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Understanding marihuana policy change in Uruguay: Towards policy coherence?

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Abstract

Background: In 2013, Uruguay became the first country in the world to comprehensively regulate the production, distribution and sale of marihuana for recreational purposes. Officials involved in developing Uruguay's landmark legislation have framed it as part of the government's strategy to regulate marihuana, tobacco and alcohol reflecting the state's wider commitments to public health and rights-based approaches. While Uruguay's regulation of marihuana has been widely depicted as an innovative alternative to both prohibition and commercialisation, there is limited empirical research exploring the political considerations that influenced its approach. In particular, there is a lack of evidence regarding the extent to which marihuana regulation was shaped or constrained by efforts to develop consistent regulation across unhealthy commodities, the specific context of the supply system in Uruguay, and international norms and agreements. This thesis sets out to address these neglected dimensions, exploring whether the development of Uruguay's marihuana regulation can be understood with reference to the pursuit of policy coherence in health governance across horizontal and vertical dimensions.

Methods: This thesis is based on qualitative research conducted in Montevideo, Uruguay from October 2017 to September 2018. This encompasses data from 43 interviews with policymakers and stakeholders engaged in the development of marihuana regulation, as well as government documents, reports produced by NGOs and newspaper articles and fieldwork observations.

Results: The results are organised around four analytical themes. These are: 1. Analysis of how the 'problem' and potential 'solutions' to marihuana criminalisation were constructed within Uruguay's marihuana policy debate, including the diverse priorities, concerns and positions influencing these various articulations; 2. Exploration of the extent to which Uruguay's regulatory approach was influenced by a desire to promote policy coherence within health and across other policy spheres, with particular reference to public security, in a nationally specific context; 3. Examination of the extent to which marihuana regulation was shaped by international norms and commitments, including in relation to both drug control and financial systems; and 4. Consideration of how Uruguay's regulatory framework was influenced by policy approaches in other countries – including in relation to retail and supply chains, product traceability, and user registration.

Taken together, the results suggest that Uruguay's approach to marihuana regulation was shaped by a confluence of domestic policy actors with diverse perspectives on individual liberties, anti-authoritarianism, harm reduction, public security and population health, who nevertheless exhibited a broadly shared desire to develop an alternative to marihuana criminalisation. Domestic policy actors selectively promoted limited horizontal policy coherence across marihuana, tobacco and alcohol regulation to achieve the implicit goal of legitimating marihuana production and use without creating a commercial driver or structural force that would promote excessive consumption. Visible tensions and anticipated expectations of key regional actors – namely Argentina, Brazil and the US government – have also shaped Uruguay's marihuana regulation, resulting in a comparatively restrictive supply system that makes marihuana legally available under certain conditions as determined by the state and other government authorities. Paradoxically, the UN drug conventions were found to be less directly constraining on domestic policy space compared to the norms and practices of the international banking sector, which have exerted powerful influence over Uruguay's ability to fully implement aspects of marihuana supply that require access to the formal financial system. Finally, Uruguay's distinctive approach to state regulated marihuana supply can be understood as a form of 'hybridisation' in which aspects of policy models in other countries were selected, blended and adapted to the unique political and legal features of Uruguayan society, leading to the development of an innovative approach that nevertheless reflects elements found in existing marihuana supply systems.

Conclusion: These findings qualify claims concerning the extent to which Uruguay's approach to marihuana regulation was part of a coherent strategy to regulate unhealthy commodities. Drawing upon a diverse range of empirical data, alongside contemporary theories of policy change, this study demonstrates how national public security and crime-oriented frameworks, and international actors, norms and practices have shaped and constrained the development and implementation of a national health policy innovation. This research makes a distinctive contribution to the public health literature in exploring the impacts on policy space arising from conflicts between marihuana regulation and the practices of international finance. The findings raise important concerns about the extent to which public security and crime-oriented frameworks might circumscribe Uruguay's ability to autonomously pursue its health goals in marihuana policy and for public health more broadly.

Lay summary

Following passage of landmark legislation in 2013, Uruguay became the first country in the world to comprehensively regulate the production, distribution and sale of marihuana for recreational purposes. While Uruguay's approach to marihuana regulation has been widely regarded as an innovative alternative to drug prohibition and commercialisation, a distinctive model of health governance and a potential example for other governments to follow, there has been very little empirical research examining the development of the specific contents and detailed provisions of the legislation. This study therefore aimed to address these neglected dimensions by exploring how Uruguay developed the world's first national marihuana supply system and the challenges and constraints that key actors faced in that process. In doing so, I conducted fieldwork in Montevideo, Uruguay for 12 months in order to grasp a deeper understanding of the political and social context under which marihuana policy reform occurred. During this time, I interviewed 43 key actors involved in the development and implementation of marihuana regulation, including policymakers, public officials, cannabis users and drug reform groups, health advocates, medical doctors, pharmacists, academics and members of the marihuana industry. Analysis of interview data, policy documents and fieldwork notes sought to develop a comprehensive understanding of the diverse priorities and concerns of the relevant key actors involved in marihuana policy debates; how policy actors drew on ideas and policies from approaches to unhealthy commodity regulation (i.e. tobacco and alcohol) and marihuana policies in other countries; and the relevance of international pressures and constraints in shaping policy development, but more importantly, implementation challenges.

For nearly sixty years, the production, distribution and sale of marihuana for recreational purposes have been prohibited in most countries following the signing of the 1961 Single Convention on Narcotic Drugs. Consequently, this research offers important contributions to the literature on marihuana policy change by analysing the complex and dynamic process through which the world's first comprehensive marihuana supply system was developed. It provides novel insights into how Uruguay's contemporary and existing approaches to unhealthy commodity regulation and marihuana policies in other countries were selectively drawn on to achieve the indirect goal of making marihuana legal, available but not promoted. It also offers evidence on how tensions and anticipated expectations of key regional actors—namely Argentina, Brazil and the US government—shaped the development of a relatively restrictive

supply system that makes marihuana legally available but under certain conditions, as determined by the state and other authorities. This research makes a distinctive contribution to existing knowledge on marihuana policy change by demonstrating that the greatest constraint on Uruguay's ability to pursue marihuana policy reform has not been the state's obligations under the UN drug conventions. Instead, it demonstrates that the norms and practices of international finance have exerted powerful influence over Uruguay's ability to implement aspects of marihuana supply that require access to the formal financial system, particularly the US financial market.

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Acronyms and abbreviations

AECU	Uruguayan Association for Cannabis Studies
ANCAP	National Administration of Petroleum, Alcohol and Cement
AQFU	Uruguayan Pharmacists Association
CIET	Tobacco Epidemic Research Centre of Uruguay
DPA	Drug Policy Alliance
FA	Frente Amplio
FATF	Financial Action Task Force
FCTC	Framework Convention on Tobacco Control
FESUR	Friedrich Ebert Stiftung Foundation in Uruguay
FinCEN	Financial Crimes Enforcement Network (US)
GAFILAT	Financial Action Task Force of Latin America
IMF	International Monetary Fund
INCB	International Narcotics Control Board
ICSID	International Centre for Settlement of Investment Disputes
IRCCA	Institute for the Regulation and Control of Cannabis
JND	Drug Control Board
JSU	Young Socialists of Uruguay
MGAP	Ministry of Livestock, Agriculture and Fisheries
MLC	Cannabis Liberation Movement
MLG	Multilevel governance
MSP	Ministry of Public Health
NCCT	Non-cooperative Countries and Territories
OECD	Organisation for Economic Cooperation and Development

PAHO	Pan-American Health Organisation
PC	Colorado Party
PI	Independent Party
PMI	Philip Morris International
PN	National Party
SENACLAFT	National Secretariat against Money Laundering and Financing of Terrorism
SMU	Uruguayan Medical Society
SPU	Uruguayan Psychiatric Society
SUPIA	Uruguayan Psychiatric Society for Children and Infants
THC	Tetrahydrocannabinol
UN	United Nations
WB	World Bank
WHO	World Health Organisation
WOLA	Washington Office of Latin America

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1 Introduction

> *Someone has to initiate this in South America. Someone has to be first, because we are losing the battle against drugs and crime throughout the entire continent. We are not proposing a type of legalisation that permits anyone can go to a store and buy whatever amount of marihuana and do whatever they want with it. The state is going to control the quantity, quality, price and people are going to be registered. Marihuana cigarettes will have a digital control, making it possible to trace their origin by way of a chemical tracker. Keep in mind that if people buy 20 marihuana cigarettes, they will have to use them entirely and cannot sell to anyone.*
>
> —José Mujica, 2012 (former Uruguayan President 2010-2015)

Following landmark legislation in 2013, Uruguay became the first country in the world to comprehensively regulate the production, distribution and sale of marihuana for recreational purposes. Uruguayan policymakers responded to the failure of the 'war on drugs' strategy[1] in Latin America with a regulatory and legislative approach to marihuana that has been widely recognised for its innovation and leadership (Pardo, 2014, von Hoffmann, 2018, von Hoffmann, 2016) and variably referred to as 'pioneering' (Youngers, 2014, Musto, 2018), 'cautious yet bold' (Walsh and Ramsey, 2018) and a 'middle-ground' alternative (Cerda and Kilmer, 2017, Pardo, 2014) to drug prohibition and commercialisation (Walsh and Ramsey, 2018, Rolles and Murkin, 2016, Youngers, 2014). As outlined in more detail in Section 1.3, in the context of Uruguay's reforms, the term 'marihuana regulation' refers to the collection of policies, legislation and presidential decrees developed between 2005 and 2017, the principal component of which was the legislative framework: State Control and Regulation of the Production, Distribution, Import and Sale of Marihuana and its Derivatives (Marihuana Regulation Act, 2013). Yet while existing studies have presented Uruguay's marihuana regulation as prioritising public health and safety over private profit (Rolles and Murkin, 2016, Room, 2018, Walsh and Ramsey, 2018), much less is known about how the specific contents and detailed provisions of the legislation were developed.

There has been growing interest within public health in new forms of regulating marihuana as an alternative to prohibition and criminalisation (Barry and Glantz, 2016, Room, 2018). Previous research in this area, including my own (Barry and Glantz, 2016), has sought to understand whether regulatory issues from tobacco and alcohol control such as market structure, product regulation, marketing and advertising, pricing

[1]The 'war on drugs' strategy is a phrase used to describe efforts to eradicate use, distribution and illegal trafficking of drugs through supply control measures and strict penalties for offenders, which often has been portrayed as strongly driven by the US government (Bullington, 2004), particularly in the Latin American context (von Hoffmann, 2016).

and taxation and public consumption, among other policies, could be applied in a marihuana regulation context (Kirst et al., 2016, Fischer et al., 2020, Spithoff et al., 2015, Room, 2014b). Relatedly, officials involved in developing Uruguay's marihuana legislation have framed it as part of the government's strategy to regulate marihuana, tobacco and alcohol, reflecting the state's wider commitments to public health and rights-based approaches (Romani, 2015b, Roballo, 2017, Cánepa, 2013a). The promotion of consistent regulation across unhealthy commodities was advocated by a key architect of Uruguay's marihuana regulation, who publicly claimed in 2013 that '*we are going towards strict regulation of marihuana, tobacco and alcohol. I believe there is an enormous consistency*' (Cánepa, 2013a). More recently, a key official of the Vázquez Administration presented Uruguay's health strategy as *compl[ying] with regulatory policies for tobacco, alcohol and cannabis',* which were developed in accordance with national and international frameworks *'giving coherence to the regulatory system*' (Roballo, 2017). Importantly, in a 2015 commentary, published in the *International Journal on Human Rights*, former Secretary-General of Uruguay's Drug Control Board Milton Romani posed the promotion of policy coherence within health governance as a key objective driving marihuana policy reform in Uruguay:

> *It is worth recalling that it was in 2006 that Uruguay began to move towards a different strategy focused on the regulation of the tobacco, cannabis and alcohol markets. Strategic thinking about regulating markets exists well beyond drug control, yet it is in the area of substance control that a regulation approach is even more justified. The regulation of such markets constitutes a more efficient control system that respects human rights, protects public health and brings the state closer to vulnerable populations and problematic drug users* (Romani, 2015b).

The concept of policy coherence provides an analytical lens through which to consider how marihuana might be legalised without creating a commercial driver that would promote widespread use, and how its regulation might fit with existing approaches to tobacco and alcohol regulation. A definition and explanation of policy coherence is provided in the Preface to the Results (see p. 131), but for the purposes of this introduction, policy coherence may be seen as 'the extent to which conflicts between policy agendas are minimized and synergies maximized' (Blouin, 2007). The promotion of policy coherence has been featured not only in marihuana policy debates in Uruguay but also in wider discussions in the country about regulating non-communicable diseases, particularly after the election of the first left-wing Frente Amplio government in 2005 (Sola, 2017). Not only was this government openly committed to reducing non-communicable diseases (NCDs) as a national priority (Government of Uruguay and Ministry of Public Health, 2019, World Bank, 2018, Sola, 2017), it was also promoting

policy coherence as an NCD prevention strategy in the international agenda and even hosted the WHO Global Conference on Enhancing Policy Coherence to Prevent and Control Non-communicable Diseases in 2017 (World Health Organisation, 2017a).

These discussions raise interesting questions around the extent to which the development of Uruguay's marihuana regulation was shaped by broader political considerations—including efforts to achieve policy coherence across tobacco, alcohol and marihuana. Developing a coherent approach to regulating unhealthy commodities has been a significant public health challenge at both the global and domestic levels (Collin and Hill, 2015, Hawkins et al., 2016), which partly reflects the different objectives of various state sectors, for example, trade, commerce, criminal justice and health (Lencucha and Thow, 2019). Throwing marihuana into the mix would suggest that these challenges could be heightened even more given its unique historical and political context. Furthermore, in Uruguay and globally, marihuana largely remains outside of broader health governance debates, raising questions around the ways in which the promotion of policy coherence within health governance shaped Uruguay's approach to marihuana regulation.

The importance of enhancing policy coherence between different policy spheres is evident not only within NCD prevention policy but also in the context of the United Nations (UN) Sustainable Development Goals of 2030 (Nilsson et al., 2016). One of the key targets of the SDGs (17.14) is enhancing policy coherence across economic, social and environmental policy areas both within and across governance dimensions, based on the recognition that governments charged with their implementation 'often have conflicting domestic policy agendas and priorities' (Ruckert et al., 2016). According to Ruckert and colleagues (2016), the UN further identifies international 'trade agreements as a potential source of policy incoherence due to their ability to constrain domestic policy space and limit regulatory scope in areas critical for sustainable development.' These last points raise questions around the extent to which development of Uruguay's marihuana regulation was shaped or constrained by other national priorities and wider international commitments. Other research suggests that former Uruguayan President José Mujica and his Security Cabinet promoted the reform as a response to the rise in public insecurity triggered by a series of violent robberies and other drug-related crimes (Repetto, 2014, Queirolo et al., 2018). However, these studies focus primarily on the process dynamics of whether Uruguay would reform marihuana policy (von Hoffmann, 2016, Álvarez et al., 2017, Musto, 2018). As such,

little is known about the relevance and impacts of health and other priorities, including public security, on the development of the legislation's design and detailed provisions.

Additionally, much has been said about the landmark case of Uruguay's marihuana regulation—namely, that this reform marks the first time in the 60-year history of the UN drug conventions that a party seemingly breached the provisions of the international drug treaties by legalising the production, distribution and sale of marihuana for non-medical purposes (Pardo, 2014, Murkin, 2014, Graham, 2015, Room, 2018). In contrast, very little attention has been paid to the significance of international processes and pressures in shaping or constraining the development and implementation of Uruguay's marihuana regulation. This is particularly intriguing because a regulatory shift to a legal marihuana market such as Uruguay's requires the involvement of a wide variety of key stakeholders (government, business and civil society) and policy actors at diverse levels of governance in the policy process.

This thesis therefore explores how and why Uruguay developed marihuana regulation, including the extent to which this was influenced by existing health and drug governance approaches (both regionally and internationally). In doing so, it aims to examine the extent to which development of Uruguay's marihuana regulation can be explained by the pursuit of policy coherence within health governance. It seems that no study has approached the issue of marihuana regulation in Uruguay from this perspective. This lack of attention is significant since knowing about the development of the specific details of Uruguay's marihuana regulation promises to reveal novel insights about the practical and political challenges associated with designing and implementing the world's first comprehensive marihuana supply system.

1.1 Why policy coherence in health governance?

I initially became interested in understanding the development of marihuana regulation in Uruguay while working as a tobacco control researcher at the University of California, San Francisco's Centre for Tobacco Control Research and Education (CTCRE). From 2013 to 2016, I had also followed the development of Uruguay's marihuana regulation closely and consequently, I was well aware of the apparent importance of Uruguay's role as an international leader in tobacco control in that context and its stated commitment to policy coherence as a national NCD prevention strategy (Government of Uruguay and Ministry of Public Health, 2019, World Health Organisation, 2017a). Additionally, being involved in marihuana policy debates in the

US context—including my roles as an expert advisor for marihuana regulation commissions in California and Canada—I had observed the process of marihuana policy development in select parts of North America and was aware that a commercial market and development of a 'Big Cannabis' akin to the tobacco and alcohol industries were also policy concerns (Richter and Levy, 2014, Room, 2018, Rolles and Murkin, 2016, Caulkins and Kilmer, 2016b).

