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# Global tobacco control and economic norms: an analysis of normative commitments in Kenya, Malawi and Zambia

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## Abstract

Tobacco control norms have gained momentum over the past decade. To date 43 of 47 Sub-Saharan African countries are party to the Framework Convention on Tobacco Control (FCTC). The near universal adoption of the FCTC illustrates the increasing strength of these norms, although the level of commitment to implement the provisions varies widely. However, tobacco control is enmeshed in a web of international norms that has bearing on how governments implement and strengthen tobacco control measures. Given that economic arguments in favor of tobacco production remain a prominent barrier to tobacco control efforts, there is a continued need to examine how economic sectors frame and mobilize their policy commitments to tobacco production. This study explores the proposition that divergence of international norms fosters policy divergence within governments. This study was conducted in three African countries: Kenya, Malawi, and Zambia. These countries represent a continuum of tobacco control policy, whereby Kenya is one of the most advanced countries in Africa in this respect, whereas Malawi is one of the few countries that is not a party to the FCTC and has implemented few measures. We conducted 55 key informant interviews (Zambia = 23; Kenya = 17; Malawi = 15). Data analysis involved deductive coding of interview transcripts and notes to identify reference to international norms (i.e. commitments, agreements, institutions), coupled with an inductive analysis that sought to interpret the meaning participants ascribe to these norms. Our analysis suggests that commitments to tobacco control have yet to penetrate non-health sectors, who perceive tobacco control as largely in conflict with international economic norms. The reasons for this perceived conflict seems to include: (1) an entrenched and narrow conceptualization of economic development norms, (2) the power of economic interests to shape policy discourses, and (3) a structural divide between sectors in the form of bureaucratic silos.

## Keywords

Institutions, policy implementation, government, tobacco, health policy, tobacco control, international norms, Framework Convention on Tobacco Control

## Key Messages

- The economic sector of government largely perceives a conflict between economic norms and tobacco control.
- Perceived conflict between international economic norms create barriers to adoption and implementation of tobacco control measures.
- There is a pressing need to interrogate the norms that operate across the different sectors of government.

- There is an equally pressing need to engage with and reconfigure the broader economic norms that serve to entrench pro-tobacco policies within government.

## Introduction

Tobacco kills 7 million people each year (WHO 2017b). Recent projections suggest that >80% of deaths caused by tobacco will occur in low- and middle-income countries (LMICs) by 2030 (Smoke Free Partnership 2016). On the continent of Africa, smoking rates have increased in 17 African countries over the past 15 years (The Economist 2016). This increase in tobacco consumption on the African continent in part reflects the slow progress of tobacco control coupled with a surge in tobacco marketing. However, the rising prominence of global tobacco control norms is reflected in the fact that 43 of 47 Sub-Saharan African countries are party to the World Health Organization Framework Convention on Tobacco Control (FCTC) (WHO 2016a). These countries are now in the process of domesticating the FCTC provisions, although implementation remains challenging. Litigation from the tobacco industry remains a prominent challenge to advancing tobacco control (Ibrahim 2006). Another important, often subtle, challenge is resistance from within government, particularly from sectors involved in supporting tobacco supply (Lencucha *et al.* 2016a; 2017a; Kulik *et al.* 2017). Of course there is ample evidence that resistance from within government stems from tobacco industry influence on policy makers (Lee *et al.* 2012; Smith *et al.* 2013; Gilmore *et al.* 2015; Lencucha *et al.* 2017b).

In addition to direct industry interference in the policy process, resistance from within government is often founded on implicit linkages between tobacco production and economic development that shape the pro-tobacco mandates of the economic sectors in tobacco producing countries (Drope and Lencucha 2013; Lencucha and Drope 2015b; Lencucha *et al.* 2015a; 2016a). In other words, certain ideas of economic development create a policy environment that is receptive to tobacco interests. As much as government is captured by industry interests, it is captured by ideas of economic development that foreground economics over health and other social considerations. This tension is witnessed in the divergence between human rights and trade norms (Lang 2011), or environmental protection and economic development (Schoenbaum 1997), leading to what the WHO, in its efforts to control the global rise in non-communicable diseases, has described as a lack policy coherence between government sectors (WHO 2017a). This study examines the role of norms in shaping the agendas of different government sectors (ministries, departments and agencies). We explore the proposition that norm divergence at the international level perpetuates policy divergence within governments. Our analysis provides an explanation of sectoral divergence rooted in conflicting ideas of the relationships among state-market-citizen that find expression in sectoral mandates, policies and plans. Our analysis specifically points to the conflict between economic norms and tobacco control norms.

