, there're so many narrow streets and what will happen if there'll be 30 people outside smoking? And it's quite normal, let's take Kuplug[64], Kuplug is huge, it's like 600 □, so when there's a full-house, Friday night, that means there are inside 600 people, now it's absolutely normal that at the same time, 60 wants to light up a cigarette, so 60 people are getting out or to the street or to the courtyard and even if, they're not talking because it'll be noisy, then on the same minute, they will be sued, (K: the tenants) yes.

K: So, but for the smokers, as a restaurant owner, what are your solutions?
M: Well, I'm not afraid as a restaurant keeper because I don't really mind if I cannot light a cigarette, I'm talking about myself. I don't know about heavy smokers, I am a heavy smoker but I don't care if I can't light a cigarette. I go to bars in Italy and also in Austria and also wherever..in Britain it's the same, smoking is not allowed, it happens, I mean I don't really mind, I will light my cigarette outside.

[64] Kuplug is a popular bar in the 6th district in the city of Budapest

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K: So you don't think the smoking ban is gonna work?
M: er….
K: So I mean it targets at the problem of smoking but it triggers other problems?
M: Yeah, it will make another problem. And the other problem will be noise.

K: Ok, but when it comes to enforcement, are you confident about how the government would enforce the regulations?
M: I don't know how will they do that…
K: Because you know they've passed the law in February about smoking in public transport places but obviously no one is gonna enforce it, so people just, well, there're these signs and
M: yeah, if you get on the tram and if you get on any (K: transport) yeah transport bus, they're saying in speakers that 'You might know that it's strictly forbidden to smoke …', I don't know who's checking, and anyway, if anyone catches a homeless smoker, what can they do with him?.... (K: The fine is 50,000HUF), ok, how can you get 50,000 HUF from a homeless person? ….

K: Did the government have any consultations with the restaurant owners or the catering business?
M: As far as I know, NOT. They don't, actually I don't know anybody starting any conversations…maybe there are because there's um..the Hungarian Chamber of Commerce, probably they're in negotiations with them, but I don't know, like the shops closing on Sundays, as far as I know, no one talks to the shop keepers, but they're talking with the Chamber of Commerce….

K: I came up with something, it's like a conspiracy theory, the tobacco companies are behind the catering business or the hospitality industry which voices more about the ban and they're protesting…
M: Yeah..whenever you opens a bar and especially bars, bars for hanging out, I'm not talking about a small wine bar, places like Kuplug, it means that tobacco companies are making contracts with the bar owners. And the contract is about, they have the right to sell their goods in the bar, but only their goods. For example, Philip Morris, British American Tobacco, for example, British American Tobacco comes to you because you're opening a club and they're telling you that listen, sell our goods or our brands and then we'll pay you yearly, whatever, (K: so there's commission..) yep, so then, and it's quite nice amounts, so I don't know how much that it, because now they're not really do that, I mean they're doing that if you open something REALLY big…….

K: So not as a restaurant owner but as a smoker, I mean for non-smokers, it's a great disturbance for them hanging out with people in smoky places, (M: yep), so what do you think about it? I mean of course, the smokers have the 'right to smoke', but the effect of passive smoking is really bad for the non-smokers.
M: yeah, that's the reason why I'm saying that I'm not afraid of the banning, and I'm saying that as a smoker, I won't commit suicide because I'm not able to light a cigarette in a closed place.

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K: But then have you ever thought about quitting smoking though?
M: em…No…
K: Oops..but of course you're well-educated, well-informed about lung cancer…
M: Yeah yeah yeah…
K: And you don't care about your health?
M: I do.
K: So why…
M: I try to keep a balance. Er….I'm trying to keep a balance, I mean to smoke is good. (K: in what ways?) ..because to smoke is good…I like the taste of the cigarette, (K: it stinks?) no it's not. I mean it depends. Of course it depends on the brand, if you get a Chelsea and you have to cough to smoke, then it's no good. But it's like listening to Rolling Stone….listening to Rolling Stone on a CD player is..no! I mean live, but it has to be on tapes or cassettes…because listening to it on a player is just not the Rolling Stone…Try to imagine a blues bar without smoke, it has the feeling I'm getting into smoky, hayden bar…and of course, it's not getting too much, because then it stinks…
K: ….Is your partner or children smokers?
M: My wife is more or less a smoker, more or less smoker means whenever we get into a café, especially if it's in the afternoon, then she lights up a cigarette, it means that a day she smokes like (K: a pack?) no, four cigarettes. (K: not too many), yeah, not too many, I mean heavy smokers start at a package (a day). It depends, for myself, I smoke at a range…for example, at home I'm not smoking, if I'm at home and I'm locked out from my apartment for two days, then it means for two days I'm not smoking.
K: But you mentioned you've tried to quit, right?
M: Well, yeah…whenever I'm out, it's almost a pack for a day.
K: Did you get any help to quit smoking or are you aware of any cessation services?
M: No, I never wanted to quit smoking, I mean why? and I'm smoking since (K: 15, 16?) 20 years, I stopped smoking only once, for 2 months, (K: so you succeeded), yep. (K: So it's not that difficult) for me, not. I mean if somebody told me today that you won't be able to smoke anymore, then I won't.
K: Do you feel any physical or psychological effect when you don't light a cigarette?
M: No. (K: You have pretty self-control then?) maybe…