With growing political and social pressures to reform marihuana policies in the Americas (Barry and Glantz, 2016, Room, 2014b, Pardo, 2014), policymakers have been confronted with several 'new' questions about how best to manage the production, distribution and sale of marihuana (Pacula et al., 2014). Although these concerns are somewhat novel for marihuana policy (at least in the 21st century), similar issues have been dealt with in the context of tobacco and alcohol regulation (Pacula et al., 2014), raising questions around the extent to which policymakers might think about the lessons that can be applied from the regulatory experiences of either of these two substances (Weissenborn and Nutt, 2012, Haden and Emerson, 2014, Barry and Glantz, 2016). For example, Room and Reuter contend that the Framework Convention on Tobacco Control (FCTC) could be a useful starting off point for the development of an alternative approach to marihuana prohibition (Room and Reuter, 2012). Others argue that policymakers should learn 'lessons' from the regulation of tobacco and alcohol, suggesting that marketing should be prohibited (Rehm and Fischer, 2015, Spithoff et al., 2015), but seldom are these lessons discussed in terms of what the potential implications are of divergent approaches (i.e. tobacco demand reduction versus alcohol harm reduction) for marihuana regulation. Indeed, stark differences in existing approaches to tobacco and alcohol regulation (Collin and Hill, 2015, Hawkins et al., 2016) raise questions around the extent to which ideas from either of these experiences could be or have been applied to marihuana regulation.

In order to explore these questions further, using a framework that I developed (Barry and Glantz, 2016) and which was informed by Pacula et al's (2014) mapping of the lessons, policies and practices from existing approaches to unhealthy commodity regulation, as well as by the various papers mentioned above, I investigated the extent to which public health best practice interventions from tobacco and alcohol control had been incorporated into state-level policies regulating cannabis in four US states (Barry and Glantz, 2018). This research, for example, found that marihuana policies tended to be shaped by a state's distinctive approach to alcohol regulation, whereas the policies

and practices from tobacco control were selectively applied or regarded as inapplicable by many of those involved in the development and implementation of marihuana policies in the US states.

This raises important questions around how policymakers have drawn on experiences with the regulation of tobacco and alcohol in the context of understanding marihuana policy reform in Uruguay. Not only is Uruguay an international leader in tobacco control, but it also has a distinctive history of a state monopoly over alcohol production (Draper and Sienra, 2017) (discussed in more detail in Section 2.2). Indeed, a number of drug and health policy scholars have pointed out that Uruguay's marihuana regulation was seemingly driven by a desire to avoid a commercially-driven market based on the country's historic and contemporary approaches to the regulation of tobacco and alcohol (Pardo, 2014, Musto, 2018, Rolles and Murkin, 2016, Murkin, 2014). However, as discussed in more detail in Section 2.2, it is not entirely clear how Uruguay's existing approaches to unhealthy commodity regulation have been applied in the context of marihuana policy development.

Exploring the development of Uruguay's marihuana regulation through the lens of policy coherence also raises important questions around the influence of other policies on health governance. Uruguay's marihuana regulation is a complex, multidimensional issue that intersects across multiple sectors and governance levels (Sanjurjo, 2013). Regulation of the marihuana market therefore requires the involvement of government departments and agencies beyond health, including but not limited to public security, justice, agriculture, foreign affairs, finance and education. The importance of multi-sectoral dialogue and decision-making on marihuana regulation also points towards potential challenges around the development of policy that can effectively manage the interactions across the goals of diverse actors, including by reducing conflicts and minimising trade-offs (Nilsson et al., 2012). In the context of this study, this illustrates the importance of exploring whether and to what extent health concerns intersect and conflict with other priorities and policy issues.

Finally, the concept of policy coherence also considers the relevance and interactions of policies across different governance levels, e.g. national policy in relation to international frameworks. It therefore provides a useful lens through which to explore questions around the constraints imposed by broader international commitments, which can create challenges for effective policy development and implementation, particularly if different levels of governance have divergent policy goals (Cedujo and

Michel, 2017). While the UN drug conventions are perceived to be the most significant international constraint on marihuana policy reform, Uruguay's drug treaty obligations did not preclude the pursuit or passage of this reform (Arrarás and Bello-Pardo, 2014, Álvarez et al., 2017, Walsh and Jelsma, 2019, Musto, 2018, Spithoff et al., 2015, von Hoffmann, 2018, Leite, 2019, Fijnaut and Ruyver, 2015). This raises important questions around the ways and extent to which the UN drug conventions, and other sources of external pressure, served to shape or constrain development of this national policy innovation.

Based on my involvement in marihuana policy research at the time (Barry et al., 2014, Barry and Glantz, 2018, Barry and Glantz, 2016) and my own reading of the literature, I observed that there was little investigation on how policymakers drew on ideas, policies and practices from other regulatory models, particularly from tobacco and alcohol, and especially in Uruguay. Policy coherence was often called for, but what exactly would that mean in practice? Moreover, existing research lacked attention to how other policies interact and impact on health policy development at diverse levels of governance—when policymakers develop marihuana policy 'on the ground', how do they manage conflicts and minimise trade-offs? In light of this, I considered that the promotion of policy coherence in health governance was a useful starting point to explore how key actors developed Uruguay's approach to marihuana regulation.

The following sections provide background information on the content of Uruguay's marihuana regulation and an overview of the political context under which marihuana policy change took place. It is important to contextualise the political backdrop around which this policy was introduced, as this helps explain why marihuana regulation was introduced as a public security measure as well as a criminal justice issue. This is revisited in detail within the thesis (particularly the Literature Review and Chapter 4), but for now, this background provides a brief overview and guide to understand the underlying dynamics and complexities of the Uruguayan case. The final sections set out the aim and structure of the thesis.

1.2 Terminology and translation

Before presenting background information on the Uruguayan case, I would like to dedicate some space to explaining the language that is used throughout this thesis with reference to what I feel are the four most important, yet at times confusing, terms used in marihuana policy debates and wider research about policy coherence.

Marihuana has been known by several names including 'dope', 'reefer', 'chronic', 'mary jane', 'bud', 'grass', 'Indian hemp' or by its scientific classification, *Cannabis* (Booth, 2004). Yet, probably one of the most recognised names for what otherwise can be defined as the dried leaves and flowering tops of the cannabis plant is 'marijuana' or 'marihuana'. Under Uruguayan law, 'marihuana' refers to the dried flowering or fruiting tops of the female cannabis plant, excluding the seeds and leaves of the male cannabis plant, whose contents of natural tetrahydrocannabinol (THC or the psychoactive component of cannabis) is equal to or more than 1% in weight (Marihuana Regulation Act, 2013). Female cannabis plants contain usable amounts of THC, whereas the male plants only contain pollen that is used to fertilise the female plant and therefore, do not contain psychoactive properties.

Although the terms 'marihuana' and 'cannabis' are often used interchangeably, their meanings can have very different political connotations and even imply a particular standpoint within drug policy debates. In this thesis, the term and spelling used throughout will be 'marihuana' (except in cases where I am quoting alternative terms and spellings) for the following three reasons: Uruguayan law spells marihuana with an 'h' and not a 'j'; it is the legal term employed to describe the plant in Uruguayan law (Marihuana Regulation Act, 2013); and this label is nearly ubiquitous in the country. A potential limitation in adopting this term and spelling of 'marihuana' is that it may imply a level of legitimacy for prohibitionist discourses that I do not necessarily endorse.

For instance, the spelling of 'marihuana' historically situates its use within a US-led 'war on drugs' approach and reinforces the idea that marihuana is a dangerous and highly addictive drug associated with lawlessness and degeneracy (Booth, 2004). Alternatively, some policy scholars prefer the term 'cannabis', favouring the idea that the plant has medicinal properties and therapeutic benefits that should at least be studied empirically. The term 'cannabis' has also become the preferred terminology of some drug reform advocates to challenge hegemonic discourses of racism, xenophobia and anti-miscegenation (Mikos and Kam, 2019).

Additionally, I often refer to marihuana use as 'recreational' or at times 'non-medical' to distinguish the discussion from marihuana that is used for medical or scientific purposes. This is an important distinction to make given that in Uruguay, the production and sale of medical marihuana were also legally regulated in the same bill as marihuana for non-medical purposes (Musto, 2018). Although other terms exist in the literature, including 'adult-use', 'retail', 'popular use' and 'pleasure markets' (Kamin,

2017, Room, 2014b, Barry and Glantz, 2016), policy actors in this study generally favoured this language to avoid confusion with medical marihuana and the UN Single Convention on Narcotic Drugs also uses similar terminology (United Nations, 1961). However, it is recognised that the term 'recreational' is not without controversy, as it might reinforce misconceptions about marihuana that have helped maintain the prohibition on its use and sale for decades (Mikos and Kam, 2019).

Another area where confusion resides in the literature and wider policy debates is between the legal differences of 'depenalisation', 'decriminalisation', 'de facto legalisation', 'legalisation' and 'legal regulation'. Again, these terms are often used as synonyms even though they have slightly different legal significance and implications. Depenalisation refers to a decrease in the severity of civil or criminal sanctions for drug-related offences associated with the production and supply of illicit substances (Babor et al., 2018), including shorter periods of incarceration, reduced fines or warnings for first-time offenders. Decriminalisation is somewhat of a contested term, which has become viewed by some policy scholars as a specific subcategory of depenalisation (Room, 2010). Throughout this study, I use the term decriminalisation to refer to the removal of criminal sanctions for certain drug-related offences concerning possession of small amounts of drugs for personal use as opposed to supply or distribution (Rolles and McClure, 2009). In this context, administrative fees and sanctions, such as mandatory drug treatment or fines, remain in place. This is the type of policy approach that Uruguay had in place with respect to marihuana until 2013, and continues to have for other illicit substances. These terms are distinguished from 'de facto legalisation', which means that the prohibition and criminal sanctions on certain offences are still maintained, such as the production or sale of an illicit substance, but there is an official policy of non-enforcement of criminal laws in relation to this offence. The most notable international example of such an approach is the so-called '*coffee shop*' model in the Netherlands (discussed in more detail in Section 2.3.4) as well as the US government's approach towards state-level regulated marihuana markets (discussed in more detail in Chapter 6).

It is also important to discuss the differences between 'legalisation' and 'legal regulation', as this is an area where probably most of the confusion about drug policy reform exists (Nadelmann, 1992, Rolles and McClure, 2009, Caulkins et al., 2015). The term 'legalisation' is simply taking a previously illegal act, provision or commodity and making it legal, which in the context of marihuana policy could be defined as allowing

its production, distribution and sale in a market-based system (Caulkins et al., 2015). However, in marihuana legalisation debates, it is unlikely that most proponents of reform (aside perhaps libertarians (MacCoun and Reuter, 2001)) would support that the substance is made widely available to anyone without restrictions (Nadelmann, 1992). Conversely, 'legal regulation' refers to a process or a 'system of rules that governs the product or behaviours in question' (Rolles and McClure, 2009). It therefore implies a concern with 'who gets to produce, distribute and possibly profit from that product' and the conditions under which and to whom that product is made legally available (Babor et al., 2018). Babor et al (2018) use the term 'legal regulation' to refer to the 'architecture' of the legalisation framework, which might include questions concerning product quality control, availability and accessibility such as limits on time, place and manner of use and sales, price and taxation and prohibition on sales to minors. It is this process with which this thesis is concerned.

Finally, indications of a commitment to promoting policy coherence (as articulated by some Uruguayan officials (Romani, 2015b, Cánepa, 2013a, Pestano, 2017) with reference to marihuana, tobacco and alcohol) raise interesting questions around the interpretation and application of this concept by diverse policy actors, particularly given the issue of translation (Horký, 2010). Although Uruguayan government documents use the word 'coherencia', the Spanish translation is 'consistencia', a word that is generally used to mean 'consistency' or the 'absence of contradiction' (Chevallier-Govers, 2013), thereby making the promotion of policy coherence in Uruguay's marihuana regulation into a 'consistency between governance approaches' or even a 'consistency between governance approaches beneficial to marihuana regulation.' Coherence can also be translated as 'cohesion' in some other languages (Horký, 2010), which only adds further complexity to the conceptual challenges of coherence. In this thesis, I adopt the understanding that policy coherence can have different meanings according to the priorities and perspectives of those proposing it as a strategy, ranging from the absence of contradiction to the more ambitious idea of mutual reinforcement of policies (Blouin, 2007). This aspect is dealt with in more detail in the Preface to the Results (see pp. 131-136).

1.3 Uruguay's marihuana regulatory framework: institutional design, instruments and objectives

Uruguay's regulatory approach to marihuana characterises a radical departure from traditional prohibitionist responses to drugs in the world through the creation of a

comprehensive supply system under state control (see Box 1 for a brief overview of Uruguay's marihuana regulation law). The stated objectives of Uruguay's State Control and Regulation of the Production, Distribution, Import and Sale of Marihuana and its Derivatives Act (defined hereafter as the Marihuana Regulation Act) are to protect the population from the risks associated with the illegal market and drug trafficking, seeking to combat the devastating health, social and economic consequences of problematic use of psychoactive substances, as well as reduce levels of illicit drug trafficking and organised crime (Marihuana Regulation Act, 2013). In general terms, it establishes four central instruments that are intended to achieve the law's overall objectives: i) state regulation of the marihuana market; ii) education and prevention of drug consumption; iii) treatment, rehabilitation and social reinsertion for problematic drug users; and iv) police action to repress illicit drug trafficking.

The focus of this thesis is primarily on understanding the development of the first instrument, state regulation of the marihuana market, as outlined below, although policies related to education and prevention of drug consumption also enter into the analysis. A number of factors influenced my decision, but more specifically I was interested in examining how policymakers developed and designed the world's first governance approach to marihuana supply as well as key challenges to health governance within marihuana policy debates and development. Relatedly, I was interested in exploring the development of some high-profile policies that have been widely regarded as distinctive within Uruguay's marihuana regulation (as outlined below), but without explanation for how or why they were formulated or included in the first place.

Box 1: Brief Overview of Law No. 19.172 or Marihuana Regulation Act (Marihuana Regulation Act, 2013)
Law No. 19.172 legalises and regulates a distribution system for the non-medical use and sale of marihuana for adults 18 and older, which establishes the Institute for the Regulation and Control of Cannabis (IRCCA) to oversee and monitor its manufacture, distribution and sale. Legal access is available to Uruguayan residents through home cultivation, cannabis club memberships or licensed retail pharmacies. Users are restricted to 40 grams/month, with requirements for individuals to register with the IRCCA's national database where consumption is monitored. The law prohibits marihuana use anywhere tobacco smoking is prohibited (as established under Law No. 18.256) and prohibits marihuana companies from directly or indirectly marketing their products to the public, including event sponsorship. Driving or working under the influence of marihuana is also prohibited, similar to the zero tolerance restrictions for alcohol (as prohibited under Law No. 18.191).

A key feature of Uruguay's marihuana regulation law is the underlying principle of harm reduction. This principle is embedded in Article 1 of the legislation, with accompanying actions aimed at reducing the harms and risks associated with problematic marihuana use and the illicit drug market (Valdomir et al., 2014). However, it is important to clarify that harm reduction in this context is represented as reducing the harms associated with the illicit market (Musto, 2018), including exposure to violence and crime and to more dangerous illicit substances, and not strictly limited to reducing use-related harms (Rogeberg, 2015). This approach is based on the underlying principles in Uruguay that: a) criminal laws are more harmful to the health and safety of individual users than consumption itself; and b) drug use is an inevitable aspect of society and therefore, reducing the impact of drugs can be achieved through public education and treatment.

The Marihuana Regulation Act also permits Uruguayan residents (18 and above) to legally access marihuana through one of three ways: home cultivation, cannabis clubs or commercial sales through pharmacies (tourists cannot access the legal market). Each of these options is mutually exclusive, indicating that those who have signed up to purchase marihuana through pharmacies cannot simultaneously form part of a cannabis cooperative or grow plants at home. Prior to accessing marihuana, legal residents must first enlist with the national user registry, an anonymised system that tracks purchase or grow history of individual users, by providing valid photo identification, proof of

residency and fingerprints to the national post office. There are also controls on monthly purchase and grow limits, in which individual users are allowed up to 40 grams per month or 480 grams per year of marihuana flower, with different requirements for home cultivation, cannabis clubs and commercial sales through pharmacies (see Table 1.1 below). I specify marihuana flower here since it seems that Uruguay's marihuana regulation law does not permit the production or sale of manufactured marihuana products, e.g. marihuana-infused food and drink products, concentrates or liquids. Additionally, the law prohibits marihuana use in all enclosed public places, driving and working under the influence of marihuana and bans any advertising, marketing and event sponsorships that promote excessive consumption. This definition seems to imply that advertising and sponsorship would be permitted as long as these activities do not promote excessive consumption.

Table 1.1 Permitted supply channels and consumption limits

Home cultivation
Adults 18 and over are permitted to grow up to six female flowering cannabis plants per household for personal consumption as long as the plants are registered with IRCCA. The law specifies female plants because these are the types that produce the psychoactive properties of cannabis. Each household must not exceed 480 grams per year, however, cultivation of more than six plants is allowed as long as these are male plants or non-flowering female plants. As of December 2020, 10,431 users were registered as home cultivators.
Cannabis Clubs
Adults 18 and over can become members of cannabis cooperatives that have registered with IRCCA. Club membership is restricted to between 15 and 45 members, and each club can grow up to 99 plants per year. Clubs are allowed to grow between 7,200 and 21,600 grams per year as a function of the number of its members multiplied by 480 grams per year. Membership fees vary: some collectives offer pay-as-you consume memberships, while others require monthly membership fees. As of December 2020, there were 5,224 registered cannabis club members and 163 cannabis clubs in Uruguay.
Commercial sales through pharmacies
Adults 18 and over can purchase up to 40 grams per month (no more than 10 grams per week) of cannabis flower from registered pharmacies. Pharmacies are written explicitly into the law as the required point-of-sale, although pharmacies are not required to sell marihuana and can opt out at any time. A total of 43,286 Uruguayan residents have registered to purchase marihuana via pharmacies. As of December 2020, 14 pharmacies were licensed to distribute recreational marihuana to the public, two-thirds of which were located in the capital city of Montevideo.