International norms are typically defined as ideas of varying degree of abstraction and specification with respect to fundamental values, organizing principles or standardized procedures that have gained support in multiple forums including official policies, laws, treaties or agreements (Wiener 2009). In their most basic form, norms are standards of appropriate behavior. Human rights norms set the parameters for how a state (and other actors) should behave towards its citizens, whereas environmental norms identify what a state (and other actors) should do to protect the natural environment. Tobacco control has become a prominent international norm compelling states to act to reduce consumption. The strength of global tobacco control norms is partly reflected in the near universal adoption of the FCTC. International law (e.g. the FCTC) is one dimension of the wider norms context, but ideas can compel action without the force of law (Acharya 2004), often through the efforts of individuals or groups who have a commitment to fostering norms through actions to influence government policy and other societal structures (Finnemore and Sikkink 1998). In this case, we focus on the FCTC as a key component of the tobacco control norms context.

Applying the norms lens to the FCTC provides a nuanced and robust account for how norm internalization, characterized by ideas shaping practices and institutions, creating 'new patterns of politics' (p. 891), represents a process of socialization in which argumentation, dialogue and persuasion shape domestication (Ropp and Sikkink 1999). The norms lens is also useful in analyzing the discursive practices at the heart of the tension between tobacco control norms and economic norms that perpetuate tobacco production. As Finnemore and Sikkink (p. 897) argue, 'new norms never enter a normative vacuum but instead emerge in a highly contested normative space where they must compete with other norms and perceptions of interest' (Finnemore and Sikkink 1998).

This study examines how norms shape tobacco control, particularly efforts to control tobacco supply, in three African countries: Kenya, Malawi, and Zambia. We use the FCTC as a proxy to represent commitment to tobacco control. These countries present a continuum of adherence to tobacco control norms, whereby Kenya is one of the most advanced countries in Africa with respect to tobacco control and Malawi remains one of the few countries in the world that is not party to the FCTC. The norms lens is useful even in cases of Malawi because it draws attention to the role of ideas in shaping policy discourse. Malawi's policy context is unavoidably affected by strong global tobacco control norms. As we demonstrate, the government of Malawi is actively engaged in defending its continued support for tobacco production against tobacco control norms in policy forums within and outside of the country. This engagement is characteristic and illustrative of how norms 'prompt justifications for action and leave an extensive trail of communication among actors that we can study' (Finnemore and Sikkink 1998, p. 892).

Tobacco control efforts in all three countries have received strong opposition from both the tobacco industry and the non-health sectors of government. For example, the Court of Appeal of Kenya recently upheld the High Court decision against British American Tobacco's challenge to the 2014 Tobacco Control Regulations, but the challenge lasted >2 years stalling movement towards stronger FCTC compliance (23). In Zambia, tobacco control legislation has been stalled since being introduced in 2010, in part because of the resistance from non-health sectors of government (Lencucha *et al.* 2016a). Malawi has yet to become a party to the FCTC in large part due to the strong voice of tobacco interests within and outside of government. Organizations such as the Tobacco Exporters Association of Malawi (TEAM) and the Tobacco Association of Malawi (TAMA) have warned the government against accession to the FCTC, arguing that accession would damage the country's already fragile economy (PANAPRESS 2003).

To situate tobacco control in the web of international norms this study explores two main research questions:

1. How do study participants in different sectors understand or interpret commitments to tobacco control, including the meaning of the FCTC?
2. How do study participants perceive the relationship between tobacco control and economic norms?

## Methods

We used purposive sampling to recruit key informants who had been or were currently involved in tobacco governance (either governance of tobacco as an economic commodity or control of tobacco for health purposes) in these three countries. Once our initial sample was recruited we used snowball sampling for further recruitment, whereby participants were asked to recommend potential respondents who they thought could contribute to the study (Noy 2008). We conducted a total of 55 ( $n = 55$ ) key informant interviews in the three countries: Zambia ( $n = 23$ ), Kenya ( $n = 17$ ), and Malawi ( $n = 15$ ). Key informants were recruited from different sectors of government (i.e. health, agriculture, agribusiness, trade, industry, foreign affairs), non-governmental and inter-governmental organizations (e.g. World Health Organization regional office, COMESA, SADC), and the

tobacco industry (e.g. tobacco grower's associations, leaf-buying companies, tobacco manufacturers). Interviews in all three countries were conducted between 2013 and 2015.