K: When it comes to the public health argument, the government is saying we ban smoking because we want to protect the non-smokers, what do you think about it?
M: ok, (K: so you're perfectly fine with it), absolutely.
K: But there are opponents who dislike government telling them what to do? And if the government is telling them not to do, then of course they're doing, this type of mentality?
M: em…I don't think people will by force say I'll smoke because the government says……but it's(the ban) absolutely normal, it's not up to the government. It's up to people's health.
K: And what would say about the health of the general (Hungarian) population?
M: awful…You mean the health of the Hungarians? (K: Yes..) awful…
K: What're the reasons….?
M: I don't know the exact numbers, I don't know what's the average age…
K: And there's a high suicide rate (M: Yeah, we're world famous for it for years..)

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M: But I'm quite sure that if you count the average age with any countries in Western Europe, let's say 70, then I don't think the number for Hungary would not be more than 62. So that's the difference. And it's because of smoking, because alcohol, because of Hungarian food, I'm not talking about heavy food, but because of the quality of food……and most of the 16th, 17th, 18th districts are houses with gardens, which is a huge space, everybody has their own gardens but they don't plant anything…their gardens are full of rubbish instead of having plants….

K: What do you think about the taxation? Does it help if the government further raise the tax? Though I know the tobacco companies are lowering their prices.
M: Yes, they're lowering their prices…but still, cigarettes are expensive, the cigarette I'm smoking is like 690 HUF for a packet. If you calculate an average Hungarian a packet for a day, then it's like almost 20,000 HUF for a month, and for an average Hungarian, it's a lot of money. (K: Some people I know smoke the cheaper ones) Yes, but still, if we're talking 500HUF for a packet (a day), it's still 15,000 HUF for a month.

K: And since you're a restaurant owner, when it comes to occupational health of your workers, how can you protect them? Like in a smoking bar?
M: Listen, most of the barkeepers are smokers, so it's not that…but anyway, for example, I previously owned a bar and of course, it's a smoking bar, we had ventilation systems and air-conditioned systems which can change up to 13,000cm^3 of fresh air in every single hour, which is a lot. So that means even though it's a smoking place, you never have to go out for fresh air.
K: And in the city of Budapest, some places established smoking and non-smoking areas, do you think it's a good transitional policy?
M: Yes, I know. For example, when in Germany implemented the ban, the judges at the constitutional court ruled that the law is unconstitutional, because the ban requires the co-existence of smoking and non-smoking areas, but for the small businesses, it's physically difficult to separate the two areas and thus they're forced to become non-smoking places. So the owners of small places filed a case of discrimination against small shops. And for smokers, they would opt for a bigger restaurant because a separate smoking place is available. I don't know how the situation is in Germany now, but it first came out like this and actually they're right. So if we're banning cigarettes, I would say to ban it everywhere, not to establish smoking and non-smoking places. Last week I was in Dresden, and somehow there is a bar which was decorated as a smoking bar, I don't know how they managed to do it….

K: Do you think the government should promote more on public health in general?
M: Actually yes, but it's so strange for me that a couple of years ago it came out that we're in quite a bad position on breast cancer, of course it's mostly women, and it came out that there was the free, em..it was a free coach, and it went throughout the country and (giving people) check-up, and it stops at the main squares of little towns, and they were checking, promoting, if people come in, we'll check them and…but no one went there, ….so there's simply a way that communication is not working.