According to Rolles and Murkin (2016), Uruguay's marihuana regulation is based roughly on a state regulated supply model, which they suggest closely resembles Borland's 'Regulated Market Model' for tobacco supply (Borland, 2003). Whether and to what extent policy actors in Uruguay drew on international examples and models of regulation in the development of marihuana policy is discussed in more detail in Chapter 7, but for the purposes of this chapter, their use of the term 'state regulated supply' seems to mean a legal regime where there is a mix of commercial and government monopoly control over particular aspects of the market, for example, retail or distribution (Rolles and McClure, 2009). Within this model are some distinctive features that set Uruguay's approach to regulating marihuana supply apart from marihuana policies in other jurisdictions (Kilmer and Pacula, 2017, Pardo, 2014), which are detailed below.

The law creates the Institute for the Regulation and Control of Cannabis (IRCCA) as the lead regulatory agency that oversees implementation and enforcement. The IRCCA itself is not a unique feature of Uruguay's marihuana regulation, in that it has some similarities to comparable agencies at the state level in the US such as Colorado's Marijuana Enforcement Division (MED) and Washington State's Liquor and Cannabis Control Board (LCCB) (Pardo, 2014). At the same time, the IRCCA has institutional capacities that are distinctive from marihuana governance frameworks in other legal contexts. For example, it is tasked with licensing private producers and pharmacies for distribution to the public, though it is not directly involved in any part of the supply chain. Instead, the IRCCA regulates the market conduct of private marihuana producers with respect to production, packaging, pricing and marketing. For example, the IRCCA requires that the product be dispensed as dried cannabis flower, i.e. unprocessed raw materials, packaged in its natural state, without grinding or pressing. Each package must contain five grams of cannabis flower per unit, include health warnings and recommendations for use as well as a traceability stamp. The IRCCA is also responsible for monitoring the national user registry, with the stated aim of preventing users from exceeding monthly purchase limits (defined above) and ensuring that youth and tourists do not have access to the legal market.

Having outlined the key components of Uruguay's distinctive approach to marihuana regulation under analysis, the following section provides the political backdrop around which development of this policy occurred. In doing so, it describes the broader political and policy context that helped shape the development and implementation of

Uruguay's marihuana regulation, with an emphasis on key events that took shape between 2005 and 2017.

1.4 Political context

Beginning in the 2000s, under the Jorge Batlle Colorado[2] government, drug policy in Uruguay began to move from an entirely prohibitionist approach to one that focused on government action to promote harm reduction in drug control (Garcia, 2013). This move was arguably influenced by a growing regional consensus in Latin America that emerged in the 2000s around how the 'war on drugs' strategy was unsustainable and counterproductive, with calls for the development of an alternative regional approach to strict drug prohibition (Garcia, 2013, Arocena and Aguiar, 2017, Garat, 2016, Draper and Sienra, 2017). An example of such concern can be observed among former political leaders in Latin America, who in the 2009 report, *Drugs and Democracy: Towards a Paradigm Shift,* argued that prohibitionist policies centred on market suppression and crime control have contributed to rising rates of organised crime, drug-related violence and corruption, while 'consumption continues to grow' (Latin American Commission on Drugs and Democracy, 2009):

> *Violence and organised crime associated with the narcotics trade are critical problems in Latin America today. Confronted with a situation that is growing worse by the day, it is imperative to rectify the 'war on drugs' strategy pursued in the region over the past 30 years. Prohibitionist policies based on the eradication of production and on the disruption of drug flows as well as on the criminalization of consumption have not yielded the expected results. We are farther than ever from the announced goal of eradicating drugs…*
>
> > *This does not mean the outright rejection of policies that combat the narcotics trade which have consumed over the years vast economic resources and implied the sacrifice of countless human lives. Nor does it detract in any way from the urgent priority to strengthen the struggle against cartels and drug traffickers. The way forward lies in acknowledging the insufficient results of current policies and, without dismissing the immense efforts undertaken, launching a broad debate about alternative strategies* (Latin American Commission on Drugs and Democracy, 2009).

While this shifting regional context is relevant to understanding the Uruguayan case, it is equally important to recognise the decade-long efforts among civil society organisations to depenalise home cultivation of marihuana from a civil liberties perspective (Cerda and Kilmer, 2017, Arrarás and Bello-Pardo, 2014, Castro, 2014,

[2]Uruguay's Colorado Party is one of two longstanding traditional political parties in Uruguay; the other is the National Party. The term 'traditional' is used here because in Uruguay ideological differences between the major parties are unclear and vague. For instance, both traditional parties have liberal and conservative factions within them. Voting behaviour tends to be explained by presidential incentives, political competition and party discipline rather than ideological cleavages (Buquet and Pineiro, 2016), (Zucco, 2013).

Repetto, 2014, Garcia, 2013, Arocena and Aguiar, 2017, Murkin, 2014). Uruguay's drug law was passed in 1974 during the military dictatorship, a regime that Castiglioni defines as primarily concerned with the maintenance of social order by eliminating subversion through violence and repression of organised civil society (Castiglioni, 2018). This included the elimination of groups that the military regime identified as the causes of crisis and political unrest—namely left-wing political factions, university students and academics (Castiglioni, 2018, Buquet and Pineiro, 2016)—some of which, including the Young Socialists of Uruguay (JSU), promoted the idea of legalising marihuana as early as the 1980s (Garat, 2015, Garcia, 2013, Garat, 2016). After the return to democracy in 1985, academics, student organisations and workers unions, marihuana users and leftist political parties (Aguiar and Muñoz, 2007, Musto, 2018, Garcia, 2013) began to organise in defence of human rights against state violence and repressive institutions (Pousadela, 2016), including in defence of the rights of individuals to consume marihuana without stigma or risk of criminal prosecution (Garat, 2015, Garcia, 2013).

These earlier efforts sought to address a critical legal issue in Uruguay's 1974 drug law, which decriminalised possession of a minimum amount of illicit drugs for personal use but criminalised their production, distribution and sale (Garat, 2015, Garcia, 2013). Although marihuana use and possession did not carry criminal penalties, the amount a person could possess for 'personal use' was determined on a case-by-case basis at the discretion of the individual judge. As Garcia (2013) suggests, lack of clear criteria to separate users from drug traffickers led to the continued arrest and prosecution of marihuana users for possession with intent to distribute, with some judges applying penalties for lower levels of possession than others (Musto, 2018). This is a critical point, as civil liberty and anti-authoritarian concerns have helped to construct the problem of marihuana prohibition in Uruguay as an issue around lack of access, rather than one concerning addiction and treatment towards recovery (Musto, 2018).

In 2010, current President Lacalle Pou (2020-2025) introduced the first legislative proposal to address this ambiguity in Uruguay's drug law; that is, a bill to decriminalise home cultivation for personal use and increase the penalties for drug trafficking (Pou, 2010b). This legislative proposal was not widely supported, even within then-Representative Pou's own National Party, nor did it receive support from the civil society organisations that had been promoting marihuana policy reform since the early 2000s. A multi-partisan group of legislators introduced a second legislative proposal in 2011 to decriminalise home cultivation of marihuana for personal use (defined as up to

8 plants per household and 25 grams of marihuana flower per person) and to legalise marihuana production for scientific, medicinal and industrial purposes (Núñez et al., 2011). This political background is important to understand the broad consensus underpinning marihuana policy debates in Uruguay concerning how the existing legal position, in which drug use was legal but production and supply were classified as criminal offences, was viewed as an untenable policy approach, as discussed in more detail in Chapter 4.

It was in this context that then-President José Mujica announced that Uruguay would seek to become the first country in the world to legalise and regulate the production, distribution and sale of marihuana for non-medical purposes (Bonomi et al., 2012). The legislative proposal was formally introduced with the publication of the *Strategy for Life and Coexistence* (República Oriental de Uruguay and Ministerio de Interior, 2012), a 15-point plan that was formulated and implemented by the Executive Branch and Security Cabinet in June 2012 (Musto, 2018). The Strategy set out the government's normative commitment to developing a drug policy approach that was consistent with its responsibilities to address the problem of drug trafficking while also respecting the civil liberties and individual autonomy of Uruguayan citizens. Aside from legalising state control over a regulated marihuana market, the plan included other legislative proposals such as increasing penalties for police corruption and the trafficking of cocaine paste[3], financing drug treatment centres, providing reparations to crime victims through the creation of a national fund and avoiding policies criminalising behaviour that had failed to address public security issues (Office of the President of Uruguay, 2012).

The publication of the Mujica Administration's *Strategy for Life and Coexistence* in 2012 marked an important shift in the political discourse about marihuana as a public security issue that should be addressed through active state involvement. This public security strategy and proposal to create a legally regulated marihuana market were presented at a July 2012 joint press conference held by Secretary of the President Alberto Breccia, Minister of the Interior Eduardo Bonomi, Minister of Social Development Daniel Olesker and Minister of Defence Eleuterio Fernández Huidobro. Acknowledging the failures of the war on drugs strategy in reducing criminality and drug-related violence, Uruguayan officials argued that through state control, Uruguay's marihuana regulation

[3]Cocaine paste is a crude extract of the coca leaf that is more addictive than cocaine, relatively inexpensive and predominately used by low-income groups (Draper and Sienra, 2017).

would remove the market from organised criminal groups and prevent users from escalating to harsher illicit substances and associated criminal activities (Huidobro, 2012a). Members of the Mujica Administration argued that they were not in favour of removing penalties on home cultivation because a stricter approach was needed to honour Uruguay's obligations under the UN drug conventions, highlighting the importance of analysing the international pressures and constraints under which marihuana policy reform occurred in Uruguay. As former Minister of Defence Huidobro argued in a 2012 press conference:

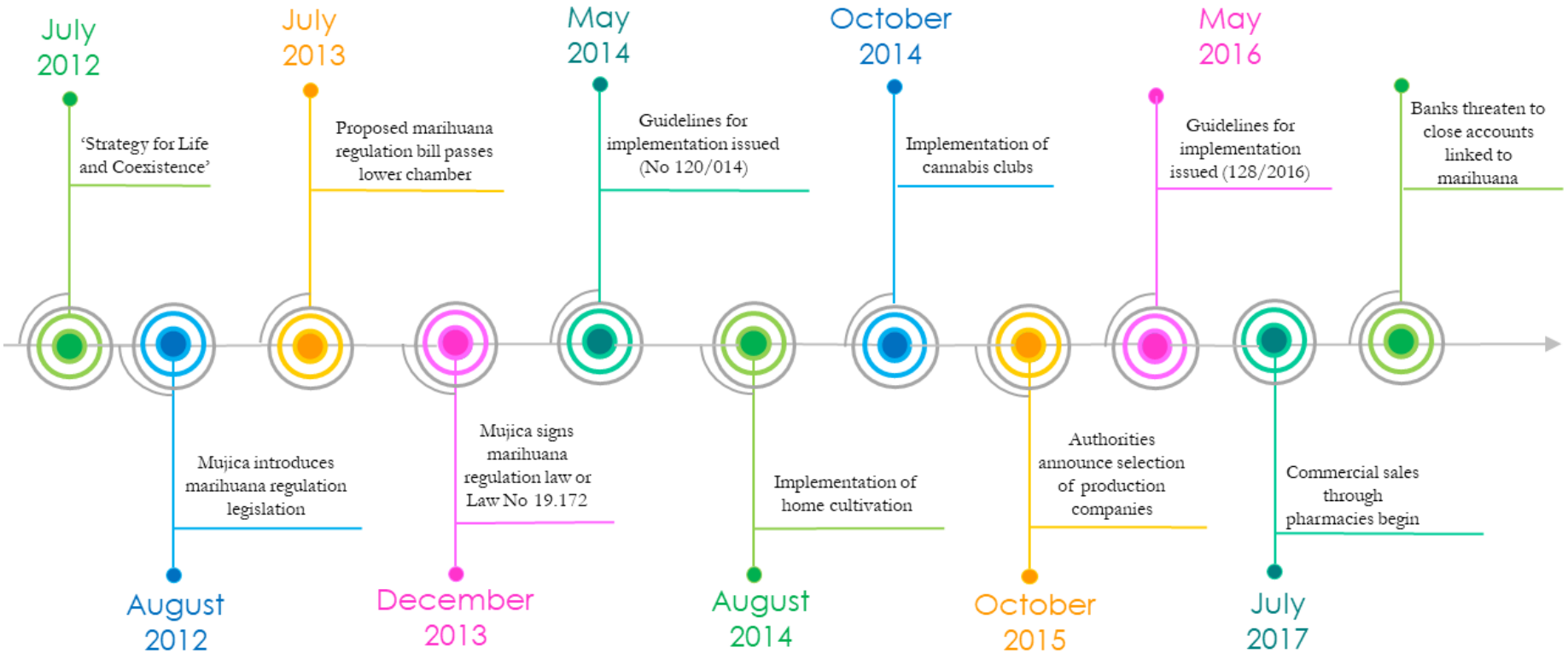
> *We agree with the idea of the [depenalisation of home cultivation] bills…But we disagree with the issue of home cultivation so long as it remains illegal internationally. We lean more towards strict state control of production and distribution* (Huidobro, 2012b).

On 8 August 2012, the Mujica Administration presented its marihuana regulation bill to parliament, which contained a single article for the legalisation of a state monopoly over the production, distribution and sale of marihuana. The Mujica Administration was heavily criticised for introducing a legislative proposal that did not contain specific details on how the state would regulate the marihuana market (Walsh and Ramsey, 2018). This fuelled criticism not only among Uruguay's traditional parties but also from key proponents of concurrent legislative efforts to depenalise home cultivation, including the president's own political faction Frente Amplio (FA) (Musto, 2018). Overall, this suggests that while there may have been broad consensus among policy actors in Uruguay around the need to reform marihuana policy, there were also important tensions and conflicts concerning the development of the specific details of the marihuana supply system. Furthermore, popular support for the proposed legislation remained relatively low, with 60% of the population opposing the measure in 2014 (Cruz et al., 2016b) and in 2017, 54% of the public continued to express their opposition to state control over the market (Cruz et al., 2018). This underlying dynamic further illustrates the importance of examining how policymakers managed conflicts and minimised trade-offs within the context of widespread opposition to the reform from the Uruguayan public.

A number of distinctive features of Uruguay's political system helped shape the political and policy context in which the 2013 marihuana regulation law was debated and designed. The process of developing marihuana regulation in Uruguay began with the formation of the Special Commission on Drugs and Addiction, which meditated the consultations of experts and advocates during the development of marihuana regulation between August 2012 and July 2013 (see Figure 1.1 for a timeline of key events). In

Uruguay, such commissions are spaces where representatives of civil society organisations and technical experts are called on by the Uruguayan Parliament to present their concerns and positions on a particular bill to inform legislative decisions on the development of public policy (Musto, 2018), particularly for issues that are, as one politician interviewed for this study suggested, '*very delicate from a public debate point of view*' (P15, politician).

Figure 1.1 Timeline of key events related to the development of Uruguay's marihuana regulation



Alongside the parliamentary debate, the Executive Branch established a technical working group (von Hoffmann, 2016), where the specific contents of the marihuana regulation were negotiated and drafted (Murkin, 2014), and subsequently presented to the Special Commission on Drugs and Addiction for legislative debate. An important attribute of the policymaking process in Uruguay is that unlike the legislature, the Executive Branch has a 'set of specialized agencies and experts that are in most cases responsible for designing public policies delivered to the legislative arena' (Bergara et al., 2006). This feature of Uruguay's policymaking process further underlines the importance of exploring the development of marihuana regulation in this jurisdiction.

Following an internal process, lawmakers of the ruling Frente Amplio coalition government published a formal proposal for marihuana regulation in November 2012. This modified version of the Mujica Administration's 2012 proposal incorporated home cultivation of up to six plants per household, cannabis clubs, as well as state-licensed production. On approval in the lower chamber, the proposed marihuana regulation bill was subsequently sent to the Senate Public Health Commission for legislative debate in August 2013 (von Hoffmann, 2016). Political agreement on the text of the proposed marihuana regulation was announced in December 2013 before the bill was signed into law by President Mujica on 20 December 2013. Shortly after the law's passage, the Executive Branch created the IRCCA's Executive Board, which was responsible for developing the regulatory framework over the marihuana market between 2014 and 2016 (Musto, 2018).

Although Uruguay's Parliament passed marihuana legislation in December 2013, the national supply system was not fully developed until four years later, following a complex and challenging pre-implementation phase for regulators (Kamin, 2017, Graham, 2015). Between 2014 and 2017, there were several contentious issues in selecting the private companies that would produce marihuana for distribution through pharmacies, as well as organising the national production system (Van Dorn, 2016, Arrarás and Bello-Pardo, 2014), leading to widespread supply shortages (Walsh and Ramsey, 2018). Consequently, key officials had to delay implementation of commercial sales until the marihuana production companies had produced enough supply to adequately stock those pharmacies that were participating in the legal sale of marihuana throughout the country (Walsh and Ramsey, 2018, Musto, 2018). During this period, Uruguay had another important shift in political power, whereby former President Tabaré Vázquez was re-elected for a second term in 2014. This election generated considerable uncertainty among observers in Uruguay regarding whether the newly elected president would continue to pursue the development of Uruguay's marihuana market given his public position against the consumption of marihuana for recreational purposes (Walsh and Ramsey, 2018, Musto, 2018). It

was in this context that the new government became responsible for developing the rules and regulations for the marihuana market, notably regarding the national production system and commercial sales through pharmacies, as well as their implementation.