The interviews were conducted using a qualitative semi-structured format. One interview guide was developed for the three countries to ensure consistency. The interview guide was designed to explore participant perspectives on the challenges and opportunities of tobacco control policy, and in the case of the economic sector, the factors that shape policy that supports tobacco supply. Each country shared similar characteristics: tobacco leaf growing and export, low rates of formal employment, a large agricultural sector, among others. Given that the interviews were qualitative, we remained open to exploring unanticipated threads introduced by participants. We also attended to differences across the three countries. For example, Malawi is not a party to the FCTC and is much more economically reliant on tobacco than Kenya or Zambia, which lends itself to a different policy context for tobacco control. All interviews were conducted in English in person with two investigators.

The interview duration ranged from 10 to 90 min, with the average length of ~45 min. Each interview was audio recorded with prior consent from the interviewee. For interviews that were not recorded, investigators took notes and compared these notes for accuracy following each interview. All recorded interviews were transcribed verbatim and transcripts and interview notes were entered into NVivo qualitative software for analysis. We supplemented the interview data with public documents available or accessible from these countries. Our analytic strategy involved a deductive analysis of interview transcripts and notes to identify reference to international norms (i.e. commitments, agreements, institutions), coupled with an inductive analysis that sought to interpret the meaning ascribed to these norms by the participants. Finally, we attempted to situate the qualitative findings in the wider political, economic and social contexts of the three countries. The study protocol received ethics approval by the Institutional Review Boards (IRBs) of [Institutions].

## Results and discussion

### Analysis

How do study participants in different sectors understand or interpret commitments to tobacco control, specifically the meaning of the FCTC?

#### Awareness of FCTC

Awareness of FCTC, and tobacco control norms more generally, varied considerably by sector. Study participants from health sectors were familiar with the FCTC, whereas most non-health sector participants were not.

In **Kenya**, the government demonstrated strong commitment towards tobacco control in all major policy areas by establishing the Tobacco Control Act in 2007. Although it has been over a decade since Kenya's ratification of the FCTC and subsequent tobacco control legislation, awareness of the FCTC among non-health sectors was limited. As a WHO official described, 'Many of the government institutions, when you start mentioning the FCTC they think you've dropped from the moon. Yeah, they [non-health sector] don't know, and I don't blame them'. Echoing the WHO representative, the Kenya Investment Authority representative acknowledged, 'I am not familiar with the Framework and I am not quite sure it really affects issues including economic policy'. It was argued by participants from the health sector that the awareness of tobacco control norms by sectors such as industry and trade was constrained due to a shortage of financial resources within the Ministry of Health to disseminate knowledge about the FCTC. This finding is noteworthy as Finnemore and Sikkink argue that 'norms do not appear out of thin air; they are actively built by agents' (p. 896). The promotion of norms across sectors requires an active engagement in instituting support for tobacco control through different mechanisms.

Similar to Kenya, tobacco control in **Zambia** has yet to penetrate deeply into the non-health sectors of the government. Representatives of these sectors revealed limited knowledge of tobacco control. Although Zambia had already ratified the FCTC, a Zambian Foreign Trade representative thought that ratification of the FCTC 'is still being discussed'. Likewise, though some in the agricultural sector were aware of the existence of the FCTC, others within the Ministry were not, or at least expressed some uncertainty about the government's commitments to it.

In contrast, in **Malawi**, non-health sectors were widely aware of the FCTC. Tobacco is the country's primary export commodity and is widely considered to be an important cash crop for both smallholder farmers and large estates (FAO 2003), and a major contributor to the national economy. This narrative of the economic importance of tobacco was conveyed by all participants including the health sector, who regarded tobacco's economic contributions as necessary to strengthen health systems and provide healthcare services to the population. A participant from the Malawi Investment and Trade Centre described the significance of tobacco to the country noting that, without tobacco revenues, 'FOREX shortages would be even more acute...and you need the FOREX to buy malaria drugs and other life-saving goods such as HIV drugs, etc. It is in the health sector that you would see the crisis first and perhaps most acutely'.

When participants spoke of the FCTC it was always with reference to the political economy of tobacco production within the country. One participant from the Tobacco Association of Malawi (TAMA) described lobbying the government to attend the FCTC meetings so that they could voice their opposition. Another representative from the Malawi Economic Justice Network (MEJN) expressed that 'unless the [farmer] is going to be protected in it [FCTC], probably that is when we can talk of maybe no tobacco or articles of FCTC, otherwise there is going to be resistance ... cause public anger'. It is important to highlight that these economic norms were being perpetuated by both government and civil society organizations, indicating the suffusion of these norms in Malawi.