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K: So do you think there's a deeper problem of communication between the government and the citizens?
M: Yeah. And because Hungarians love to go to doctors…it's a habit..because it's free, so everybody is going to the doctor and taking a hundred types of pills…and I think the government should be doing anything, but public health, to the doctors and not to the other types of people…you have to raise the tobacco tax..it's about competition…but if the government says, 'OK, we'll tell you how much you can sell it for', this will help. If you go anywhere in Europe, a pack of cigarette is at least 4,5 euros, and here it's like 2 euros. If the government would say, from tomorrow, the minimum price of per packet of cigarette would be 1000HUF and we'll check hardly on the Ukrainian border for cigarettes, which is the origin of very cheap cigarettes…

K: But there would be the argument that the government is intervening and perhaps the government shouldn't do that…
M: Listen, the population is stupid, I mean people are stupid…and if they don't understand, ok, but they understand their wallet, it's so simple…

K: As you'll be opening a new café soon, are you doing anything, let's say the design of the bar, to respond to this smoking ban?
M: Yes, but I don't think it has anything to do with the design…(K: And do you plan to be a smoking bar?) yes, of course, because right now we're talking about business, so until people can smoke…And when the legislation comes, we'll just take the ask trays away…

K: But you then mentioned the potential problem of noise and disturbances when your guests light a cigarette outside, how will you deal with it?
M: I'll try to force my guests who smoke outside to be quiet….And somehow I'll have to help them, let's say putting umbrellas outside when it's raining….I'm quite sure a lot of places would put out those gas mushrooms…

K: So what's your final comment or remarks about the smoking ban?
M: I'm quite curious how many tenants would have problems with the smoking ban…you cannot isolate the smokers and you can't do anything, you can't build anything on the sidewalks…even if you pay to the district authorities or the municipalities…

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6) 13th April
Agota
Restaurant Owner (female, age: 30+)
Focus of the interview: opinion of the forthcoming smoking ban on the catering business

K: So what's your general impression with the forthcoming smoking ban?
A: There's big pressure on behalf of the restaurants, but it's not easy to decide I think.
K: But you do have a non-smoking section…
A: Yes, we do, but it's not a real non-smoking section…This is one big place,so this means we're trying do something like changing of the air, we gotta have some special system, and it's a must for restaurants if you get to do a smoking and non-smoking section. We're trying to push more fresh air into this small section, and another meaning is that we're trying to take care of our colleagues somebody standing by (this place) for more than 12 hours (a day)..and in this condition, it's really disastrous to fight with the guests, sometimes they do not really understand having a non-smoking section inside the bar there is, it's important, because anyhow, you keep taking care of that, and also, that they are standing for long period of time, so they have a rest, they sit down or whatever, but imagine you're in a bar, drinking all alone and this smoky, it keeps coming to your face, I don't know why they don't understand. We have sometimes have quarrels with guests, what they want and see how they do it and ..they get it immediately and …I think the heaviest part is people got to understand it…

K: So have you discussed the issue with your clients?
A: Yes, I did.
K: And there are restaurant owners who worry about the disturbances to the neighbourhood when smokers go outside to light a cigarette, what's your opinion on that?
A: That's true and when you talk about this, you got to take a bigger look at those restrictions and the laws which belong to opening a restaurant because when you run a restaurant, you depends on the opinion from the neighbourhood, which means if you're being noisy or loud or whatever, or your people (guests) are noisy or loud, they (the residents) can at anytime report it to the police and if you keep having these reports, then it would mean that all of a sudden they can shut you down because you know you're bothering the neighbourhood…And in Hungary it means taking the inhabitants' opinion strictly which is not true that in some districts of the city. But for this district, which is a main location for pubs and discos and things like that, so I think if somebody would take this decision seriously, then it would have to do something with this kind of laws, what we have with the neighbourhood and understanding opening up a restaurant. But it's true, just imagine yourself that, go out, light a cigarette and talking on the phone(50% of the cases), and the others maybe go out and take their glasses, so you put out some tables. Which means for some don't have places on the sidewalk, because they need to put out something, maybe tables, chairs, heaters or whatever, or just something not to get wet when it's raining, this is also another law that must be taken seriously that if you're taking some places from the it belongs to the district mayors, of course you can use it but you have to pay for it, and you have to keep 1.5m from the pedestrians, it would really become a whole mess with the parking thing….but what if you don't have the area? So what can you do? We are happy and lucky that we have quite big place outside, so first of all, you got to put something outside, then

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the law was quite strict also in the meaning of not letting people to smoke 5 metres…I don't think they're taking opinion from those whose profession is a restaurant owner, because they have quite interesting opinion. Me I think that it's ok not to smoke in any inside places, either it's a bar or a restaurant..but you got to have some small places, maybe closed area and people could do whatever they want. Or if you let the people smoke outside, then you got to let them smoke outside in front of your places because to think about those streets where restaurants are just close to each other, that means you couldn't go anywhere or maybe the other side of the street, so I think it's too strict…