Despite these delays, commercial sales through pharmacies were eventually implemented in July 2017. However, local policy actors tasked with implementing marihuana regulation were soon confronted with additional challenges. Shortly after commercial sales began, Uruguayan banks started receiving threats from US financial institutions and other foreign banks that, unless they ceased from processing marihuana-related transactions, they would be required to terminate their financial relationship immediately. Concerned with the potential risk of losing access to US financial services, Uruguayan banks promptly warned pharmacy owners that their bank accounts would be closed if they were to continue selling marihuana to the public (Londoño, 2017, teleSur, 2018). Significant concerns over the risk of losing access to foreign financial services have been expressed, including from high-level officials of the Vázquez Administration (Montevideo Portal, 2017) and other relevant key actors such as pharmacy owners (Maybin, 2019). Regardless of these recent challenges to implementing policies, Uruguay's advancement in marihuana regulation has become a common object of study for many drug and health policy scholars (von Hoffmann, 2016, von Hoffmann, 2018, Rolles and Murkin, 2016, Room, 2018, Murkin, 2014, Queirolo, 2020, Queirolo et al., 2018, Álvarez et al., 2017, Arocena and Aguiar, 2017, Babor et al., 2018). However, the process of developing the specific contents and detailed provisions of the world's first national marihuana supply system has been under-analysed and the international challenges to fully implement the law have not attracted much interest to date (as discussed in the literature review in Chapter 2 below).

1.5 What this thesis is about

This thesis seeks to build on existing literature examining Uruguay's marihuana policy reform, as well as the wider literature on marihuana policy debates, by examining neglected dimensions of the development and implementation of marihuana regulation between 2005 and 2017. It aims to develop a comprehensive understanding of how Uruguay's marihuana regulation was designed and its most distinctive provisions developed, investigating the specifics of the content, processes and dynamics influencing policymaking in this context. Furthermore, it examines the practical and political challenges facing key policy actors tasked with designing and implementing the world's first comprehensive marihuana supply system. To explore this, the following primary aim of the research was developed:

To examine the extent to which development of Uruguay's marihuana regulation can be understood with reference to the pursuit of policy coherence in health governance.

I was particularly interested in what the priorities and concerns were of the key actors involved in marihuana policy debates, how policy actors drew on ideas and policies from approaches to unhealthy commodity regulation and marihuana policies in other jurisdictions and the relevance of international pressures and constraints in shaping policy development and implementation. Four further subsidiary questions were therefore developed, which guided the focus of each empirical chapter:

i. What were the relevant perspectives and positions of the key actors involved in marihuana policy debates in Uruguay?

ii. To what extent was Uruguay's approach to marihuana regulation influenced by the promotion of policy coherence within health and across other policy spheres?

iii. How did the UN drug conventions and other relevant international pressures shape and constrain the policy space available for Uruguay to implement marihuana regulation?

iv. To what extent can international pressures explain Uruguay's distinctive model of state regulation of marihuana supply?

This thesis is based on empirical qualitative data derived from fieldwork conducted in Montevideo, Uruguay from October 2017 to September 2018 (see Chapter 3). This included 43 in-depth interviews with key actors involved in the development and implementation of marihuana regulation in Uruguay comprising of policymakers, public officials, cannabis users and drug reform groups, health advocates, pharmacists, academics and members of the marihuana industry. All interviewees were selected based on their active engagement with the policy process or expertise on the issue of marihuana regulation. This thesis is also informed by field observations and an extensive analysis of government documents, reports produced by NGOs and newspaper articles, among other sources dating between 2005 and 2017.

1.5.1 Rationale

For nearly sixty years, the production, distribution and sale of marihuana for recreational purposes have been prohibited in most countries following the signing of the 1961 Single Convention on Narcotic Drugs. I therefore selected marihuana regulation in Uruguay as a case study because I was interested in creating a comprehensive understanding of how key actors involved in the process deliberated and debated the specific details and design of the world's first nationally-regulated marihuana market. My interest in marihuana regulation in Uruguay was primarily driven by a desire to investigate the unusual nature of the case: moving from a discussion of potential approaches and hypothetical models to exploring the development of a

real-life, contemporary example of marihuana regulation. Exploring the development of marihuana regulation, rather than simply the process of policy adoption, was also selected because there is very limited evidence on the practical, real-life experiences and challenges of developing marihuana regulation, as will be outlined in Chapter 2. Studying Uruguay as a distinctive case offers the potential for this research to generate novel insights into the processes and underlying dynamics of policymaking in the emerging field of marihuana regulation.

Secondly, I focus on Uruguay in part because it was the first national government to develop a comprehensive marihuana supply system. However, the process of developing marihuana regulation in Uruguay also represents a compelling case study within health policy around commercial actors and how they are regulated, particularly those that produce addictive and harmful products. In doing so, I seek to contribute to the literature on policy coherence and policy space and address the gap in the latter literature concerning the relevance of drug and finance norms in constraining implementation of this national health policy innovation. While much has been written about the landmark case of Uruguay's marihuana legislation, less attention has been paid to the intersections between health, public security and finance agendas at different levels of governance and in different decision-making venues.

In examining these intersections, I also aim to contribute to a larger body of research concerned with the interactions between health and other policy spheres, as well as between different levels of governance, e.g. Uruguay and the United Nations. Although national debates concerning the regulation of other products, including tobacco and alcohol, would meet these criteria, I determined that the opportunity to generate additional insights into the interactions between health and public security sectors (at multiple dimensions) would be more likely if I were to focus on marihuana regulation. As discussed in subsequent chapters of this thesis, marihuana regulation may be regarded as a space where health interacts with public security and where policymakers, civil society organisations and market actors will likely have to balance priorities, negotiate trade-offs (Rogeberg, 2015) and respond to external pressures in the development of policy.

1.6 How this thesis is organised

In **Chapter 2**, *Understanding Uruguay's Marihuana Policy Experiment: A Literature Review*, I review and situate my research within the literature on Uruguay's marihuana policy reform—examining competing perspectives around individual liberties, public security, harm reduction and population health as the apparent drivers behind such change. The review identifies three major themes that are necessary for understanding the development of Uruguay's marihuana

regulation, namely the relevance of (i) historical and contemporary developments in the regulation of unhealthy commodities in Uruguay; (ii) international dimensions, constraints and other marihuana policy experiments; and (iii) competing priorities and perspectives as the key drivers behind marihuana policy reform. The results of the review help to identify gaps in the literature concerning how the particular contents and detailed provisions of Uruguay's marihuana regulation were developed, identifying the specifics of the processes and dynamics influencing the policymaking environment. It closes by reflecting on how the review highlights the significance of considering multiple dimensions of policy coherence as a framework to explore the development and implementation of marihuana regulation in Uruguay.

In **Chapter 3** on *Methodology*, I provide an account of the methodology, methods and thematic analysis that informed this research. I begin by explaining how I approached the complex task of understanding the development of the specific contents and detailed provisions of marihuana regulation in Uruguay. This project was informed by a qualitative, intrinsic case study approach that draws on the perceptions, views and interpretations of key actors actively engaged in the process of marihuana policy formulation. I therefore draw on a variety of data sources including 43 interviews with a diverse range of key actors within and outside of Uruguay, documentary sources and fieldwork observations. Thematic analysis is used to analyse the perceptions and beliefs of key actors, exploring issues and specific situations relevant to understanding the case. I close by discussing research ethics, the challenges of conducting this research, as well as my own situation in relation to the project and explain my process for self-reflection and reflexivity.

In the *Preface to the Results Section*, I introduce the key conceptual literature that informed the development of my analytical framework. This includes the concept of policy coherence and its various dimensions, as well as Stevens and Zampini's (2018) policy constellation framework. In discussing each of these analytical approaches, I briefly describe the relevant literature from which they were drawn, consider their application and potential adaptation to the Uruguayan context and relevance in understanding the process of marihuana policy development. The preface begins by introducing the concept of policy coherence, explaining how it has been defined in the literature, some of its key elements and how it is operationalised in relation to **Chapters 5, 6 and 7**. I then move on to introduce Stevens and Zampini's policy constellation framework, discussing how this conceptual approach provides a useful lens through which to unpack and map a complex milieu of diverse and potentially competing values, goals and perspectives of the relevant actors involved in marihuana policy debates within Uruguay. I close by discussing how the policy constellation framework might require adaptation to Uruguay's unique historical and political context in the analysis in **Chapter 4**.

The results section of the thesis is divided into four empirical chapters that explore policy coherence using various analytical frameworks and concepts. **Chapter 4** introduces the key actors involved in promoting marihuana policy reform in Uruguay and examines their concerns and priorities, setting the foundation for exploring the process of marihuana policy development in subsequent chapters. **Chapters 5, 6, and 7** then explore the relevance of policy coherence and its diverse dimensions in the development and implementation of Uruguay's marihuana regulation. **Chapter 4,** *Examining marihuana policy debates in Uruguay through policy constellations*, explores why marihuana regulation was pursued in Uruguay, making the case that a diverse constellation of actors was brought together around the shared belief that the war on drugs had failed and an alternative approach was needed, but the most influential actors were those that formed part of a 'public security constellation.'

Chapter 5, *Challenges achieving horizontal coherence across health and public security in the formulation of Uruguay's marihuana regulation law*, explores the promotion of policy coherence within health and across other policy spheres in a nationally specific context, arguing that coordination with Uruguay's tobacco and alcohol models was selectively pursued to achieve the implicit goal of legitimating marihuana use and sales, without creating a commercial driver or structural force that would promote excessive consumption.

In **Chapter 6,** *Constraints on national policy space from international drugs and finance in the development of Uruguay's regulated marihuana market*, I extend the scope of the analysis to consider tensions arising from Uruguay's international obligations, illustrating how the UN drug conventions were a less direct constraint on national policy space compared to the norms and practices of international financial systems. **Chapter 7,** *An innovative model? Exploring how Uruguay designed its marihuana supply system through hybridisation*, then explores how the complex interplay between international influences and domestic institutions shaped the formulation of Uruguay's distinctive approach to state regulation of marihuana supply, demonstrating the dual pressures that key actors faced in developing a tightly regulated marihuana market.

While each results chapter contains a separate discussion section, **Chapter 8** provides an overall discussion of the study's main findings. The *Discussion* begins by summarising the key results of each chapter, before moving on to consider their contributions and significance for current understandings of Uruguay's marihuana policy experiment as well as the wider political science and public health literatures. I close by considering the limitations of the findings, reflect on insights gathered from the case study and offer some thoughts on directions for future research

and policy in the context of marihuana policy in Uruguay and internationally, as well as global health policy and unhealthy commodity regulation more broadly.

In Chapter 9, *Conclusion,* I close by highlighting the relevance of the study for recent developments in marihuana policy change and offer some reflections on the implications of the findings for other jurisdictions. Drawing upon a diverse range of empirical data, alongside theories of policy change, this study demonstrates how national public security and crime-oriented frameworks, as well as international actors, norms and practices, have shaped and constrained the development of a national health policy innovation. Considering the findings together, it becomes clear that Uruguay's historic legacy of a state monopoly over alcohol production, its role as an international leader in tobacco control, and recent experience of a trade dispute with Philip Morris International have influenced how key actors approached the development of marihuana regulation. However, Uruguay's historical and contemporary approaches to regulating unhealthy commodities have also interacted, and arguably contended, with security and crime-oriented frameworks, which have challenged health policy coherence, shaped interactions with other states and constrained Uruguay's ability to implement marihuana regulation as originally envisaged. The relevance of crime-oriented frameworks to the development of Uruguay's marihuana regulation raises concerns around the extent to which such frameworks might limit Uruguay's ability to pursue autonomously its health goals in marihuana policy and for public health more broadly.

2 Understanding Uruguay's Marihuana Policy Experiment: A Literature Review

The purpose of this chapter is to present and analyse the literature on Uruguay's marihuana legislation—examining competing perspectives around individual liberties, public security, harm reduction and population health as the apparent drivers behind such change. The literature review emphasises the importance of situating Uruguay's marihuana policy experiment within both the domestic political context and international pressures. The chapter therefore begins by reviewing the literature on Uruguay's historical and contemporary approaches to regulating unhealthy commodities and their implications for marihuana regulation. It then moves on to explore how previous studies have addressed the relevance of international dimensions, constraints and other marihuana policy experiments to this process. Overall, the review demonstrates that existing literature has focused on the overall process dynamics of whether Uruguay would reform marihuana policy and how such a reform might fit with broader debates about marihuana regulation. But empirical research has not explored the specific provisions of Uruguay's marihuana regulation and the factors influencing their development and inclusion. This chapter therefore serves to highlight gaps in the literature regarding the particular details and provisions of Uruguay's marihuana regulation, exploring how and why these were developed. It closes by reflecting on how the review highlights the significance of considering diverse dimensions of policy coherence as a framework through which to explore the development of Uruguay's marihuana policy experiment.

Note, it is beyond the scope of this review to consider alternative forms of marihuana regulation globally and these will only be referred to as appropriate. Similarly, the review will briefly engage with the significance of medical marihuana supply systems to Uruguay's marihuana policy process, but for a more complete account of their history and provisions see Hecht (2014). In limiting the scope of this review, I also do not discuss emergent literature assessing the impacts of Uruguay's approach to marihuana regulation on health, the economy or drug trafficking, (but see Laqueur (2020) and Schleimer (2019)).

2.1 Approach to reviewing the literature

To guide this research, I reviewed the work of previous researchers in both Spanish and English. Searches of academic literature were performed using the Scientific Electronic Library Online (Scielo), International Bibliography of the Social Sciences (IBSS), ISI Web of Science (Thomas Scientific) and Academic Search (EBSCOhost) databases. These databases were selected because

they are among the most frequently used in the social and political sciences and include academic research in Spanish, particularly Scielo which covers the regions of Latin America and the Iberian Peninsula. Searches were undertaken between 1 January 2017 and 15 March 2017 and then again to capture more recent publications between 1 June 2020 and 15 June 2020, using the search terms: [TI Uruguay AND (marijuana OR cannabis) AND legal*], [TI Uruguay AND marijuana OR cannabis AND poli*], [AB Uruguay AND marijuana AND public health] and [Uruguay AND marihuana AND salud]. Searches primarily focused on research published since January 2012, although earlier studies deemed relevant to the current study were considered if they addressed the process of marihuana policy development in Uruguay. The results of the literature review searches can be found in Appendix 1 for searches conducted in both Spanish and English. The abstracts of the studies identified in the searches were assessed for relevance and articles that were deemed relevant were analysed in detail.

In addition to drawing on relevant search terms, I also identified articles using reference-mining, in which other relevant papers were identified in the articles that had emerged from the database searches. This search technique was adopted to ensure that other relevant articles, which had not been captured in the original search were also included for review, particularly those written in Spanish. I also reviewed the related grey literature that had been cited in academic research (identified above) and through Google Scholar Index (https://scholar.google.com/) using the search terms previously mentioned. Given the novelty of marihuana policy change in Uruguay, at the time I had searched the broader literature, there was very little published research specifically exploring this process, and so, reviewing the grey literature was beneficial in providing useful contextual information to inform the research questions.

As I reviewed the literature, I developed a table that compared, contrasted and summarised what is known and not known about the development of marihuana regulation in Uruguay. More specifically, I assessed the nature of the claims cited; evidence used to support the claims and their credibility; strengths and weaknesses of specific studies; and identified tensions and gaps in knowledge regarding this process. My strategy was to review the most recent literature first and then to work in reverse chronological order, assuming that this would allow me to identify whether other researchers had explored different ways to interpret prior research and whether they had addressed any relevant gaps. With the knowledge that past research had focused on the process dynamics and broader level issues around how and why Uruguay adopted marihuana policy reform, I was able to refine both my research question and research design. The literature review, therefore, established the significance of the study's focus on exploring the specific

content, processes and dynamics underlying the development of marihuana regulation in Uruguay and helped to shape the overarching research aim.

2.2 Uruguay and the regulation of unhealthy commodity industries: Innovation and Contestation

This section of the chapter explores the literature that examines whether and to what extent policymakers in Uruguay have drawn on the state's historic and contemporary approaches to unhealthy commodity regulation, namely tobacco and alcohol, in the development of marihuana policy. As outlined in the previous chapter, much of the international literature has examined how so-called international best practices from tobacco and alcohol regulation could be applied in a marihuana regulation context (Barry and Glantz, 2016, Pacula et al., 2014, Kirst et al., 2016, Haden and Emerson, 2014). There is a relatively small body of literature that is concerned with their application in practice, with most of the research foci on the US states (Barry and Glantz, 2018, Orenstein and Glantz, 2018, Steinberg et al., 2020), Canada (Caulkins and Kilborn, 2019) and to a limited extent Uruguay, though this is often in comparison with Colorado, Washington State, Spain and the Netherlands (Spithoff et al., 2015, Rolles and Murkin, 2016, Room, 2014a, Room, 2018, Babor et al., 2018, Hughes, 2018). This section therefore aims to situate Uruguay's marihuana regulation within a broader set of initiatives covering the history of a state monopoly for alcohol, recent legislative breakthroughs in tobacco control, and in an international context of a high-profile trade dispute brought by the tobacco industry. It is by no means a comprehensive account of the history of control of tobacco and alcohol in Uruguay or internationally but rather focuses on key innovations in and approaches to the regulation of unhealthy commodities and their relevance to marihuana regulation.

2.2.1 Regulating Alcohol in Uruguay

Uruguay's state interventionist approach over the manufacture of alcohol dates back to social reform legislation enacted in 1931, when the state-owned and operated alcohol company, the National Administration of Petroleum, Alcohol and Cement (ANCAP) was first created (Finch, 1981) and for several decades was the primary producer of distilled alcohol in the country. One pervasive theme in the literature is the overwhelming influence that this historic legacy had in setting an important precedent for a similar supply-side approach to marihuana (Garat, 2016, Arocena and Aguiar, 2017, Rivera-Vélez, 2018, Forné, 2017, Musto, 2018). Although marihuana legalisation debates tend to pay little attention to the history of control of the clandestine gambling and sex work industries (MacCoun and Reuter, 2001), some studies also briefly discuss how Uruguay's experience in regulating these other markets has been influential in terms of

shaping the pursuit of marihuana policy reform in the 2010s (Garat, 2016, Musto, 2018). In addition to its distinctive history in regulating alcohol production, Uruguay also legalised state control over the offer of sexual services and gambling to those 18 and above as part of a wider social reform process to secularise the state in the 1930s (Musto, 2018, Garat, 2016).