#### Perceptions of tobacco control norms

States often adopt only those norms that serve their domestic interest or align with their international identity. As Milner points out, '[I]n any international negotiation, the groups who stand to gain or lose economically from the policies are the ones who will become politically involved. Those who stand to lose [will] block or try to alter any international agreement, whereas those who may profit from it should push for its ratification' (Milner 1997). However, it is also widely accepted in international relations scholarship that the preferences of interests and institutions are conditioned. For example, a push to maintain tobacco production in the mandates of the economic sector of government is conditioned by discourse that is perpetuated by tobacco interests that serve to convince the economic sector of government that tobacco production is in their broader interest (Milner 1997). It is this conditioning that leads to the importance of identifying perceptions of interest, as distinct from actual interest. Perceptions drive behavior and are infused with ideas and beliefs as much as facts and information. These perceptions are not divorced from tangible structural realities but are shaped by and shape the structural context of government policy. A complex array of socio-cultural, economic, and political ideas and interests combine with institutional factors to shape domestication and implementation of norms (Cortell and Davis 2000).

In **Kenya**, health sector participants stated that the FCTC served to strengthen their domestic tobacco control by providing both a guide and support for the Tobacco Control Act (TCA) of 2007. The TCA defines key control measures, including but not limited to restrictions on public smoking; tobacco advertising, promotion and sponsorship; and packaging and labeling of tobacco products; among others. The TCA also grants implementation and enforcement powers to individuals appointed under the public health act (Campaign for Tobacco-Free Kids 2015). A WHO representative explained that 'because the country has domesticated the

WHO Framework Convention of Tobacco Control...it is ready to implement it'. The Government of Kenya established a Tobacco Control Board (TCB) to oversee and advise the Ministry of Health (Lencucha et al. 2016c). It advises the Ministry of Health on national policy with regard to the production, manufacturing and use of tobacco and tobacco products, and recommends and participates in the formulation of regulations to be made under the TCA (Musau 2013). Membership of the TCB is broadly multi-sectoral, as described by the Board's chairman:

*We have representation of the ministries [of] education, information, agriculture and environment, you name it they are all in there. Even finance, planning, they are in the Board and then our own civil society is represented. Other professional bodies like Kenya Medical Association is represented and that way we have an engrossing kind of or if you like [an] all-inclusive approach to membership.*

Competing priorities and implementation challenges remain in the country, although Kenyan policymakers are optimistic about FCTC implementation. As one representative of the TCB expressed, 'I will bet definitely [that] on the continent of Africa, Kenya is the closest to domestication of the FCTC'. This optimism for norm domestication is also evident in the recent decision by the Court of Appeal of Kenya (WHO 2016b). The court upheld all elements of the regulations including large graphic and text health warnings and establishment of a Tobacco Control Fund, to which the tobacco industry is obliged to pay annually 2% of the value of the products (Zhou 2017).

In **Zambia**, participants from the economic sector viewed tobacco control as contrary to domestic economic interests. One representative of Agribusiness Zambia described how the health sector 'must have signed those protocols on behalf of maybe the country' without consulting people like him, who 'are the people who are actually involved in the production. ... We (are) just victims of the decision (laughter) and then we are expected to abide by laws'. The 'laws' referred to are Zambia's post-accession domestication of the FCTC within provisions of the draft Tobacco Products Control Bill of 2010, which has yet to be adopted into law. A respondent from the Ministry of Health noted that the draft 2010 Bill represented the tempered approach to FCTC implementation needed to appease resistance from the economic sectors: 'the bill has not been accepted yet in parliament but looking at the work that we have done, if the bill goes through I would say, comfortably it is compliant (with the FCTC). ... We cannot take the Convention in totality because of one or two things (alluding to the economics of tobacco)'

Support for tobacco control is largely located in the health sector and, as we point out in the next section, there is a chasm between the health and economic sector that challenges its implementation. The Ministry of Health, through the Tobacco Control Focal Point, has worked to implement policies and develop legislation that align with the FCTC commitments. The WHO regional office has also been playing an active role in providing financial and technical support to Zambia in moving forward on FCTC implementation:

*Our role here as WHO is providing financial and technical support to government, to ensure that they domesticate the FCTC. We were part and parcel of the process of developing the [draft] 2010 Bill and we supported meetings for stakeholders to ensure that there is input from the various stakeholders so that the domestic law is in line with the FCTC.*

There is minimal tobacco control policy in **Malawi**. A staff member of one of Malawi's health agencies noted, '... there is no legal document that stops anybody from smoking in public. Certain places like hotels, people will say no smoking area but that's just self-regulation. It's not like there is any law'. He further explained that, with respect to tobacco control legislation and FCTC membership, 'the Ministry of Health is not the lead in deciding whether we will ratify or not...our hands are tied'. Unlike Kenya and Zambia, the Ministry of Agriculture in collaboration with the Tobacco Control Commission has the mandate for tobacco control leadership in the

country. What is important to note about this Commission, is that their mandate is to coordinate the control of the tobacco supply in order to enhance the production and sale of tobacco leaf.