K: And the government hasn't done any consultations?
A: No, I don't think so. I haven't heard about it.
K: Maybe there's a local member of parliament whom you can express your opinion to?
A: You know, we're just renewing our constitution these days…which means that I think people would say that (smoking) is not the main topic….and let's see those people who vote for them…what I'm doing is I'm taking my little world inside and we have our rules….the other thing is if you take this law seriously, then you must take it equal to any kinds of places people would go and eat and drink and whatever. So that would be the first thing. Because already they are trying to sneak out of this law, being a private club and trying to you know make their restaurants a private area where you can't enter unless you are a member or have a card. And in this meaning you are using a private place, which is like a room in your home, and in this case, you can smoke as much as you want…Some of my colleagues (K: restaurant owners?) yes, they don't care whatever happens, basically those that are not having food..small pubs..maybe that's what they could do because for example for us, we have to renew the whole air-changing system, I don't most pubs will do something like that. And anyhow, if you are not allowed to smoke inside and you have to come outside, it's also not easy with what we have right now, the pipe meter or what so ever….

K: But do you think this forthcoming smoking ban would result in a similar failure as the ban at public transport spots?
A: Yeah, making the law and having it working, that's two different things. Basically it's the job for those people who are taking careful outside on the streets and the poor people. And the other thing is number of them would be enough to take this law seriously. But I think it's ok not to smoke in public places, like the bus station and transport places…which I realise is that people are not standing in the underway and they are not smoking anymore, which is good, which I like.

K: And as a restaurant owner, what are your suggestions for the forthcoming smoking ban, should there be a transition period?
A: That wouldn't be fair for all those who made it and for the other who don't, the most important thing is that, is it is done, you have to concern as to everyone who's in the business. Otherwise you know, people would have better situations. If they're not taking it so seriously and for those who does, people would just sneak out and go to those places…

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K: So you mentioned there are restaurant owners who take the law seriously and those who don't..
A: For example, me, I take it very seriously. If the law is done, I would take it very seriously, I would say no more smoking inside. But I think there are owners who simply couldn't make it through. To be honest, I would understand them, but on the other hand, it has to equal for everybody because I don't wanna see my guests going to other places where they're allowed to smoke. Because we're very close to pedestrian areas, we have a terra, it's easier, but I know some (places) who are in the cellar and etc, and they just simply cannot make it. This is one of my fellow restaurant owners, they're in the cellar...the first floor is just 1.5m from the entrance, think about if people come out, and they would smoke exactly right next to your window which is not good at all. So I think this restriction would go further and further and further. Not just the public stations, maybe…

A: Lately I've been to Berlin, a night club, and I love the idea that they have two different dance areas, the smaller one is for non-smoker and the other one is for smoker, that is something that I have never ever experienced before….And I felt myself really really good in this fresh air…it's really good…
K: Do you think you can do it here physically separating the smoking and non-smoking areas? Like having a glass wall?
A: I think we'll just send our guests outside…Have you been to Castro (a restaurant that has two area separated, one smoking and one non-smoking)? (K: Yes) I mean all those smokers would love it too, it's a new thing, it's gotta come. It's easy.

K: So perhaps you need the initiatives from customers and restaurant owners instead of a legal ban?
A: yes, but they have a chance to run this neighbourhood shops which was the closest to them…but I don't think too many people can make it, I mean restaurant and bar owners or people in this business…

K: Do you have any concern about the health of your employees since they're exposed to so much smoke?
A: Well, the situation in Hungary is a little bit different because we have certain types of youngsters working (in the catering industry) mainly, so you wouldn't see too many people over 40, simply they just don't care, and the other thing is simply themselves are also smokers, because they have a certain kind of pleasure going on. Working long hours and working with people, and the easiest solution is to go to the back and they smoke over there. So it's also a little problem for us, what would we do if smoking is not allowed? (Workers) have to go out to the court of the house, which is also I don't know a good idea or not, of course you would bother the neighbourhood…I really love the idea that it is happen(ing) but only if it is happening to everyone. Because if not, people would simply go to those places (that allow smoking)…

I think it all depends on the restaurant owners themselves, because if they take this thing seriously, they are going to take care of the health of the workers as well as their own, then we have to agree that smoking is a bad habit, we all know, the smokers and the non-smokers, so

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why would we be against this law if it's about our own health and our workers' health? If I'm operating a smoking place which is impossible to make a difference, then I'm not making it (a smoking and non-smoking area), I'll just ask them (the customers) to go outside…That's the most important part, this is equal to everyone. If it is not allowed, then it is not allowed….