Although several authors acknowledge the importance of this historic context, very few have sought to explain how Uruguay's experiences in regulating alcohol, as well as sex work and gambling, contributed to the reform process. One exception is Garat (2016), who suggests that this historic context is important to understanding why Uruguay became the first country to diverge from the prohibitionist ethos of the international drug control regime, as the nationalisation and regulation of public goods and services are deeply entrenched in the political culture of Uruguayan society, a claim also echoed by Musto (2019). Arocena and Aguiar (2017) suggest slightly different findings, contending that in the context of Uruguay's drug reform, 'history matters' and that this 'innovative period' in the first half of the 20th century facilitated passage of Uruguay's 'controversial' marihuana regulation, despite widespread public opposition to the measure. They demonstrate this by showing how former President José Mujica would often make direct comparisons to Uruguay's state monopoly over alcohol, as well as sex work and gambling, and ongoing legislative efforts to regulate the marihuana market in the public debate. For instance, they write:

> The fact that the country had this innovative period at the beginning of the last century should be considered as a facilitator for the adoption of [marihuana regulation]. President Mujica made various public references about what happened 100 years ago, including saying that if [President] Batlle had based his initiatives on public opinion, he would never have promoted any of these laws because the population was divided. Mujica explicitly constructed that link: 'We proposed the law because of Uruguayan traditions. From 1914 or 1915 up until 1960, alcohol was under the control of a state monopoly [and the president cited other vanguards of the country] like regulating prostitution and the right for women to file for divorce and the option of Uruguay becoming a secular state. All of these points were established in the first decades of the last century.' (Arocena and Aguiar, 2017)

However, there is lack of agreement among policy scholars, including those within the field of alcohol policy research, over the extent to which Uruguay's marihuana policy was shaped by its domestic approach to alcohol regulation. In a historical analysis comparing marihuana policies in Uruguay, Colorado and Washington State, Room (2014) contends that Uruguay's marihuana regulation mirrors early 20th century alcohol control systems in the US states, arguing that 'in its tight control provisions, including individual purchaser permits with a monthly maximum, the Uruguay legislation resembles some of the systems set up 80–100 years ago for a legal market in alcoholic beverages, as an alternative to and often a successor to alcohol prohibition.' The main

weakness in Room's study is that he overlooks the potential similarities between Uruguay's state monopoly over alcohol production and earlier supply-side reforms over the alcohol market in the US states, raising questions around whether some of these characteristics might otherwise have been influenced by Uruguay's domestic institutions and structures. Furthermore, Room argues that Colorado and Washington State have failed to pay attention to 'what can be learnt from the long history in many places of regulation of legal markets in potentially problematic commodities such as tobacco and alcohol'—namely, the liberalisation of alcohol control systems in the US states. Yet, this question, as it applies to Uruguay's experience, is relatively under-explored.

This is a key issue with much of the available literature to date, which tends to focus on the important precedent-setting nature of the state monopoly over alcohol for marihuana regulation (Garat, 2016, Arocena and Aguiar, 2017, Draper and Sienra, 2017), but neglects the relevance of Uruguay's experience in regulating the alcoholic beverage market in an era of financial liberalisation in the 1990s. This gap in knowledge warrants further exploration since ANCAP's monopoly over alcohol production was eliminated in 1996 (World Bank, 1998), reflecting broader trends in privatisation and deregulation in Latin America (Dana, 1997). Indeed, post-privatisation of the alcohol market illustrates significant challenges in passing comprehensive legislation to regulate the alcohol space in Uruguay. For instance, in 2013, the Mujica Administration attempted to pass legislation that would have established a comprehensive regulatory framework over the production, distribution and sale of alcoholic beverages (Coitiño et al., 2017). According to the World Health Organisation's (WHO) Alcohol Policy Timeline Database, the Mujica Administration's alcohol strategy was intended to be far-reaching, addressing 'regulation, control of production, distribution and sale of alcohol; awareness and prevention; creation of a national care system for harmful alcohol use and a very clear regulation of advertisement' (World Health Organisation, 2018).

The Mujica Administration introduced the legislative proposal in July 2013, but after being debated for over two years in the Special Commission on Drugs and Addiction, the commission unanimously voted to postpone the measure in October 2015 (Executive Branch, 2013). Official transcripts of the legislative debate demonstrate that the proposed legislation was challenged by diverse sectors of the alcohol industry, including multinational alcohol producers Bacardi, Diageo and Pernod Ricard. In international alcohol policy research, scholars have identified corporate interference by multinational alcohol producers as a key impediment to policy development and adoption (Savell et al., 2016, Babor, 2010, Babor and Caetano, 2005, Hawkins

et al., 2012, Hawkins and Holden, 2013), factors which might, therefore, be expected to restrict feasible policy coherence between marihuana and alcohol policy in Uruguay.

Although very little is known about the alcohol policy process in Uruguay, there is some indication that efforts to regulate the alcohol market involved some of the same representatives of the Mujica Administration that were simultaneously proposing legislative changes to Uruguay's marihuana market (Coitiño et al., 2017), pointing towards the promotion of policy coherence, or at least attempts to, across marihuana and alcohol policy. For instance, in a 2015 press interview, former Assistant Secretary of the Mujica Administration Diego Cánepa, who was also a key architect of the marihuana regulation law (Cánepa, 2013a), remarked that '[i]n Uruguay it was much easier to pass a law to regulate marihuana than it was to regulate alcohol. The [alcohol legislation] was two and a half years in parliament and ended up not being approved' (Montevideo Portal, 2015). However, this particular feature of Uruguay's experience has been overlooked and consequently, the extent to which recent challenges to pass alcohol legislation influenced how policymakers approached marihuana regulation is still poorly understood.

Other research indicates that select aspects of Uruguay's contemporary approach to alcohol regulation shaped the development of particular features of marihuana policy. For instance, in Leite's study (2019) she finds that: 'the text of the cannabis regulation law establishes a strong connection with education in order to develop prevention campaigns.' Her claims are based on the observation that since December 2013 (when the marihuana regulation law was passed), Uruguay's Drug Control Board (JND) 'has carried out one major abuse prevention campaign involving cannabis, which is also designed to target the abuse of alcohol and other substances.'

This view is supported by Hudak and Ramsey (2015), who argue that the objectives of the health education campaign for marihuana are well aligned with that of alcohol, as they are designed to 'encourage adult consumers of both cannabis and alcohol to educate themselves about responsible consumption and the health risks associated with ingesting mind-altering substances.' Spithoff and colleagues (2015) also provide some *prima facie* evidence of potentially comparable restrictions for driving under the influence of marihuana and alcohol in Uruguayan law, contending that 'because of its zero-tolerance policy for alcohol-impaired driving, the country has created a lower threshold for the combination of cannabis and alcohol.' A serious limitation with this argument, however, is that national legislation to prohibit driving under the influence of alcohol was passed in May 2016 (World Health Organisation, 2018), the same time that Uruguay developed similar regulations for marihuana (Musto, 2018), raising questions around whether

development of this and other policies could be understood with reference to the pursuit of policy coherence across marihuana and alcohol regulation.

In sum, the relevance of Uruguay's alcohol regulation to marihuana policy development has not been dealt with in depth. Instead, what is currently known about the relevance of that experience is largely based on descriptive accounts of the legislation, raising questions around the extent to which such policy similarities may be over exaggerated. Nevertheless, this research indicates that policymakers might have sought to align particular features of Uruguay's marihuana regulation with its domestic alcohol policy and the pursuit of policy coherence in health governance could have been constrained by other goals and priorities. I will thus draw on these studies to explore whether and to what extent Uruguay's historic and contemporary approaches and experience in regulating alcohol, including more recent challenges to develop comprehensive legislation to regulate the alcoholic beverage market in 2013, shaped how policymakers approached the issue of marihuana regulation.

2.2.2 Uruguay's leadership role in tobacco control and challenges to national policy space

In addition to its historic approach and challenges of passing national legislation in the alcohol space, it is important to consider the wider implications of Uruguay's recent legislative breakthroughs in and international status as a leader in tobacco control for the development of marihuana regulation. Uruguay is notable within the Latin American context for leading in the implementation of the WHO Framework Convention on Tobacco Control (FCTC) in 2004 (Russell et al., 2015), including national legislation to prohibit smoking in all enclosed public places and workspaces, a complete ban on tobacco marketing, advertising and event sponsorships and high levels of tobacco taxation (Marquéz, 2016). This experience is significant because one of the more salient claims in the literature concerns how policymakers in Uruguay drew on its 'successful' (Pardo, 2014) tobacco control approach to inform the development of marihuana policy. In a comparative analysis of marihuana policies in Uruguay, Colorado and Washington State, Pardo (2014) argues that Uruguay learned from and incorporated several features of its domestic approach to tobacco regulation, particularly those elements that would protect against corporate control of the market. This is a common claim in the existing literature, though Pardo, along with several others (Ramsey, 2016, Murkin, 2014, Spithoff et al., 2015), only highlight a select few examples of policy similarities between Uruguay's tobacco regulation and marihuana policy, namely a prohibition on indoor smoking and comprehensive ban on marketing, advertising and event sponsorships. Furthermore, Pardo suggests that 'Uruguayan functionaries have indicated a desire to mandate generic and non-appealing labelling regulations,

similar to tobacco products, which might deter consumption according to some studies', though the extent to which policymakers drew on these and other policies from Uruguay's tobacco approach in the development of marihuana regulation has yet to be systematically examined.

While ideas from Uruguay's tobacco model may have informed some policy instruments, they also could have been used to convince a sceptical Uruguayan public that marihuana regulation would not lead to significant increases in consumption. Indeed, the low approval rating for marihuana legalisation among Uruguayans (Cruz et al., 2016a) does raise questions around the role that ideas or policies from Uruguay's tobacco approach played in shaping the development of the legislation's content and detailed provisions. Conversely, some research indicates that Uruguay's comprehensive tobacco legislation is strongly supported by the population, including among smokers (ITC Project, 2014), partly because it led to a significant decrease in tobacco use (Abascal et al., 2012). This is important because other studies suggest that policymakers adopted similar policies from Uruguay's tobacco approach in the development of marihuana regulation to minimise public concern regarding the potential risks that a commercial marihuana market might pose for public health (Murkin, 2014). In a 2014 study, Murkin found that 'there appears to have been considerable homogeneity between what NGOs, the Uruguayan government and Uruguayan citizens all wanted to see in a regulatory system for cannabis, as research confirmed that the public were most supportive of stricter controls [*sic*].' This would include the select few illustrations of apparent policy similarities between Uruguay's approach to tobacco regulation and marihuana policy identified in prior studies. Yet, while Murkin concludes that '[p]ublic support for this type of regulation was most likely an important contributory factor in why policy-makers were so receptive to the recommendations made by NGOs,' this says very little about the extent to which policymakers have sought to align marihuana regulation with the state's domestic tobacco approach.

This question merits further exploration since some of the more distinctive features of Uruguay's tobacco regulation were challenged by the tobacco industry. In 2010, Philip Morris International filed an investment arbitration claim against Uruguay at the International Centre for Settlement of Investment Disputes (ICSID), an arbitration panel of the World Bank, alleging that the measures violated a bilateral investment agreement between Uruguay and Switzerland (Collin, 2012, Clifton, 2017). These allegations concern aspects of Uruguay's legislation relating to cigarette packaging. The regulations in question required that tobacco products include pictorial health warning labels covering at least 80% of the front and back of packages (Crosbie et al., 2017, Roache et al., 2016), as well as a restriction on brand variants, otherwise known as the

'Single Presentation Regulation', which prohibits 'different packaging or presentations for cigarettes sold under a given brand' (Crosbie et al., 2017).

The tobacco industry's subsequent legal challenge to these measures, and the ruling of the international arbitration tribunal on this challenge, serve to highlight potential tensions between national health policy innovation and international trade and investment law. According to a 2012 decision on jurisdiction, Uruguay defended its tobacco control programme as an issue of national sovereignty, arguing that the tobacco control measures were excluded from the trade protections provided to investors under the bilateral investment agreement when they are pursued in the interest of public health (International Centre for the Settlement of Investment Disputes, 2012). On 8 July 2016, Uruguay won the lengthy trade dispute against Philip Morris International (PMI) (Voon, 2017), marking the first investor-state tobacco arbitration case decided on the merits of the claim regarding how a state has the legitimate authority to pass legislation in order to achieve national health policy objectives (Roache et al., 2016, Gabriel and Mesquita, 2018, Voon, 2017).

The available public health policy literature indicates that the international trade dispute with Philip Morris has two primary implications for Uruguay's marihuana regulation. First, the international arbitration tribunal sought to address a critical legal issue regarding how health governance should be treated in the context of tensions with international investment law and the space afforded to states in terms of establishing regulations that seek to protect and promote public health (Lencucha, 2010, Weiler, 2010, Zhou et al., 2019, Voon, 2017, Banai, 2015). In its July 2016 ruling, the International Tribunal determined that '[t]he responsibility for public health measures rests with the government and investment tribunals should pay great deference to governmental judgments of national needs in matters such as the protection of public health' (International Centre for the Settlement of Investment Disputes, 2016b). In this regard, Gabriel and Mesquita (2018), along with several others (Crosbie et al., 2017, Voon, 2017, Gilmore et al., 2015, Zhou et al., 2019, Clifton, 2017, Chung-Hall et al., 2019), argue that the importance of the 2016 ruling was that it recognised the legitimate right of sovereign states to adopt tobacco control measures as long as they are pursued in accordance with international health and human rights commitments and national health objectives, regardless of their effects on foreign investment rights (Gabriel and Mesquita, 2018).

Some scholars posit that the adjudication was not only significant because of its implications for other countries interested in pursuing similar tobacco control measures as Uruguay (Gabriel and Mesquita, 2018, Roache et al., 2016, Russell et al., 2015, Voon, 2017, Zhou et al., 2019, Crosbie

et al., 2017, Chung-Hall et al., 2019), but also because it set an important precedent for current and subsequent disputes involving health, including alcohol, ultra-processed foods (Upreti, 2018, Roache et al., 2016, Thow and McGrady, 2014) and environmental regulation (Foster, 2017). The International Tribunal's overall conclusions were that Uruguay possessed 'unquestioned sovereign powers to protect the health of its population, both in the context of tobacco regulation and otherwise' (International Centre for the Settlement of Investment Disputes, 2016a). The broader implications of this ruling for tobacco control and public health more generally are well documented, as shown above. In terms of this research, the trade dispute with Philip Morris International is relevant to marihuana policy development and politics, as it might be seen as setting an important precedent for Uruguay to regulate in the interest of public health, regardless of tensions arising from Uruguay's obligations under the UN drug conventions and other sources of external constraint.

The second implication of the international trade dispute for marihuana regulation pertains to how trade protections provided under international and bilateral investment agreements can constrain the space available for states to implement national health policy innovation. The challenges brought by Philip Morris International (PMI) were related, in part, to the company's allegations that central aspects of Uruguay's tobacco legislation breached the provisions of the bilateral investment agreement with Switzerland regarding 'fair and equitable treatment' of tobacco products (Clifton, 2017). In particular, PMI alleged that the measures did not serve a legitimate purpose aside from harming the company's investments in Uruguay, were not connected to substantial evidence illustrating their impact on tobacco use nor required by the FCTC (Upreti, 2018, Zhou et al., 2019, Clifton, 2017, Foster, 2017). Although these claims were rejected by the International Tribunal, based on the interpretation that the FCTC did not pre-empt states from adopting novel measures in advance of international practices (Clifton, 2017, Foster, 2017), this case illustrates the potential for trade agreements to challenge the authority of states to enact innovative policies regardless of whether they are pursued in the interest of public health (Roache et al., 2016, Zhou et al., 2019).

2.2.3 Adherence to public health best practices from the regulation of unhealthy commodities?

As indicated above, seemingly distinctive approaches to tobacco and alcohol regulation in Uruguay raise some interesting issues and questions regarding the processes by which knowledge or ideas from either of these experiences shaped the development of marihuana regulation. Yet, empirical research exploring the extent to which Uruguay's marihuana regulation was shaped by or consistent with existing approaches to regulating unhealthy commodities is remarkably

limited. Within the studies that do examine this question, there also seems to be disagreement concerning the extent to which Uruguay's marihuana regulation adheres to public health best practices from the regulation of alcohol or tobacco. For instance, Spithoff and colleagues (2015) argue that:

> Uruguay follows the key public health best practices [from tobacco and alcohol]. It has established a central, governmental, arm's length commission to purchase cannabis from producers and sell to distributors. The commission will have control over production, quality and prices, and the ability to undercut the illegal market. Tax revenues will fund the commission and a public health campaign. (Cannabis will initially be sold tax free to undercut the illegal market.) Uruguay bans all promotion of cannabis products. Pharmacies will sell bulk cannabis in plain bags, labelled only with the THC percentage and warnings (Spithoff et al., 2015).

However, Spithoff and colleagues do not consider the potential implications of divergent approaches to unhealthy commodity regulation in Uruguay for the development of marihuana policy. Nor do they offer an explanation for why some of the more distinctive features of Uruguay's marihuana regulation, which do not seem to align with public health best practices from unhealthy commodity regulation—namely, commercial sales through pharmacies, a national user registry or tax-free marihuana products, were included in the final legislation. This is a similar issue with Hughes' study (2018), which suggests Uruguay's regulatory approach to marihuana illustrates 'cross-substance learning and more aligned policy trajectories' (Hughes, 2018). Yet, the author fails to provide an illustration of what 'cross-substance learning' would constitute in this context or evidence that Uruguay's marihuana regulation demonstrates 'more aligned policy trajectories' with tobacco and alcohol regulation.