## How do study participants perceive the relationship between tobacco control and economic norms?

### Stakeholder's perceptions of 'conflicts' between tobacco control and economic norms

Global tobacco control norms are enmeshed in a complex web of economic norms, expressed in part through international trade and investment agreements. There are some 230 regional trade agreements (RTAs) in force globally, many with specific investment commitments, with almost every country being a party to one or more such agreements (Meyer *et al.* 2010). The countries examined in this study are members of the multilateral World Trade Organization (WTO) as well as regional trade and economic cooperation organizations such as the Southern African Development Community (SADC), the East African Community (EAC) and the Common Market for Eastern and Southern Africa (COMESA). These regional groupings primarily focus on economic integration of African countries and also work in partnership with some other regional blocs such as the European Union (EU). The objective of regional economic integration and the norms targeting economic growth were often presented by our study participants as conflicting with those of tobacco control. We see that within government there are groups that operate with different normative commitments, often running in contradiction with each other. In the case of tobacco, we find that the economic sector largely views tobacco as an economic commodity to promote and do not hold normative commitment to control for health purposes.

In **Kenya**, we find that there is an ongoing dilemma for non-health sector respondents in prioritizing tobacco control in the presence of economic norms. An official from Kenya Revenue Authority observes that there is 'No clear understanding of the supremacy/hierarchy between or among international agreements, i.e. between the FCTC and various economic commitments including the WTO and the EAC'. Non-health sector informants cited the economic commitments to the EAC and WTO for their reluctance to fully support the FCTC. A participant from the Kenya Investment Authority noted generally that there may be certain conflicts between international economic commitments and the FCTC, although the participant did not articulate where these conflicts lie.

Non-health sector participants involved in supporting tobacco production or international trade were more emphatic that tobacco control conflicted with economic norms. This seems to in part reflect a deeper institutionalization of the economic norms (i.e. as rules in international agreements and government policy), and the more recent institutionalization of tobacco control norms with the creation of the FCTC. Reflecting on the implementation of tobacco packaging restrictions in other countries, a representative from the Kenya Tobacco Control Alliance noted that 'the key impediment to plain packaging in the country is the tobacco industry, which has been influencing Ministry of Trade to challenge plain packaging at the WTO'. The EAC representative also noted that, '... the Ministry of Trade wanted to apply to join as a 3rd party to the WTO proceedings on plain packaging'. The EAC representative, further noted that support for tobacco control from the trade side was not forthcoming, arguing that tobacco is not among the prohibited products listed by the Kenya Revenue Authority. He further suggested that the government would need to pursue establishing tobacco as a sensitive product at the WTO if the government wanted to pursue more stringent tobacco control measures. This point about tobacco control and trade and investment agreements is part of an ongoing debate about how to protect tobacco control measures from trade and investment disputes. However, what is noteworthy is that the responses from participants demonstrate that economic norms, such as the protection and promotion of industry freedoms and practices, remain dominant. Underlying this legalistic language are normative commitments. In other words, the legal framing of economic-tobacco control tensions serves to represent these positions as simply neutral under the law, whereas these positions also represent ideas and beliefs about the nature of economic order and the relationship between state and market (Cover 1983; Bruner 2003). The fact



that legal scholars disagree about the legal parameters of tobacco control in relation to trade and investment agreements, and more pointedly that recent cases under trade and investment law have largely resulted in protection of tobacco control measures, demonstrates that these expressions by policy makers are not simply neutral interpretations of the law but rather normative statements of opposition.

**Zambia** is a member of SADC, COMESA and the WTO. The regional blocs establish the norms that have a bearing on policies affecting tobacco production, trade and control amongst member states. As a Foreign Affairs official representing Zambia in SADC states, 'The policies taken at SADC are expected to be implemented by the member states including Zambia. Once SADC has taken the stand on [tobacco] policy ... it comes down to a relevant sector to implement and they are expected to implement, yes'. Non-health sector participants thought that FCTC implementation largely conflicted with the country's economic commitments. An official of Foreign Affairs Ministry of Zambia recollected his experience as a SADC representative, '... [FCTC] ... was [seen as] a threat to tobacco producing countries and as you know members of SADC, mostly a number of them are involved in tobacco production and there was fear that regulations might affect tobacco-producing countries in terms of revenue'.