I think maybe it's something that the government should do about it. Maybe to put a little bit more pressure on healthy living and sports, people are not used to go to the gym, really not. Maybe they couldn't afford it…It's like certain habit…

K: I saw that last year there was a campaign and you were part of it, so can you tell me more about it?
A: Yes. The mayor is taking the opinion of the inhabitants in the neighbourhood very seriously and decided that those restaurants or bars that received complaints would not be allowed to stay open in the night. It wasn't that easy because like on this street, there're like 20 businesses, let's say at 11pm or 2am on a Saturday night, of course it will be noisy, youngsters shouting at each other…so perhaps they should have a guard or a colleague asking people not to shout on the streets…So they decided that the businesses could only stay up until 10pm and beyond that, an official paper is needed. For those who applied for this and didn't get support from the neighbourhood, they were not allowed to operate right away. For example, we got the paper in one day…So they were too strict on this closing time.

K: Was it because the tenants were complaining?
A: No, we didn't see that…For example, I think people now are nosier outside because summer is coming…So I think they could have it done with more policemen, more people…

K: So do you have any final comments about the smoking ban?
A: I am quite certain that what I do I'm gonna take that seriously. But to be honest, I have a different perspective because we mostly have regular customers (50%), 40% of the new comers including foreigners, so I would say that I only have to take care of the 40% and letting them to understand there's a law coming and we take it seriously, it's about their health mainly, and also our health, which is also important…But maybe I'd say my opinion is I can do it because we have a terrace, so maybe I can do a smoking and a non-smoking section. But I would first try not to do anything….and after a while, I think customers will be coming back..when it's done for everyone, they're ok.

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7) 13th April
Fruzsina Tofalvi
Student from the Central European University
From Veszprém, Hungary
Social Smoker (female, age: 22)
Focus of the interview: opinion of the forthcoming smoking ban

K: Are you a smoker?
F: I'm not a real smoker, I just smoke sometimes when I go out…
K: Do you have health education at school?
F: Not in high school, but maybe in elementary schools. I mean if you smoke twice, it's not huge…
K: Do you think it's expensive to smoke?
F: …I think it's a waste of money…
K: What do you know about the smoking ban?
F: I know that first they started to ban in the subway, first they had the ban in underway, then they decided to extend it to the bus stations, tram stations, but I know they are not really applying the law, I mean they are not really asking for fines, they'll probably ask you to leave…
K: There are the signs telling people a fine of 50,000 HUF
F: Yes, but I don't think they're asking people to pay for that, because people need time to get used to it and I know they want to ban smoking in the bars, but they postpone that. The original plan is to implement it (the ban) in the summer, but now it'll be in January next year, something like that…That's what I know.

K: So what do you think about banning smoking in bar?
F: I agree, I certainly agree. I mean I hate the smell, if I'm just going down for a beer, I need to wash my clothes, I need to wash my hair..and also hate that, I'm not a smoker, I'm drinking two beers and I feel like I want to smoke because it's terrible around me…and it makes me want to smoke, and even smokers say they would smoke less if they would ban smoking in bars…and interestingly, in a TV programme where smokers are interviewed, they all said that they want the government in bars and because they said they would even try to quit smoking then because there is less temptation when you're not thinking about it.

K: So you're not a smoker, and what would you do when you go out with friends and they offer you a cigarette?
F: If you're drinking some beers, then you'd probably take one, two…Usually my boyfriend and I buy a packet of cigarette and we're drinking some beers.
K: But I remember your boyfriend is a medical student?
F: Yes, but he smokes the same amount (of cigarette) as I do. A packet of cigarette for two of us, it will last a month….so it's very few…

K: Do you think raising tobacco tax would help?
F: Yes, I don't think that rational people would go out everyday for like 1000HUF, if you go to Germany, it cost you 4 or 5 euros, people here can't afford it, so I think it would definitely help.

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K: Do you think introducing these pictures would help?
F: No
K: Why not?
F: Because people ignore these things. The first time you look at it, probably you're shock, but after a while you get used to it I think, but I'm not sure, that's just my perception. You can get used to any shocking thing.

K: What is your personal opinion about the pervasiveness of female smoking in Hungary?
F: Personally I don't find it very lady-like, women smoking on the street and they're walking, that's not very elegant you know..

K: If the government implements the law really strictly, what do you think the outcome would be?
F: if it's banning smoking in restaurants, I think it'll reduce the number of smokers, there's no question about it…imagine -20 degree celcius in the winter, you're sitting in a warm bar, drinking your beer…you know, get your stuff up, put your jacket on, even in the summer, that's such a big fuss, you know..