Conversely, Murkin (2014) suggests that Uruguay took a different approach to that of tobacco and alcohol by adopting a policy framework that 'closely resembles Borland's (2003) proposed 'regulated market model' for tobacco, which seeks to restrict commercial activity – in particular, marketing – on the grounds that tobacco use is associated with significant health harms and dependence.' He further contends that Uruguay's strict tobacco model facilitated ideas about controlling commercialisation since policymakers and the public were 'more open to the idea of a system of cannabis regulation' that might be viewed as 'anti-business' in other contexts (Murkin, 2014). Yet, Murkin's account of Uruguay's marihuana policy process and the relevance of approaches to tobacco regulation in that context seems to be exclusively based on the perceptions of a limited number of international drug policy experts (n=4), as he did not interview local policy actors because 'attempting to recruit such high-level participants, many of whom do not speak English, would have been impractical' (Murkin, 2014). This lack of

consideration for alternative measures to address language barriers, to an extent, weakens the quality of this study and potentially discredits its validity.

Some reflections can be drawn from this part of the literature review. First, scholars are mainly concerned with how Uruguay's historic and contemporary approaches to tobacco and alcohol regulation shaped the overall process dynamics of marihuana policy reform. In particular, Uruguay's state monopoly over alcohol production and recent innovations in tobacco control are usually presented by these scholars as setting an important precedent for the pursuit of a similar state interventionist approach to marihuana regulation. From this perspective, the significance of divergent approaches to unhealthy commodity regulation in Uruguay is understated, while there is a tendency to assume rather than demonstrate that various elements of Uruguay's marihuana regulation are similar to that of alcohol or tobacco. Consequently, there is a lack of evidence regarding the extent to which marihuana regulation was shaped or constrained by broader political considerations, including efforts to develop consistent regulation across unhealthy commodities.

Although these studies are important to understanding the wider dynamics of this reform, they disregard the potential relevance of recent failed attempts to regulate the alcohol market as well as Uruguay's experience with the trade dispute with Philip Morris International and their implications for marihuana policy development. In view of all that has been mentioned so far, one may suppose that the major legislative breakthroughs in tobacco control versus the challenges of passing legislation in the alcohol space are likely to shape the ways in which either of these two approaches were drawn on in marihuana policy debates in Uruguay. Secondly, the existence of a state monopoly over alcohol, as well as sex work and gambling industries, is likely to have relevance to aspects of the debate about marihuana supply, even if it is just in terms of illustrating historical precedence.

2.3 Uruguay's marihuana regulation and the relevance of the international context

This section examines literature that addresses the relevance of international dimensions, constraints and other marihuana policy experiments in understanding the development of Uruguay's approach to marihuana regulation. Before moving on, it is important to outline briefly the international mechanisms governing the control of marihuana to provide context to the following subsections.

The international control of marihuana for non-medical purposes is covered under three international treaties: the 1961 Single Convention on Narcotic Drugs, the 1971 Convention on

Psychotropic Substances and the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, to which Uruguay has been party since 1975 (Forné, 2017, Arrarás and Bello-Pardo, 2014, Musto, 2018). Under the treaties, member states are authorised to permit the use and sale of marihuana exclusively for medical and scientific purposes; that is, marihuana for non-medical and non-scientific purposes, e.g., recreational use, is strictly prohibited (Room, 2018). In the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, signatories are further required to criminalise the possession, purchase and cultivation of marihuana for personal consumption under domestic law, subject to the constitutional principles and basic concepts of a state's legal system (United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988). International enforcement of the UN drug treaties falls under the jurisdiction of the International Narcotics Control Board (INCB), the quasi-judicial monitoring body for the UN international drug control regime, which monitors implementation and compliance with the three international drug control treaties (International Narcotics Control Board, 2019).

2.3.1 Uruguay and regional debates on approaches to marihuana control

Uruguay's marihuana regulation law has been widely portrayed as internationally distinctive among the drug reform community and in health and social policy debates internationally (Cerda and Kilmer, 2017, Musto, 2018, Pardo, 2017, Rolles and Murkin, 2016, Kilmer and Pacula, 2017, Murkin, 2014, Obradovic, 2019). Often, perceptions of Uruguay's landmark marihuana legislation are based on the view that this policy change marked the first time that a party to the UN drug conventions breached the provisions of the treaties by legalising the production, distribution and sale of marihuana for non-medical and non-scientific purposes (Pardo, 2014, Murkin, 2014, Graham, 2015, Room, 2018). As much of the literature has focused on the unprecedented nature of such change, a number of scholars have sought to explore the historical and international factors that enabled Uruguay to pursue marihuana policy reform (von Hoffmann, 2016, Musto, 2018, Álvarez et al., 2017, Valdomir, 2015, Arrarás and Bello-Pardo, 2014, Murkin, 2014). Many researchers argue that Uruguay's marihuana regulation was part of the country's longstanding divergence from conventional approaches to the 'war on drugs' strategy (Musto, 2018, Draper and Sienra, 2017, Ramsey, 2016), which often has been portrayed as strongly driven by the US government (Bullington, 2004), particularly in the Latin American context (Musto, 2018, von Hoffmann, 2016).

Uruguay became a party to the UN drug conventions in 1975 when the military dictatorship that would rule Uruguayan politics for the next ten years (Garat, 2015, Draper and Sienra, 2017)

passed national implementation legislation for the 1961 Single Convention and 1971 Convention on Psychotropic Substances (Walsh and Ramsey, 2018, Forné, 2017). Most scholars highlight how the development and passage of Uruguay's national drug law was part of a wider public security agenda in the South American region that had been 'strongly influenced' by the US government (Musto, 2018), which subsequently was adapted to Uruguay's historic liberal tradition (Draper and Sienra, 2017, Garat, 2015, Walsh and Ramsey, 2018, Forné, 2017). Although the UN drug conventions require that member states prohibit the use and sale of marihuana, Garat (2015) and Draper and Sienra (2017) contend that Uruguay's drug law was unlike other Latin American countries because the law decriminalised possession and use of all illicit substances, but criminalised their production, distribution and sale. Walsh and Ramsey (2018) agree when they write, 'even under the civic-military dictatorship that ruled the country from 1973 to 1985, Uruguay adhered to the U.S.-led "war on drugs" while simultaneously fostering a more classically liberal, hands-off approach than Washington'. In contrast to conventional interpretations, this suggests that the international drug control treaties offer some degree of flexibility for states to adapt global norms to local conditions (Collins, 2018).

The relative flexibility of the UN drug conventions is, however, subject to debate (Walsh and Jelsma, 2019) and does not seem to explain why or how Uruguay pursued marihuana regulation. Musto (2018) and von Hoffmann (2016), among others (e.g. (Valdomir, 2015, Álvarez et al., 2017)) argue that researchers ought to pay more attention to the shifting regional context under which Uruguay pursued marihuana policy reform and not focus solely on domestic factors and processes. These researchers emphasise how Uruguay's marihuana regulation was pursued within the context of a growing regional consensus in Latin America that emerged in the 2000s around the need to consider alternative strategies to resolve the counterproductive effects of drug prohibition (Garcia, 2013, Arocena and Aguiar, 2017, Garat, 2016, Draper and Sienra, 2017), including calls for the decriminalisation of marihuana for personal use (Latin American Commission on Drugs and Democracy, 2009). Indeed, as articulated by Rogeberg (2015), the problem of drug cartels and their role in contributing to rising drug consumption and public insecurity has been particularly salient to the Latin American context, where there are disproportionate rates of violence and crime associated with the illegal production and trafficking of drugs compared to other jurisdictions.

Although several authors acknowledge the importance of this shifting regional context (Valdomir, 2015, Arrarás and Bello-Pardo, 2014), including Uruguay's role within it (Garat, 2016, Draper and Sienra, 2017, Garcia, 2013), few have sought to explain how such international dynamics contributed to Uruguay's policy reform process. Partial exceptions are studies by von

Hoffmann (2014), Álvarez et al (2017) and Musto (2018), which find that the international response to Uruguay's marihuana policy reform was somewhat mixed and uncertain. A recent study by von Hoffmann concluded that because the international reaction to Uruguay's marihuana legislation was ambivalent, ranging from 'praise, muted to critical', this provided key officials in Uruguay with a more hospitable environment through which to pursue marihuana policy reform, a conclusion also echoed by Álvarez (2017) and Musto (2018). He further contends that the US government was 'remarkably silent about Uruguay's marihuana reform process', inferring that the US' own internal marihuana policy experiments (see Section 2.3.4) complicated its traditional role as the global defender and promoter of drug prohibition, a conclusion endorsed by several other authors (Álvarez et al., 2017, Graham, 2015, Room, 2018, Babor et al., 2018, Youngers, 2014, von Hoffmann, 2018). In the wider literature, this has been a consistent claim among drug policy scholars regarding the apparent influence of the US government over drug policy decisions in Latin America (Durán-Martínez, 2017). Yet, the question of how an uncertain international response from the US and other countries influenced the actions and motivations of key policymakers in the development of Uruguay's approach to marihuana regulation is an area that requires further exploration.

2.3.2 Uruguay's marihuana regulation and the relevance of international actors

There is a group of scholars of marihuana regulation who present international drug policy experts and advocates as playing a reportedly crucial role in influencing how marihuana policy reform was advanced, despite international criticism against the proposal (von Hoffmann, 2016, Musto, 2018, Álvarez et al., 2017). For example, Álvarez and colleagues (2017) hold the view that international experts were critical to reducing uncertainty about the potential implications of Uruguay's marihuana policy reform for neighbouring countries like Argentina and Brazil, leading to the conclusion that involvement of external consultants was a key factor behind the law's ultimate passage in 2013. In a similar vein, Musto (2018) and von Hoffmann (2016) emphasise how a transnational drug policy network was important to assuaging doubts about policy reform and substantiating policy solutions among an adverse domestic audience and hostile international context, implying that there was significant pressure, both domestically and internationally, to illustrate existing support for the proposed legislation. Yet, such studies remain narrow in focus dealing only with how international actors, particularly drug policy experts, shaped Uruguay's domestic debate and marihuana reform process.

Conversely, other authors draw our attention to the relevance of external pressure from relevant regional actors—namely, Argentina and Brazil—in shaping the development of the specific

contents of the legislation. A critical investigation by Walsh and Ramsey (2018) suggests that Uruguayan regulators 'knew' that they would have to contend with international criticism from neighbouring countries, arguing that policymakers were 'mindful of the international dimensions of their decision to move forward with cannabis regulation, [and therefore] designed a tightly controlled regulatory system.' The authors suggest that this external pressure led to Uruguayan policymakers 'deliberately' adopting a stricter approach to marihuana regulation by including policy measures such as a national user registry and monthly purchase limits (Walsh and Ramsey, 2018), but offer no explanation of the origin of these measures or the process of their development.

These claims are also supported by Murkin (2014), who adds that Uruguayan policymakers adopted more restrictive policy measures despite recommendations against such action from drug policy NGOs. This of course raises important questions about the reportedly critical influence of external consultants on policy outcomes, as depicted in prior research outlined above (von Hoffmann, 2016, Musto, 2018). Murkin further contends that policymakers felt 'compelled' to include a national user registry since it was seen as serving a political purpose, in that it could provide assurances to the public, opposition parties and neighbouring countries that marihuana supply would be tightly controlled by the state (Murkin, 2014), but failed to provide adequate proof of this finding. These claims also seem to be somewhat speculative, since, as outlined in Section 2.2.3, Murkin's study is based on the perceptions of a few international drug policy experts, rather than key decision-makers and other relevant domestic policy actors.

In sum, though limited to a select few policy examples, these studies provide important insights into the international pressures and constraints under which Uruguay pursued marihuana policy reform. Overall, they indicate that the expectations of policymakers in Argentina and Brazil have played an important, albeit under-explored, role in constraining the decisions of policymakers in Uruguay, potentially explaining why domestic policy actors sought to develop a tightly controlled marihuana market. I will therefore draw on this work to examine the extent to which external pressures, including from Argentina, Brazil and the US government, can explain how Uruguay developed its distinctive approach to marihuana regulation, based on the perceptions and insights of domestic policymakers and civil society actors directly involved in this process.

2.3.3 Uruguay and the international controls on marihuana

The question of how Uruguay was able to pass marihuana regulation despite apparently contravening its international obligations under the UN drug treaties, which limit the production and sale of marihuana exclusively to medical and scientific purposes (United Nations, 1961), has

been the subject of much academic and political debate (Graham, 2015, von Hoffmann, 2018, Room, 2018). A series of recent studies suggest that because Uruguay defended its marihuana law as a health and human rights issue (Arrarás and Bello-Pardo, 2014, Álvarez et al., 2017, Walsh and Jelsma, 2019, Musto, 2018, Spithoff et al., 2015, von Hoffmann, 2018, Leite, 2019, Fijnaut and Ruyver, 2015, Repetto, 2014), this explains *how the government was able to reform marihuana policy despite constraints of the international drug conventions* (particularly the pressure from the International Narcotics Control Board or the INCB). Walsh and Martin (2019), as well as several others (Arrarás and Bello-Pardo, 2014, Álvarez et al., 2017, Spithoff et al., 2015, Walsh and Ramsey, 2018), argue that Uruguayan officials justified marihuana regulation on the grounds that the law's objectives were consistent with the original goals of the UN drug conventions, namely the protection of health and welfare of mankind. They also contend that although it is clear that Uruguay contravened its obligations under the 1961 Single Convention on Narcotic Drugs, key officials have offered a 'powerful rationale for market regulation' by invoking coherence between marihuana regulation and Uruguay's obligations under international human rights law, arguing that a state's human rights commitments must take precedence over the objectives of the UN drug conventions (Walsh and Jelsma, 2019).

Although this has been a common finding in the existing literature on Uruguay's marihuana legislation, this conclusion fails to address how marihuana regulation might be seen as compatible with international human rights law or the legal protections that such treaties may provide. Hawken and Kulik (2014), on the other hand, offer a divergent explanation, suggesting that the international mechanisms of the UN drug conventions are 'barely enforceable.' Likewise, Conti-Brown (2018) attributes Uruguay's 'success recently in walking away from' its international obligations under the UN drug treaties with the largely symbolic nature of these conventions. These claims seem intuitively plausible as the INCB relies on informal pressure to ensure drug treaty compliance (International Drug Policy Consortium, 2008), but apparently does not possess the legal authority to sanction countries that fail to meet their international commitments to the UN drug conventions (United Nations, 1972).

Meanwhile, Musto (2018) argues that to understand how Uruguay was able to pass marihuana legislation in 2013, it is important to pay attention to the efforts of a transnational drug policy network in terms of 'chang[ing] the image attached to cannabis reform [and] defend[ing] the Uruguayan initiative in a rather hostile international conventions arena.' Overall, she concludes that the success of marihuana policy reform in Uruguay is related to the activities of international drug reform activists to help 'break the prohibitionist policy monopoly, endorsing a harm reduction and human rights shift to drug problems in Latin America' (Musto, 2018). However, it

is not entirely clear whether and how this alleged harm reduction and human rights shift allowed for Uruguay to pursue marihuana regulation in the context of tensions with the state's obligations under the UN drug conventions.

Other scholars maintain that the INCB's lack of impact on the passage of Uruguay's marihuana regulation can be linked to the withdrawal of US pressure and funding for drug control efforts in Latin America, which afforded Uruguay the flexibility to experiment with and ultimately pass marihuana policy reform (Valdomir, 2015, von Hoffmann, 2018, Babor et al., 2018, Room, 2018, Álvarez et al., 2017). Álvarez and colleagues go so far as to claim that the US government's 'unwillingness to exercise its veto power over the discussion of new approaches' provided Uruguay with the 'necessary degree of autonomy from the international stage to implement its desired policy' (Álvarez et al., 2017). Yet, their claims seem to be somewhat overstated, as the authors do not provide evidence of the US government's alleged unwillingness to condemn Uruguay's actions or that the US government even possesses the legal authority to 'veto' a sovereign state's national policy decisions.

Overall, the research to date has tended to focus on issues of sovereignty and legal authority in relation to the UN drug conventions, but does not consider how issues of power and autonomy might shape and constrain Uruguay's ability to develop a legal marihuana market. This gap in knowledge is critical since, as outlined in Section 1.4, although Uruguay passed marihuana regulation in 2013, the national supply system was not fully developed until four years later, following a complex and challenging pre-implementation phase for regulators (Kamin, 2017, Graham, 2015, Obradovic, 2019). To date, several authors conclude that these challenges can be explained exclusively by local policy dynamics, including the seemingly hostile domestic context under which implementation occurred (Musto, 2018, Álvarez et al., 2017, Arrarás and Bello-Pardo, 2014, Graham, 2015, Obradovic, 2019), the lack of political will on part of the incoming Vázquez Administration (Graham, 2015, Queirolo, 2020, von Hoffmann, 2018, Obradovic, 2019) and the apparent conflicts between the organisational goals of the agencies and private actors, namely pharmacists (Queirolo, 2020, Room, 2018), tasked with the law's implementation (Ramsey, 2016). Delays in implementation have also been linked to knowledge gaps regarding the costs of producing a sufficient supply to meet public demand by the state-licensed marihuana producers (Walsh and Ramsey, 2018, Musto, 2018, Hudak et al., 2018, Queirolo, 2020, Ramsey, 2016, Obradovic, 2019).

However, no studies have yet dealt with the potential implications of tensions and coherence issues with the objectives of the UN drug conventions and the policies and processes of other

relevant international actors, such as the US government, in explaining challenges with implementation. These tensions and coherence issues merit greater exploration because the public security strategy for combating the illicit drug market of Uruguay's marihuana regulation applies to the production, distribution and sale of a substance that cannot be legally traded between countries, which is also governed by the norms and practices of international financial systems. In previous research on issues with implementation of marihuana policy at the subnational level in the US, scholars have found that the international control of drugs and money laundering has restricted access to financial services for marihuana-related businesses in Colorado and Washington State, despite the newfound legality of marihuana in their respective state-level regimes (Conti-Brown, 2018, Hill, 2015, Subritzky et al., 2015). According to Subritzky and colleagues (2015), US financial institutions have refused to service the accounts of marihuana-related businesses in the US states, citing alleged concerns of federal prosecution for money laundering, which Conti-Brown (2018) and Hill (2015) argue has been a significant constraint on the expansion and viability of the US marihuana industry.