As in Kenya, participants from both health and non-health sectors in Zambia suggested that there were inconsistencies between economic and tobacco control norms. One participant from the health sector even expressed a perceived conflict between tobacco packaging restrictions and the *Zambian Competition and Consumer Protection Act, 2010*: 'I don't know if plain packaging will work, because of [this Act] ... so in the event that we suggest that there should be plain packaging of it will mean that...the business man is being disadvantaged, because the consumers have to know what the brand is and all that. So those are some of the challenges we have'. This participant further perceived conflicts between packaging measures and trade norms: 'the WTO says the health industry should not enact laws that will interfere with trade. I think there is that statement if you look critically look at [the] WTO and what it says'. It is important to relate that this perception does not hold up against recent WTO cases that support the right of government to regulate alongside obligations to, for example, find least trade restrictive measures. Measures necessary to protect human health are consistent with obligations within WTO agreements. We know that government representatives from the three countries employ similar arguments in the WTO fora (Holden et al. 2010; Eckhardt et al. 2016; Lencucha et al. 2016b).

Like Zambia, **Malawi** is a member of SADC, COMESA and the WTO, and is currently negotiating an Economic Partnership Agreement (EPA) that would have bearing on tobacco trade with the European Union. EPAs are between the EU and its former colonies in the African, Caribbean and Pacific (ACP) regions (European Commission 2017). An official with the Malawi Investment and Trade Centre at the time of the study noted that Malawi 'hasn't yet signed the EU EPA...but most other countries in the region have already signed the agreement'. Malawi has been watchful of tobacco control legislation in the EU and neighboring countries for how these measures 'might affect Malawi' and its tobacco trade. The EU remains one of the major destinations for tobacco exported from Malawi (Appau *et al.* 2017).

Malawi has been a vocal opponent of the FCTC in regional forums such as SADC. Government representatives have used farmers' livelihoods and economic stability as a rationale to resist tobacco control measures within its own borders (Lencucha *et al.* 2016b). For example, to safeguard country's tobacco exports, the Tobacco Association of Malawi (TAMA), a non-profit association of tobacco growers in the country, urged France to reconsider its proposal to impose plain packaging for tobacco products (Gondwe 2015). Consistent with both Kenyan and Zambian findings, non-health sector participants believed that plain packing was a violation of WTO's Agreement on Trade-Related Intellectual Property Rights (TRIPS) as well as the Agreement on Technical Barriers to Trade (TBT).<sup>1</sup> A respondent from the health ministry shared an existing rift between health and economic sectors: 'So, we are in the same country, we [health] want to protect the health of the people but they

are [industry and trade] also saying for our economic reasons we cannot go for this decision. We say as health, we want plain packaging; but the ministry of industry and trade says no, we don't want plain packaging because it will affect our tobacco sales'. Non-health sector respondents from Malawi also expressed concerns over Canada's Cracking Down on Tobacco Marketing Aimed at Youth Act. Malawi argued that Canada's law was inconsistent with the TBT agreement. Likewise, Malawi questioned Brazil's ban on flavorings in tobacco in the TBT Committee meetings. These arguments were made with the support of the tobacco industry, which lobbies the various Malawian ministries to influence government policy decisions against tobacco control. A representative from the Malawi Economic Justice Network made this link explicit: 'JTI [Japan Tobacco International] is driving the Malawi agenda. The 'capacity' of [our] WTO delegation is dictated by JTI'. Much of the tobacco control literature have explained opposition to tobacco control through the lens of interests (Campaign for Tobacco-Free Kids 2015). What we are arguing is that these interests enact their influence by shaping the ideas of economic development and prosperity. In this case, we see the discourse on the economic importance of tobacco to both the government and the farmers is adopted and perpetuated by government representatives in the economic sector. The actual prosperity generated from tobacco production is challenged through recent empirical research (Lecours 2014; Makoka *et al.* 2017), even though many of our participants in the economic sector treat the relationship between tobacco and economic prosperity as a given.

#### Multi-sectoral stakeholder's perceptions of 'convergence' between tobacco control and economic norms

Despite the expressed tension between economic norms and tobacco control, several participants from **Kenya** and **Zambia** shared potential opportunities for norm convergence and/or harmonization.

In the presence of established norms in trade agreements for cross-border movement of goods and services including tobacco products, participants identified the need for strong enforcement of tobacco control norms regionally. As a **Kenyan** representative to the EAC emphasized, 'it needs one Act across all the members in contrast to now when there is a Protocol and then countries are expected to change each of their domestic laws to comply. Countries have not done this'. It was suggested that an inter-ministerial council at the regional level would accomplish harmonization across partner countries at the EAC. The respondent nonetheless cautioned about the institutional barriers in the form of policy silos within the EAC where, 'at no one time will the sectoral council of health sit with that of trade and industry. Since there is no interaction at drafting policies, this causes a point of divergence'.