K: What do you think about the general health of the Hungarians, in comparison to other countries?
F: Terrible. We're on the top of all cardiovascular diseases…anything that you can imagine…it's just very sad…
K: And do you know if the government is doing anything to promote health?
F: Unfortunately in Hungary for prevention there is no big emphasis. They do in schools, but I don't know how much it helps. For example in the family, Hungarians are drinking a lot, smoking a lot at home…in the west they may do some discounts for healthcare fees for people who are not smokers or not drinking, so they're doing everything to prevent it. I think it's a bigger motivation…

K: So on one hand, people know about the hazards of smoking, but on the other hand, they contradictory continue to smoke?
F: it's because they think I'm young..smoking won't hurt, my blood in perfect, but in 20 years, everything will come, but they don't see it…

K: What are your suggestions in improving health?
F: Raising the cigarette price would be very important…and you see now they're talking about the smoking ban and the companies are already lowering the prices…together with banning smoking in the bars…for the diet, I think probably to promote, but I heard the hamburger tax, I think that's crazy…I think people are rational, if they would make it more expensive to be unhealthy and cheaper to be healthy…

K: Some smokers mention that they have a right to smoke, what's your response to it?
F: Yes, but I have the right to be in the free air and I have the right not to have to wash my hair

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after a coffee, but especially disturbs me and so I'm happy about this smoking ban. For example this bus stop smoking ban, is that you're standing at the bus stop with your five year old kid and someone standing next to you is smoking, so it's not just you, but your child, and when it's raining, there are these small stands, and the smoker is standing below it, there's you and your kid and everyone, you have to breathe in the smoke…of course it's politeness and common sense, but if people don't understand it, let's make them pay, and after a while, I think we can get rid of it, they will get used to it…
K: But do you think it's too authoritarian?
F: No, I don't think so… there're certain things that you don't do, for example, if there's a parking lot for handicapped people, you're not supposed to park there…there're certain things that you just have to make people used to…I don't think it's authoritarian, but they should make it more, for example, when you go into the bus stop, there's a ash tray but go out of the area where you can't smoke, there're no ash trays..

K: Some restaurant owners worry about losing business
F: But they have ban in many countries, what I know is that the consumption first dropped, but then it goes back to the same level as before, so it's a very temporary problem. And then people know and they get used to it, so I don't think it's an issue.

K: Are you aware the government is doing more propaganda?
F: No, not really…From time to time, there are some on the television, but not very pushy…

K: Why do people smoke?
F: I think it brings people together, for example when I smoke a little bit more, like when I was working in a restaurant when I was 17, you don't have too many breaks, you either go to the bathroom, or go eat or smoke, so if you don't smoke, you have one third less of the time to rest…and also they will chit-chat outside, so I think it's a very significant thing to bring people together. Also I think people start smoking when they start some activities, like talking, it's not important, but if you miss it…yes, my best friend tries to quit smoking, she used salt sticks as the substitutes….

K: So was it difficult for her to quit smoking?
F: Well she quit smoking all the time but it comes back…she stops smoking for a while, like a year, but then there's a lot of stress so she started smoking again. But I appreciate that she tried.

K: You mentioned you worked in a restaurant?
F: Yes, (smoking) that's the only way to get away from the job and get to know people…And I'm not smoking because I'm stressed, I'm smoking because I have a couple of beer or something…

K: Do you think the restaurants will get away from the law?
F: Some of them might do that but not everyone could afford it. Still, if there's an option, it's already better, because right now, the law is that they have to provide smoking and

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non-smoking, but it does not work…

K: One of the restaurant owners worry that when people smoke outside, it would cause disturbances to the neighbourhood.
F: yes, it's possible, but I think there's a solution. For instance, in the UK, they can make an extension of the bar, a small area, I think there's a smart solution. Smokers don't care that much either. Even smoker hates that and they said it makes them smoke more.

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Appendix B: Written Comments Collected

1) Professor Sandy Vaci
President of Hungarian Respiratory patients Society, and also a civil advocate for tobacco control and assistant professor at Central European University, Budapest, Hungary, Sales and Marketing

1. According to your previous work, what were the key elements for a successful tobacco control campaign? For instance, fines, shaming?

Addiction develops slowly. Raising taxes impacts those who are already addicted and spend a lot of money on their smoking habit. Higher taxes do not have the same impact when you start your smoking life, with only a few cigarettes per day. By the time higher taxes become a deterrent you are already addicted and it is extremely difficult to quit.The key thing is that smoking prevention (preventing the development of smoking addiction) needs to start early, at elementary school. The % of smokers is higher among younger people in Hungary. Young people tend to smoke as an act of rebellion, then get addicted. To be effective, education needs to happen at a very early age (before age 10). Once young people get addicted it is very difficult to persuade them to give up their addiction.