This research tends to consider the problem of marihuana banking as inherent to the US' federalised political system, as marihuana is illegal at the national level, which raises tensions between federal authority and state autonomy (Hill, 2015, Conti-Brown, 2018, Subritzky et al., 2015). Yet, this issue may be relevant to the current study if international anti-money laundering controls limit Uruguay's ability to implement marihuana regulation, particularly if US and non-US financial institutions refuse to process marihuana-related transactions because of the substance's illegal status at the international level. This project will specifically explore the relevance of coherence issues and tensions between marihuana regulation and international drug and finance policies in explaining challenges with implementation, as this literature shows (although in the US context).

2.3.4 Uruguay and other marihuana policy experiments

In thinking about Uruguay's approach to marihuana regulation, it is helpful to consider how policymakers have drawn on not only the state's existing experiences with regulating tobacco and alcohol, but also other experiments of marihuana regulation in other jurisdictions. The development of Uruguay's approach to marihuana regulation was part of an emergent, yet modest trend in marihuana policy reform, characterised by the transition from prohibitionist policies to decriminalisation of possession and use to more recent legal market regulations (Kilmer and Pacula, 2017, Room, 2018). While some scholars argue that past marihuana policy experiments have been important to advancing the international policy debate (Pardo, 2014,

Fijnaut and Ruyver, 2015), the relationship between various marihuana policy reforms at the national and subnational level is less clear.

For example, a 2017 review by Kilmer and Pacula on marihuana policy reform at the national and subnational level over the last fifty years from 1970 demonstrates significant variation in approaches between various marihuana supply policies and indicates that cross-national differences became more apparent over time (Kilmer and Pacula, 2017). As Pacula and Sevigny warn, the immense heterogeneity across medical and recreational marihuana supply models that continue to evolve after initial policy adoption means that very little is known about the implications of different approaches and regulatory designs on the supply and demand for marihuana for other jurisdictions to consider (Pacula and Sevigny, 2014). Before proceeding to examine the literature on the relevance of national marihuana policies to the development of Uruguay's marihuana regulation, it is therefore important to first outline key distinctive features of other marihuana policy experiments that have been implemented in other places and some of the challenges that each jurisdiction faced in pursuing such policy reforms. These include examples found in the Netherlands, Spain and the US states of California, Colorado and Washington State.

Netherlands

The Netherlands was a first mover in 1976, which adopted a formal written policy of non-enforcement for violations involving the possession, sale and consumption of up to 30 grams of cannabis (MacCoun, 2011), though these activities are technically prohibited under national law (Room, 2018, Kilmer, 2013). The stated aim of drug policy reform in the Netherlands was to separate soft drugs from hard drug markets in order to discourage and prevent cannabis users from escalating to harsher illicit substances, most notably heroin at a time when rising use of that drug was becoming a key public concern in Europe in the 1970s (MacCoun, 2011). The so-called 'Dutch coffee shop model' tolerates the existence of cannabis coffee shops, which are licensed facilities that are restricted from selling cannabis in more than five-gram increments per person on a daily basis, cannot sell ecstasy and other hard drugs or advertise cannabis. It also prohibits retailers from selling to tourists (except in Amsterdam), as well as minors under 18, who are not permitted to enter the premises (MacCoun, 2011).

According to MacCoun and Reuter (2011), a key defining feature of the Dutch coffee shop system is that the illegal supply chain is controlled and funded by producers and distributors operating in the black market. Otherwise known as the 'back door' problem, in which production and sales are technically illegal but cannabis can be accessed in small amounts from

cannabis coffee shops, this issue has created a regulatory void for policymakers in the Netherlands. Research suggests that aside from a prohibition on marketing (Spithoff et al., 2015) and the ability to cease coffee shop operations that violate the conditions of the non-enforcement policy, the Dutch government does not directly control the supply, demand, price, quantity and product quality of marihuana, which are largely determined by organised crime, the competitive dynamics of the illicit market, and the interplay of drug enforcement and drug trafficking strategies (Nadelmann, 1989). Other scholars have found that there have also been concerns raised by neighbouring countries regarding marihuana tourism and illegal diversion to other states (Room, 2018), where there are strict laws against consumption, a concern that might merit exploration in the Uruguayan context.

Spain

In Spain, a different approach to liberalising marihuana supply has been taken from that of the Netherlands. In 2001, a Supreme Court decision determined that although sales are prohibited, the possession of large quantities of cannabis was not a crime (Decorte et al., 2017). This led to the development of cannabis social clubs, which are non-profit organisations of users that collectively organise to cultivate and distribute cannabis among their members (Belackova et al., 2016, Decorte et al., 2017). This form of cannabis supply system is tolerated on the basis that club members only cultivate marihuana for personal use and do not profit from production (Decorte, 2015). Much like the Dutch coffee shop model, cannabis social clubs are not state regulated, but rather are governed through voluntary codes of conduct, in which a diverse set of self-regulatory practices over club structure and operations exist throughout the country (Decorte et al., 2017, Room, 2018). In select localities such as Catalonia, cannabis clubs are advised by municipalities to follow voluntary guidelines, including monthly limits on consumption per user, hours of operation and restrictions on membership (Decorte et al., 2017). Advertising and promotional activities are also prohibited (Spithoff et al., 2015). Previous research has suggested that these restrictions were developed to prevent cannabis clubs from operating as for-profit entities, as observed in other parts of Spain without similar restrictions (Decorte et al., 2017, Musto, 2018).

Proponents of cannabis social clubs argue that this type of cannabis supply system uses 'elements of a public health framework because it reduces the harms associated with the involvement of for-profit corporations' (Spithoff et al., 2015). However, because cannabis social clubs are membership-based and heavily resource dependent, it has been argued that this system may exclude some users, thereby, likely failing to address the legal and safety consequences of

purchasing marihuana in the illicit market in an equitable manner (Spithoff et al., 2015, Lenton, 2014). Both of these aspects seem likely to be valuable lessons for Uruguay given claims in the literature concerning how policymakers designed marihuana regulation in order to prevent the development of a commercially-driven market (Pardo, 2014, Rolles and Murkin, 2016, Room, 2018) (as outlined in Section 2.2). Secondly, prior research indicates that marihuana policy reform was pursued in the 2000s by a group of cannabis activists and leftist political parties in response to rising arrest rates of users that grew marihuana at home for personal use (Musto, 2018, Arocena and Aguiar, 2017, Castro, 2014). As discussed in Section 1.4 and in more detail below in Section 2.4.2, these efforts were centred on ensuring that all users had access to marihuana in order to address the legal consequences of discriminatory drug enforcement practices.

US states: California, Colorado and Washington

In parts of the United States, marihuana policy reform has extended beyond the decriminalisation of possession and use to the legalisation of cultivation and production for medical and recreational purposes (Graham, 2015, Kilmer, 2013). In 1996, through voter initiative, California was the first state to legalise the possession and cultivation of up to 8 ounces of dried marihuana flower and six female plants per household exclusively for medical purposes (Hecht, 2014). Cannabis collectives and cooperatives, which are similar to cannabis social clubs identified above, provide medical marihuana to qualified patients throughout the state and are allowed to cultivate up to 99 plants per year pending recommendation from a 'qualified' physician (State of California, 2019). The sale of medical marihuana to qualified patients 18 and above is permitted through state licensed marihuana dispensaries, where cannabis and cannabis-related products are exclusively sold. Several scholars argue that California's medical marihuana model was significant to the political landscape because it set an important precedent for other states in the US to pursue similar policy reforms (Hecht, 2014, Fijnaut and Ruyver, 2015, Pardo, 2014). By 2017, 29 states and the District of Columbia had adopted different versions of legal medical marihuana supply regulations (Kilmer and Pacula, 2017), in which subsequent policies became more detailed and restrictive over time, in part due to the increased involvement of state legislatures in the policy process (Mallinson and Hannah, 2020).

Arguably, the most significant changes to the marihuana policy environment occurred in 2012, when Colorado and Washington State became the first two jurisdictions in the world to pass legislation to regulate the production, distribution and sale of recreational marihuana for persons 21 and above (Kilmer, 2013). Although Colorado and Washington State share several

characteristics between their regulatory regimes regarding restrictions on marketing and branding, traceability systems, a 28.5 gram daily purchase limit, and sales through licensed retailers (Pardo, 2014, Spithoff et al., 2015), there are also some very significant variations to the ways in which marihuana regulation is organised across the two states (Barry and Glantz, 2018). In Colorado users are permitted to grow up to six plants at home for personal use, marihuana companies are allowed to apply for an unlimited number of licenses, vertical integration is permitted (meaning that a licensee can own more than one license from any part of the supply chain (Caulkins and Kilmer, 2016a)), and retailers must grow at least 70% of their sales volume.

Conversely, Washington State's tightly controlled marihuana supply system is based on its three-tier state alcohol licensing structure (Barry and Glantz, 2018), which includes producers, distributors and retailers (Gruenewald, 2011). Furthermore, in Washington, no licensee is allowed to possess more than three licenses, or own more than 33% of the available licenses in a given city or county and vertical integration is prohibited. There is also a maximum limit placed on the number of available retail licenses, as determined by population size, and home cultivation is prohibited (Pardo, 2014, Spithoff et al., 2015). It is therefore probable that such cross-national and subnational differences would likely have differing degrees of influence over the development of some of the more specific features of Uruguay's approach to state regulated marihuana supply.

Evidence of lesson learning in marihuana regulation internationally

Despite the emphasis on lesson learning from past experiences in regulating tobacco and alcohol (Pacula et al., 2014, MacCoun and Reuter, 2001, Haden and Emerson, 2014, Barry and Glantz, 2016, Pardo, 2017), there are relatively few studies that explore this question in relation to marihuana policies across different jurisdictions. Most of the literature that does exist discusses the key regulatory lessons that *could be* applied to subsequent marihuana policy reforms (Decorte et al., 2020, MacCoun, 2011, MacCoun and Reuter, 2001), but evidence of lesson learning in marihuana regulation at the cross-national level is remarkably limited. One critical investigation by Train and Snow (2019) examines the extent to which aspects of provincial-level cannabis regulation in Canada can be explained by policy diffusion and the underlying mechanisms that facilitated this process. Their analysis found evidence of policymakers in Ontario and New Brunswick learning lessons from recent legalisation experiences, though this was limited to Colorado and Washington State and tended to focus on the perceived mistakes and public health consequences of a less regulated market (e.g. a rise in cannabis-related traffic accidents and fatalities and calls to poison control centres) rather than policy successes in those jurisdictions

(Train and Snow, 2019). Although the authors do not draw this conclusion, their findings also imply a relationship between aspects of marihuana regulation that were driven by coercion on part of the Canadian Government and negative policy learning from Colorado and Washington State, indicating that a combination of influences may have shaped or constrained the development of marihuana policy in Ontario and New Brunswick. Based on insights gathered from the review in Section 2.3.2, the relevance of a combination of influences and sources of external pressure might require further exploration in the Uruguayan context.

Some US research, including my own previous work (Barry and Glantz, 2018), has also sought to assess the extent to which past marihuana policies informed the development of more recent legislative changes to medical and recreational marihuana supply systems (Mallinson and Hannah, 2020, Johns, 2015, Barry and Glantz, 2018). This research tends to consider the extent to which earlier medical or recreational marihuana policy reforms shaped the development of subsequent policy innovations at the subnational level in the US. This approach (i.e. looking for lesson-learning in the development of marihuana regulation across US states) may be less relevant in exploring the relevance of other jurisdictions' policy approaches to the development of Uruguay's marihuana regulation. Nevertheless, this research is instructive in its findings that policymakers learned from past policy experiences of early adopting states with ambiguous language and less comprehensive reforms, and subsequently adapted aspects of policies to existing state regulations (Mallinson and Hannah, 2020). For instance, previous studies have found that Colorado's medical and recreational marihuana regulations provided important examples for other US states and municipalities to learn from and adapt to local politics and structures (Mallinson and Hannah, 2020, Johns, 2015). I will draw on this previous US work, which examines the influence of marihuana policy experimentation at the domestic level across different states, to explore whether and in what ways past marihuana policies at the cross-national level shaped the development of Uruguay's approach to marihuana regulation.

Overall, the literature identifies growing diversity in national and subnational marihuana supply policies around the world, the distinctive features of which are often ignored in the wider literature and policy debates more generally (Kilmer and Pacula, 2017). The literature also shows some instances of potential policy learning and local adaptation, particularly as this relates to cannabis social clubs at the local level in Spain (Decorte et al., 2017) and medical and recreational marihuana supply systems in Canada (Train and Snow, 2019) and the US states (Mallinson and Hannah, 2020, Johns, 2015, Barry and Glantz, 2018). In terms of this research, however, an important issue is the extent to which marihuana policy experiments in other jurisdictions are relevant to understanding the development of Uruguay's approach to marihuana regulation. As

outlined below, whether and in what ways such cross-national and subnational differences have influenced Uruguay's marihuana regulation is itself a relatively underdeveloped area of research.

Uruguay's innovative policy experiment?

A search of the literature revealed very few studies exploring the relevance of other marihuana policy experiments to the development of Uruguay's marihuana regulation. In a variety of analyses, the mere existence of other jurisdictions with more flexible policies is used to demonstrate that Uruguay's marihuana policy reform was not without historical precedent (Ewig, 2017, Álvarez et al., 2017, von Hoffmann, 2016), though this says very little about their influence on policy development. Other scholars acknowledge policy similarities and parallels between regulatory approaches at various points in the literature, particularly between Uruguay and the US states, but the majority of the discussion focuses on how marihuana policies provided important lessons on the challenges that other jurisdictions faced from which policymakers in Uruguay could learn and adapt (Hudak et al., 2018, Spithoff et al., 2015). Consequently, several scholars and supporters of marihuana legalisation strongly suggest that Uruguay's marihuana regulation is qualitatively distinctive from other experiences (Murkin, 2014, Pardo, 2014, Cerda and Kilmer, 2017, Rolles and Murkin, 2016, Obradovic, 2019), which builds on the mistakes and failures of other countries 'with less comprehensive reforms' (Walsh and Ramsey, 2018).

However, several authors show a tendency to assume rather than demonstrate that Uruguay's marihuana regulation is internationally distinctive from other marihuana policy experiments. This is in some ways surprising considering the extent to which the potential for lesson drawing (Queirolo, 2020, Pardo, 2014) or Uruguay's marihuana regulation serving as a model for other contexts has been emphasised in the literature (von Hoffmann, 2016, Pardo, 2017, Pardo, 2014, Cerda and Kilmer, 2017). Yet, only one study has attempted to investigate the question of how marihuana policies in other jurisdictions shaped the development of Uruguay's marihuana regulation and the extent to which local politics and structures constrained the transfer process. Musto (2018) explores the role of international elite networking dynamics in explaining the development of Uruguay's 'innovative' marihuana regulation, examining the specific policy transfer mechanisms, facilitators and constraints that shaped the diffusion of cannabis innovations to the Uruguayan context. Her analysis finds that policymakers in Uruguay emulated a limited number of policy examples from Colorado and Washington State, including policy tools for regulating the cannabis market, a six-plant limit for home cultivation, a licensing system for cannabis producers and knowledge about cultivation practices and controlling distribution (e.g. track and trace system, packaging and safety standards), as well as the cannabis club system from

Spain. Overall, she concludes that Uruguay's 'long-standing legal and political cultural differences' were significant constraints on the policy transfer process, helping to explain the development of Uruguay's distinctive state interventionist approach to marihuana regulation compared to the US states and Spain.

However, Musto did not critically examine the extent to which the specific contents of Uruguay's marihuana regulation could be described as distinctive from other marihuana policy experiments and whether external pressures shaped the ways in which the process of policy transfer came about or was constrained (Jones and Newburn, 2007). This gap in knowledge warrants further exploration since previous policy transfer studies suggest that the transfer or imitation of one international policy to another context is rarely feasible or desirable (Jones and Newburn, 2007). By exploring the specific contents and details of the marihuana policies that were transferred to Uruguay, it is likely that the role of external pressures, including from the INCB, the US government, Argentina or Brazil (as discussed in Section 2.3.2), in constraining the transfer process will be highlighted. Nevertheless, the findings are relevant to the current study in that Uruguay's 'long-standing legal and political culture differences' (Musto, 2018) shaped which international policies were transferred to Uruguay. This research will therefore draw on Musto's study by analysing other relevant transfer processes, namely the degrees of transfer (described in detail in Section 7.2) to explore whether and in what ways existing marihuana policies (including the policies identified in her study and others that emerge from the interview data) were shaped by the distinctive political and legal features of Uruguayan society. It will add to Musto's analysis by examining the content of the transferred policies and *the extent to which international pressures from the INCB, the US and other countries can explain the development of Uruguay's distinctive approach to state regulated marihuana supply*.