In **Zambia**, the misalignment between health and economic norms has been deeply rooted in policy prioritization at both a regional and national level, a point noted by earlier empirical studies (Lencucha *et al.* 2016a). In the context of regional norm coherence, a participant from the Zambian diplomatic community expressed optimism that an understanding was developing between the population health and economic development sectors, a norm convergence that began with the onset of Millennium Development Goals (MDGs), 'I think to me, that relation has really been brought close and its really been boosted by programs such as the MDGs'. This optimism of some Zambian policy practitioners resonates with health policy scholars who argue that norms are evolving at the intersection of health and trade (Drope and Lencucha 2014).

At the moment, **Malawi's** policy position on tobacco control to a large extent remains dictated by economic considerations and a stated desire by economic actors to join the FCTC in order to oppose tobacco control from within. Despite a representative from the Ministry of Health claiming an urgency in having Malawi join the FCTC, there remains a tension with tobacco production goals: 'Malawi as a government has not yet ... signed, ratified to it [FCTC], but, with the coming in of the NCD control program now looks like everyone almost wants us to sign and ratify but the challenge is the two articles...only two articles [article 17&18] of the many articles withholding us [the government]'. Again, we return to a perceived conflict between tobacco control and economic

development, whereby there is an assumption that economic prosperity is inextricably linked to tobacco production.

## Discussion

The perceived conflicts between tobacco control and international economic norms are an important obstacle to tobacco control. The emphasis on 'perceived' barriers is an important one. The FCTC, as an expression of an international norm, is widely known among the health sectoral participants in our three study countries. However, awareness of this norm has yet to penetrate non-health sectors, while perceived political and economic realities continue to dominate tobacco policy in these countries. There is also a dynamic whereby the health sector is often too quick to defer to economic norms, suggesting that economic norms continue to dominate the political imagination. Moreover, tobacco control norms are also enmeshed in a web of economic norms, particularly tied to ideas of economic development and given expression through the policy, mandates and law of organizations at both the international (WTO) and regional (EAC, COMESA, SADC) levels.

There are three ways in which we might interpret the expressed norms conflict. First, it is possible that non-health sector representatives see a genuine tension between economic norms and tobacco control. This interpretation is given merit by the ongoing tension between neoliberal norms that shape the global economic order, and social and cultural norms that express the right to health, universal access to education and other social conditions (Lang 2011; Schoenbaum 1997). Finnemore and Sikkink emphasized the importance of attending to norms at a time when realist political theories were dominating the landscape of international relations research. They argued that ideas, against a dominant focus on structure, mattered for understanding policy decisions. They also argued that iterations of liberal theories of international relations were putting too much weight on interests. Although tobacco interests (e.g. growers, manufacturers) actively lobby governments to ensure that tobacco remains a prominent, and legal, economic commodity (Brandt 2012; Fooks *et al.* 2013; Gilmore *et al.* 2015), our analysis suggests that there may be an additional layer to explanations of why tobacco remains entrenched, protected and promoted within government. This added layer pertains to the economic development norms that are interpreted and used to justify tobacco production. These norms are taken up by economic sectors of government in tobacco growing countries to resist tobacco control measures by using the language of law, neutrality and rationality.

Because this logic is used by the economic sector, there is a need for in-depth economic and legal analysis of the text of these agreements and provisions of the FCTC, specific to each of the countries. For example, there is often confusion about what types of health policy WTO law permits. Legal scholars have articulated that if the basic pillars upholding WTO law, namely necessity and non-discrimination, is attended to by tobacco control policy makers there is considerable scope to implement all the provisions of the FCTC. This type of analysis has the potential to inject important facts into a discourse that is often lacking information, or is largely ideological, relying on a certain received wisdom about the principles of economic development. However, facts are only one component of what this paper demonstrates is a policy context where ideas, interests and structures converge to create both challenges and opportunities for tobacco control. In other words, tobacco control (e.g. FCTC implementation) is not only held back by the legal apparatus of economic commitments but also by discourses of economic development perpetuated by political and economic interests. The narrative that links liberalization of markets, investment in and loosening of government control over tobacco production to economic development (growth) is perpetuated by powerful forces, including industry interests and dominant neoliberal ideologies (Schram 2017). Findings that confront these discourses are emerging that counter, for example, common narratives of the economic benefits of tobacco farming, filling with more evidence what had been a vacuous space with few facts (Makoka *et al.* 2017). Other prominent analyses are tempering the enthusiasm for neoliberal policies, including a recent report published by economists at the International