2. From your knowledge, what actions have been taken by the tobacco companies on lobbying?

Tobacco companies hide their activities well, so it is hard to tell what they do in the background. I suspect they sponsor the hospitality industry's push back against the introduction of smoke free restaurants and bars. The tobacco industry has also been very forceful in offsetting any tax increase with a price cut, so that addicted people can carry on with their addiction, without feeling the deterrence of higher prices.

3. Concerning policies on tobacco control, there are attempts to create warning images on packaging, what are the respective effects on smokers?

There is no Hungarian experience yet, but international experience suggests deterring images work. Because of this different civil groups actively lobby in Hungary for their introduction, so as to achieve similar results here.

4. How well has the tobacco regulations been enforced in Hungary?

The results are mixed. Smoke free workplaces generally remain smoke free, unless higher management itself smokes. Enforcing clean air provisioning in restaurants has been problematic. It is very difficult to physically separate smoking areas, to prevent smoke spill over into non smoking areas. That is why a total ban on restaurant smoking is badly needed.

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5. In your opinion, how can further legislations help with creating a smoke-free Hungary?

The current proposal to fully ban smoking in closed places where the public may be exposed to it (offices, restaurants, bars) is a very good first step. Banning smoking in cars where minors are present and banning it near office, school, hospital and restaurant entrances (like they do in many other countries) would further help.

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2) Dr. János Mucsi
Specialist on internal medicine and respiratory diseases
Elected president of Hungarian Alliance for Tobacco Control
Member of National Health Council (representing respiratory patients)

1. In Hungary, there have been attempts in promoting quit-smoking and rise in tobacco taxes, why did these attempts fail to curb tobacco use?

First, smoking cessation is not reimbursed in Hungary (neither the office hour, nor the medicines. Secondly, tobacco taxes are increasing very slowly. The price of main cigarettes decreased significantly in the last few months (Sophianae, Marlboro). Also, tobacco marketing is very successful (flavoured tobacco products, Point of sales marketing, smoking in media)

2. According to your previous work, what were the key elements for a successful tobacco control campaign? For instance, fines, shaming?

There are five components. First, workplance campaign is important, like smoking ban in factory. Secondly, smokefree law, such as the ones in Ireland and Great Britain. Thirdly, propaganda as in Canada and the US, they have the slogan 'only losers smoke'. Imposing fine is the fourth element and is adopted in Canada and Singapore. Lastly, insurance costs depends on smoking status as in Switzerland.

3. Concerning policies on tobacco control, there are attempts to create warning images on packaging (such as this one: http://en.wikipedia.org/wiki/File:HKSAR_smoking_warning.gif), compared to plain packaging, what are the respective effects on smokers?

The pictorial warning has to be big enough, i.e. covering more than 50% of the pack, and appearing on both sides of the packet. However, an even more useful tool is to combine plain packaging with big pictorial warnings, mainly for preventing young people and women from smoking.

4. Is banning smoking in public places an effective way to motivating people to quit smoking?

Yes, because there is a message that tobacco smoke is harmful for people. If you won't hurt others, why do you want damage yourself or your family? Secondly, if family members will introduce the smoke free home rule, and smoking will be a not so easy behaviour, some smoker wants to avoid this inconvenient activity. Thirdly, it creates an environment that supports quitting smoking.

5. In your opinion, how can further legislations help with creating a smoke-free Hungary?
I would suggest the following:
   a) 1% special tax for tobacco products in order to cover the health care costs of smoking cessation (office hours and reimbursement of prescriptional medicines)

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b) more increase of tobacco tax
c) smoke free cars
d) big pictorial package both sides of packs
e) Plain packaging
f) smoking ban in media
g) education in kindergarten and elementary school

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3) Dr. David and Adam Tarnoki
Physicians who conduct research on cancer among the Hungarian populations

1. How would you comment on the general health of the Hungarian population, apart from smoking?

Unfortunately we are worse than the EU average. Our mortality is high (especially among the males between 45-60 ys; especially the cancer mortality: 336/100000 in 2002; lung and throat cancer mortality is the highest in the world). People don't care enough about their health, they don't do physical exercises or sports, their nutrition is not appropriate, smoking (38%) and alcoholism rates are high.

2. How serious is the effect of passive smoking on the cancer rate among the Hungarian population?

Smoke contains 4000 different chemicals including around 400 cancerous toxic materials. The cause of lung cancers originates from around 80% active smoking, 20% passive smoking. As mentioned above, Hungary has the highest rate of throat and lung cancer in the world. Not to mention the economic impacts (chemotherapy, radiotherapy, CT scans etc…)

3. Smoking is a form of addiction as well as self-destructing behaviour, do you observe any correlations with behaviour like alcoholism and suicide in Hungary?

Usually these happen in conjunction and in the low-income portion of the Hungarian population. The suicide rate in Hungary is also higher as in other countries.

4. Recently tobacco companies have tried to introduce more smoke-free products, such as snuf (a moist powder tobacco product), is it considered to be a 'healthier' tobacco good?

It reduces effect of secondhand smoke. However, harmful effects on the smoking person are not eliminated and have to be taken into account.

5. In Hungary, there have been attempts in promoting quit-smoking and rise in tobacco taxes, why did these attempts fail to curb tobacco use?

It was due to the strong influence of tobacco industry on policy makers. In addition, as you can realise, policy makers are afraid of dropping of the tax incomes if the tobacco-free policy is introduced. However, foreign good samples showed an adverse effect. The most import strategy (American example from Dr. Cummings, Buffalo NY) would be: raise the taxes so more people will quit or even not start smoking (among youths) -> medical expenses will decrease & the tax income will increase and this money should implemented in ensuring quit lines (hot lines) which promotes and helps quit smoking for smokers.

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6. Smoking cessation services have become an important of tobacco control measures, what are the challenges in inviting people in participating? [For instance in the Hungarian case, the services rely on physicians' referrals but have not been very effective]

Exactly. The problem is that population doesn't know where to find a quit help. No quitlines exist. The problem might originate from not effectively organised system. In addition, some methods (for example, biomechanical therapy which not validated) are not funded by the OEP (insurance). This hinders quitting.

7. Please add further comments you think would be relevant to tobacco control in Hungary, thanks.

Final remarks

1. exposure to SHS it is not only a nuisance it is kills. If you have data for your country indicate how many are estimated to die from exposure to SHS each year (if you do not have I can look into some estimates we did by country) . Worldwide the figure is 600.000 a year.
2. Protecting people from being exposed to SHS is an obligation under the right to protect health established in your constitution (if such a right exists) and the only way to protect people from SHS exposure is to pass legislation instituting 100% smoke-free environments in ALL indoor workplaces and public places including the hospitality sector with no exceptions (no designated smoking areas).
4. as of December 2010 there were 29 countries that had done so.
5. In the EU the following countries have no indoor designated smoking areas in all workplaces and public places: Spain, Greece, Ireland, UK, Malta, Cyprus, France, Italy and Finland. (please be aware that these three last countries of EU have in practice no designated smoking areas although theoretically the legislation allows for it under very special circumstances in some workplaces). Lithuania and Latvia do not allow smoking in the hospitality sector by law (although they allow it in some other workplaces).
5. The health impact of smoke free legislation is immediate. In a few months the the rate of MI hospitalizations is down between 10 and 30% depending of the country.
6. Contrary to what the tobacco industry and the hospitality sector argues there is never been a single country in which the smoke free legislation has produced a negative economic impact in the hospitality sector. In some case the law has a small positive effect in the hospitality sector. In Spain for example, one month after the implementation of the law (implemented January 2, 2011) the employment figures in the hospitality sector were up 0.2% compared to the same period the year before. Also the sale of cigarettes were down by 27% compared to December 2010.
7. In conclusion comprehensive smoke-free laws are good for health and good for the economy

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Glossary

De-normalisation –refers to 'strategies seek to change the broad social norms around using tobacco—to push tobacco use out of the charmed circle of normal, desirable practice to being an abnormal practice'[65]

Nicotine Replacement Therapy – refers to the various methods that are employed in smoking cessation with the aim of administer the amount of nicotine to the body other than tobacco, typically include nicotine patches or nicotine gum

Pictorial Warning – is a tool of tobacco control by including images or graphics on smoking packets to inform smokers about the negative impact of smoking

Plain Packaging – is another instrument of tobacco control applied on cigarette packets. Tobacco producers are not allowed to put any promotional messages or graphics as a way of marketing appeal to smokers. Legislations vary globally, but it usually requires producers to remove any branding.

Premium – In insurance, premium is the amount paid by a client in return for obtaining an insurance policy.

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[65] S. Chapman, B. Freeman, 'Markers of the denormalisation of smoking and the tobacco industry', Tobacco Control, 17(2008), p.26.

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