Monetary Fund that points to the need to have some regulation over capital flows (Ostry *et al.* 2016). Yet others have pointed to post-neoliberal shifts in government approaches to markets and society, while noting that the hegemony of neoliberal ideas remains strong (Grugel and Ruggirozzi 2012; Ruckert *et al.* 2017). All this points to a growing recognition that the underlying assumptions that fuel the perceptions of decision-makers, particularly in the economic sector, are often supported by ideas that are rooted not in practice but in discourse. These perceptions do certainly matter for policy not because they are true but rather because they inform and shape policy, bringing life to ideas that in the end do not obtain their purported effect (e.g. in this case that tobacco production is wholly beneficial to farmers, governments and industry).

Second, it is possible that the expressed conflict is a method for protecting economic interests. This is a more standard political economy explanation of policy divergence between health and economic sectors. We know that the tobacco industry uses different legal and political means to oppose tobacco control measures. Otanez *et al.* (2009) have demonstrated that the tobacco industry has influenced the government of Malawi by arguing that tobacco is essential to the economic stability of the country. They point to the ways that the government of Malawi has taken up this message in international forums such as within United Nations organizations to support pro-tobacco norms. This finding supports the interpretation that governments do not passively receive international economic norms that conflict with international health norms, but actively participate in shaping the norm environment to serve industry interests. In this way, there is an entanglement between the notion that there is a genuine tension between health and economic commitments, and the way this message is shaped by industry interests. In both cases, there are real policy implications.

The third interpretation is that the perceived conflict between health and economic norms is simply a manifestation of bureaucratic silos. This interpretation would suggest that ministries, departments and agencies simply do not communicate or cooperate across sectors. There is evidence to suggest that this interpretation is at least partially accurate. But the findings here also suggest strong evidence of a growing understanding of these evolving norms. Kulik *et al.* (2017) suggest that Malawi may be experiencing an increased openness to re-examine policy on tobacco production, and that the negative health and economic implications of an over-reliance on tobacco is being felt. Some non-health institutions of government are starting to recognize the role that they play in affecting health policy in their countries precisely because they overlap and interact with their central functions. Of course, this understanding is developing with the backdrop of the pressures that these officials experience in terms of fulfilling the basic and longstanding conventional mandates of their institutions. Health officials at the same time are starting to assert their mandates and to be able to place these obligations within the complexities of the landscape of economic and related policymaking. In other words, health officials are beginning to see their role as norm entrepreneurs across government sectors (Drope and Lencucha 2014).

Another interesting finding is that regional agreements seem to play an important role in considerations of tobacco control. There remains very little research exploring the implications of regional arrangements on tobacco control. This paucity of research is reflected in the wider absence of studies examining the role of regional organizations in fostering social policies on health promotion and poverty reduction. In her analysis of the role of SADC and UNASUR in fostering health and social welfare norms, including communicable disease prevention and control standards, guidelines and programs, Ruggirozzi argues that regional organizations can serve non-economic development objectives and play an important role in advancing health agendas in member countries (Ruggirozzi 2017). As one of our participants from Zambia noted, tobacco control is being taken up in these regional forums. However, he also noted that often the health and economic agendas operate in different spaces within these organizations. Knowing that regional economic arrangements are being used to oppose tobacco control provides a new site for tobacco control proponents to channel their efforts. Just as these regional organizations serve as a device to oppose tobacco control through the rhetoric of legal commitment to

economic rules, they can presumably serve to foster health norms, just as scholars have found these organizations can serve to foster democratic norms (Pevehouse 2002).

## Conclusion

The thrust of this article is to demonstrate how norms conflicts, and particularly perceptions of normative commitments, at the international level serve to foster policy divergence at the national level. In addition to studies that continue to demonstrate that industry interests play a prominent role in shaping economic policy that is favorable to tobacco production, we have argued that the economic sector of government is receptive to these interests because of the dominant neoliberal discourse that has conditioned these actors. This study points to the importance of attending to ideas as much as interests in understanding the barriers to controlling the tobacco supply.

## Footnotes

1 The TRIPS agreement protects against third-party use of a patent holder's intellectual property, the argument being that the images and stylized cigarette packages affected by plain packaging constitute their intellectual property. The TBT agreement requires that any new regulation affecting trade must be necessary to accomplish the stated policy goal of the regulation, and be the least trade-restrictive option available.

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