2.3.5 Marihuana regulation as a multilevel governance issue

While I primarily situate this study in relation to policy coherence as a core concept within the development and political science literatures (Lenschow and Bocquillon, 2018, Cedujo and Michel, 2017, Nilsson et al., 2016), this case study could also be seen as relevant to literature on multilevel governance, particularly studies that explore these dynamics beyond the European Union. Multilevel governance (MLG) refers to how policy issues are managed both within and across government sectors, as well as between different levels of governance, i.e., global, supranational, national and subnational (Bache and Flinders, 2004b). This concept describes not only intergovernmental relations (including cross-national), but also interactions between different policies of state and non-state actors at different levels of governance (Allain-Dupré,

2020, Bache et al., 2016). Both MLG and policy coherence therefore seek to explain how multiple layers of decision-making interact and relate to one another, with the former focusing on issues of political authority and where authority resides within multilevel systems (Tortola, 2017), whereas the latter concentrates more on the substantive content of individual policies (Cedujo and Michel, 2017). Because of my interest in understanding how policymakers developed the specific content and detailed provisions of Uruguay's approach, I have chosen to focus on policy coherence as a valuable lens through which to explore these interactions. However, there are interesting directions that could be explored within the MLG literature in terms of: a) vertical dimensions of coherence; b) the two-level game of international and domestic law (Putnam et al., 1993); and c) the implications of legal frameworks existing at both national and international levels for domestic policy space.

The concept of MLG has its origins in the literature on cohesion policy within the European Union to explore governing arrangements that emerge from decision-making at diverse levels of government (Marks, 1993, Hooghe, 1996), particularly in the context of highly devolved member states and their associated subnational governments (Hawkins et al., 2020). While developed in the 1990s by Marks (1993) and later refined in the 2000s (Bache and Flinders, 2004a, Hooghe and Marks, 2001, Hooghe and Marks, 2003, Benz, 2000), the MLG concept has evolved significantly, extending beyond the politics of the European Union into a number of different geographic and policy areas (Bache et al., 2016). Allain-Dupré (2020) reviews progress that has been made on refining the MLG concept and its empirical application over the last thirty years. She highlights how recent studies have explored multilevel governance systems to examine not only complex interactions between supranational, global, regional and national governments (Bache and Flinders, 2004b), but also the critical role that non-state actors, including non-governmental organisations and the private sector, play in the policymaking process (Rodriguez-Ward et al., 2018, Piattoni, 2010). For example, MLG studies have sought to understand and explain policy dynamics within the United Nations (UN) (Kaul, 2010) and World Trade Organisation (WTO) systems (Knodt, 2004, Enderlein, 2010), and the proliferation of transnational networks as informal institutions linking state, civil society and market actors across jurisdictional boundaries (Slaughter and Hale, 2010).

More recently, researchers have drawn on this concept to examine subnational policy dynamics of multilevel governance systems within low-and-middle-income countries (LMICs) such as Brazil (Kull et al., 2018), Indonesia (Purbo et al., 2020, Di Gregorio et al., 2019), India (Enqvist and Ziervogel, 2021, Bhatia and Chugh, 2017, Sethi et al., 2021) and Peru (Locatelli et al., 2020). While these studies focus on national-subnational relations, they provide important insights into

how a complex system of interactions among national, state and local governments as well as non-state actors influence the design and implementation of policy. For instance, Enqvist (2021) found that effective implementation of water governance at the community level in Bengaluru, India was heavily reliant on partnerships with the municipal level government and international NGOs. Meanwhile, Locatelli et. al (2020) suggest that national government representatives are central actors in climate change debates within Peru, though private sector organisations and subnational governments play an important role in policy implementation. I will therefore draw on this previous work on subnational dynamics of MLG systems to inform my application of Siitonsen's (2016) typology of coherence dimensions as this relates to vertical interactions across the policies and processes of different policy actors (discussed in the Preface on p. 134). In doing so, I will reflect on how this framework might require adaptation to the distinctive multilevel governance system in which Uruguay's marihuana regulation operates.

The concept of MLG has also been applied to policy areas directly related to this research. Sattler et. al (2016) used a MLG lens to examine at what vertical and horizontal levels and in what roles various state, market and civil society actors interact in the development of environmental regulation in Latin America. Their analysis highlights the critical role of different policy actors at both horizontal and vertical levels in influencing policy development, and how tensions across the diverse goals of different policy actors were key barriers to successful implementation of these policies at the community level (Sattler et al., 2016). Meanwhile, Hochstetler (2006) analysed regional trade agreements and food governance in Uruguay, Argentina, Brazil and Paraguay within the wider context of MERCOSUR membership (i.e., the common economic market of the Southern Cone), focusing on the role of different international, regional and local actors in political and economic decision-making. She concluded that the concept of MLG offers a more comprehensive account of the ways in which the policies and processes of different actors across diverse levels 'interact to produce particular substantive outcomes' (Hochstetler, 2006) compared to theories of policy change that focus solely on national level dynamics. I will therefore draw on these insights to examine the two-level game of policymaking (Putnam et al., 1993) within Uruguay's marihuana policy process. In particular, I consider how policymakers may have drawn on marihuana policy experiments in other jurisdictions in ways compatible with global pressures, domestic institutions or a combination of the two, in the development of Uruguay's distinctive approach to state regulated marihuana supply, as discussed in Section 2.3.4.

Despite recent expansions into a number of diverse policy areas, including regional economic integration within Latin America (Zürn et al., 2010), studies exploring how multilevel governance systems shape or constrain the development of drug policy are comparatively limited. The small

number of studies that do exist discuss the normative value of multilevel governance for advancing a more harmonised European illicit drug policy that 'accepts the possibility of coordinated diversity' (Chatwin, 2007) and the advantages of allowing national autonomy over drug policy decisions, where feasible. For example, Chatwin (2007) draws on MLG as an analytical lens through which to examine drug policy within the European Union, finding significant variation in policy approaches taken and related health outcomes across the EU and its different member states. Although Chatwin does not reach this conclusion, her analysis also suggests that the formal legal structure of the UN drug conventions and that of the European Union might be less directly relevant to constraining the development of innovative drug policy, an area that merits further exploration in the Uruguayan case (see Section 2.3.3).

While research on MLG of health policy has increased in recent years, it is still not well understood how power dynamics shape or constrain decision-making processes across diverse levels of governance (Di Gregorio et al., 2019, Slaughter and Hale, 2010). In particular, the MLG literature has focused on national-supranational relations, while the implications of legal frameworks existing at both national and international levels for national policy space remains less explored. A notable exception can be found in research examining challenges to implement innovative alcohol policy in the UK. This research demonstrates that systems of multilevel governance create policy interdependencies between different governance levels and allow private sector actors to shift decision-making power on health policy away from local regulators (Hawkins et al., 2019, Hawkins and Holden, 2016, Hawkins and McCambridge, 2020). According to Hawkins and McCambridge (2020), efforts to implement minimum-unit pricing in Scotland were constrained by the UK government's layered governance system. This system created myriad opportunities for corporate actors to exploit functional overlaps across different levels of government to undermine effective policy implementation. Their findings are consistent with previous work on tobacco and alcohol policy debates, which demonstrates how legal frameworks that exist at both national and international levels allow private-sector actors to shape policy decisions and constrain domestic policy space to implement innovative health measures (Hawkins et al., 2019, Hawkins and Holden, 2016, Lencucha et al., 2016a).

While Hawkins and McCambridge's case study is based on the devolved national government of Scotland, these structural issues may be relevant to the current study if interactions across national, regional and international drug and finance policies limit Uruguay's regulatory scope to implement marihuana regulation. I will therefore draw on their work, which examines the role of corporate actors in challenging implementation of innovative alcohol policy, to explore how

international, regional and national frameworks and norms might limit or remove decision-making power from local regulators in ways that constrain Uruguay's policy space to develop a legal marihuana market.

2.4 Competing perspectives on understanding Uruguay's marihuana policy experiment

The chapter now turns towards reviewing literature that addresses potentially competing priorities within marihuana policy debates in Uruguay. In the international literature, it is widely argued that the existing criminal justice approach to marihuana control is untenable and difficult to justify, as it has failed to eliminate the illicit supply of drugs, reduce use and health-related harms and is frequently enforced at the national level in discriminatory ways (Room, 2014a, Spithoff et al., 2015, Rogeberg, 2015, Goode, 1998, Babor et al., 2018, Nadelmann et al., 2012). Despite this apparent consensus, there has been little agreement on what aspects of regulation should be, as Hall summarises (Hall, 2000), 'appraised in the light of competing social values, such as individual liberty, public health and social order, a task performed by the political process in democratic societies.'

The idea that health should be an important, if not the, central priority within marihuana policy debates is evident in a significant amount of literature (Crépault et al., 2016, Kirst et al., 2016, Haden and Emerson, 2014, Rehm and Fischer, 2015, Room, 2014a, Spithoff et al., 2015, Barry and Glantz, 2018, Babor et al., 2018) and there seems to exist a partial consensus that a so-called tobacco or alcohol-style marihuana market should be avoided (Room, 2014a, Lenton, 2014, Barry and Glantz, 2016, Babor et al., 2018, Decorte et al., 2020, Caulkins and Kilmer, 2016b, Caulkins et al., 2015, Reuter, 2014, Kleinman, 1992, Kirst et al., 2016, Rolles and Murkin, 2016, Lynskey et al., 2016, Rehm and Fischer, 2015), particularly given knowledge of the tobacco industry's interest in marihuana legalisation since the late 1960s (Barry et al., 2014). In this sense, the commercial determinants of health explanation preferred by some researchers, including those in unhealthy commodity regulation, remains a common response for the potential risks that legalising marihuana poses to public health. These researchers argue that while the health harms of marihuana do not currently approach those of tobacco or alcohol, this situation will likely change once legal barriers to market entry are removed and large corporations begin to employ marketing strategies and political tactics to increase and sustain use (Richter and Levy, 2014, Uchtenhagen, 2014). Some authors go so far as to suggest that marihuana regulation should be subject to a comprehensive demand reduction programme that seeks to keep levels of

use down through limits on availability, high taxes and education campaigns (Room, 2018, Caulkins et al., 2015, Babor et al., 2018, Barry and Glantz, 2016).

However, there have also been some important critiques of this position, one of the most common of which is that mainstream public health concerns do not adequately reflect the 'full set of values relevant to ongoing policy debates' (Rogeberg, 2015) such as the benefits of reducing health-related harms for those that continue to use marihuana (Spithoff et al., 2015, Haden and Emerson, 2014). Rogeberg (2015) defines this as a 'harm reduction' view of public health, which promotes policies that 'reduce the health, social and economic harms of drug use to individuals, communities and societies', and which should be distinguished from other public health outcomes such as preventing disease and promoting abstinence among the entire population. Another important criticism is that conventional public health concerns do not consider the potential benefits of liberalising marihuana supply in terms of eliminating the illicit drug market and associated rates of crime, violence and corruption caused by drug cartels (Gettman and Kennedy, 2014, Rogeberg, 2015), particularly in Latin America (as discussed in Section 2.3.1). An alternative critique has also been that public health priorities do not recognise the legitimacy of the individual freedom to consume drugs movement taking place in the Americas and the value of legalising marihuana for reducing the social and legal consequences of drug enforcement practices on individual users (Rogeberg, 2015, Monaghan, 2008). Taken together, the international literature demonstrates the importance of analysing policy positions within Uruguay's marihuana policy debate from the vantage point of competing priorities and preferred policy outcomes, e.g., prevent disease, reduce use-related harms, combat the illicit drug market or promote individual liberty and freedom, rather than the question of whether the prohibition on marihuana use and sales should be maintained (Nadelmann et al., 2012).

The review now moves on to consider the literature on competing perspectives in understanding Uruguay's marihuana policy experiment. This literature demonstrates that a number of these concerns and priorities have been mentioned previously by past policy scholars. It is now well established from a variety of studies that a combination of factors influenced the decision to pursue marihuana policy reform in 2012, ranging from public insecurity and drug-related violence; civil liberties and incarceration of marihuana users; and the health harms of illicit drug use. A much debated question, however, is whether Uruguay's marihuana policy reform was a 'top-down' process that was heavily influenced by the Mujica Administration's growing preoccupation with illicit drug trafficking (Queirolo et al., 2018, Repetto, 2014, Valdomir, 2015, Cerda and Kilmer, 2017, Graham, 2015, Murkin, 2014, Pardo, 2014, Obradovic, 2019) or whether the individual right to consume marihuana movement shaped a policy pathway for

reform dating back to the early 2000s (Arocena and Aguiar, 2017, Castro, 2014, Garcia, 2013). Given the potential for these different concerns to interact and arguably contend with one another in the development of marihuana regulation (Rogeberg, 2015, Hall, 2000), the following subsections provide detailed accounts of how existing literature has addressed the relevance and influence of such potentially competing priorities on marihuana policy development in Uruguay, with particular reference to public security, individual liberties, harm reduction and population health.

2.4.1 Public security

One particular strand of research strongly suggests that the key driver behind marihuana policy reform in Uruguay, particularly identified with former President Mujica and public order institutions, has been the need to address public insecurity and drug-related violence associated with illicit drug trafficking (Repetto, 2014, Queirolo, 2020, Queirolo et al., 2018, Valdomir, 2015, Panicker, 2016, von Hoffmann, 2018, Draper and Sienra, 2017, Ponte, 2013). Although some research findings acknowledge the decade-long efforts among civil society organisations to depenalise home cultivation of marihuana from a civil liberties perspective (Castro, 2014, Repetto, 2014, Garcia, 2013), for most scholars in this camp marihuana policy reform was pursued as a government-led initiative by the Executive Branch around the need to develop policy alternatives to the failed 'war on drugs' approach (Repetto, 2014, Pardo, 2014, Queirolo et al., 2018, Queirolo, 2020, Obradovic, 2019).

Queirolo made this case explicitly in her 2018 co-authored study (Queirolo et al., 2018) and later book chapter, 'The first country to legalize cannabis' (Queirolo, 2020) in *Legalizing Cannabis: Experiences, Lessons and Scenarios* (Decorte et al., 2020), arguing that marihuana policy reform was a 'top-down policy in which neither activists, nor public opinion, nor a party's mandate toward its electorate played a decisive role in introducing the topic into the public agenda.' In making these claims, she cites media reports and public opinion data from 2012 concerning an increase in public demand to address drug-related violence and crime as providing key policy actors within the Mujica Administration, namely the Drug Control Board and the Ministry of Defence, with a 'window of opportunity' and a 'powerful impetus to action' (Queirolo et al., 2018). Her analysis concludes that the presence of pro-legalisation policymakers in strategic positions combined with a favourable political environment made the pursuit of marihuana legalisation as a public security measure both 'necessary and possible' (Queirolo et al., 2018). According to Queirolo:

> The main reason [for the pursuit of marihuana regulation] is a "window of opportunity" that opened after a series of violent crimes that were linked with drugs. This made it possible for some political actors, who were already convinced that cannabis legalization

> was the best way to undermine narcotrafficking, to propose and include legalization as one of the 15 measures in a document called the Strategy for Life and Coexistence designed to tackle the citizens' increasing perception of insecurity (Queirolo, 2020).

A serious limitation of this study is that it tends to assume a linear relationship between public opinion data and the motivations of key actors with poor empirical evidence. For instance, Queirolo et al's 2018 investigation reports that 'a series of interviews with political actors and policymakers' were carried out, but does not describe who was interviewed, what questions they were asked or how many interviews were conducted[4]. The study also relies too heavily on the political will and capacity of one policy actor in the Mujica Administration, namely the Minister of Defence. A drawback with this assumption, however, is that it ignores important historical and contextual aspects (e.g. the author does not discuss how a favourable political environment that facilitated policy reform in 2012 was established initially).

In this regard, Repetto's (2014) analysis situating Uruguay's marihuana regulation within a broader domestic context is particularly insightful. Repetto's study is in many ways similar to Queirolo's, in that both studies use Kingdon's Multiple Stream Analysis (Kingdon, 1995) to examine the factors that can explain why and how Uruguay pursued marihuana policy reform. Yet, her study differs slightly by tracing the evolution of the public security agenda in Uruguay between 2009 and 2012 through an analysis of extensive documentary research and four interviews with legislators, representatives of the Executive Branch and civil society organisations directly involved in the process. To fully understand the public security emphasis of Uruguay's marihuana legislation, Repetto disentangles the discursive strategies of the actors mobilising public security arguments and the context in which particular frames were mobilised. Her analysis demonstrates that introduction of the bill to regulate state control over the marihuana market cannot be understood without considering the political weight and influence of the Executive Branch and specific emphasis on public security issues. However, Repetto contends that such emphasis on public security priorities does not mean that civil liberty and health concerns have failed to contribute to the development of this policy.

Instead, Repetto argues that to understand how marihuana legalisation succeeded, the ways in which policy actors within the Mujica Administration and civil society organisations framed the issue as a public security measure also need to be considered. For example, she argues that legislators within Frente Amplio strategically adopted the Mujica Administration's public security discourse and incorporated it into their own arguments and strategies, seeing this as allowing for

[4]I contacted the authors in 2018 to request information about the study's sample population, total number of interviews conducted and content of the interview schedule, but did not receive a response.

the possibility to reach consensus on the issue compared to more rights-centred arguments. The language of the Mujica Administration's 'Strategy for Life and Coexistence' is offered as evidence of this strategic framing, since marihuana legalisation was introduced alongside a series of 'soft' and more punitive measures that sought to, as Repetto contends, 'reformulate a problem previously linked to rights and public health, towards a problem—or a solution—possible for security issues.' Yet, Repetto is less clear on what the priorities, concerns and positions of the other relevant actors were, for example, legislators within Frente Amplio, or how they relate, if at all, to the development of marihuana regulation. Though she suggests that 'for the promoters of the 2011 [home cultivation] bill, [aligning with the Mujica Administration] also implied an opportunity to include other measures that had not been proposed due to lack of political weight', she fails to offer substantive detail about which policy measures this might involve.

Conversely, Ponte (2013) argues that, in contrast to how Uruguay's marihuana regulation has been portrayed in the international media, it is questionable that this proposal was pursued as part of the Mujica Administration's broader liberal agenda. Rather, he claims that marihuana legalisation was introduced in 2012 in response to 'the opposition [parties] (especially by the Colorado Party) [and] the constant criticism of the government's inefficiency in dealing with the issue [public security] (constantly alluding to the growth of crime figures in the country, particularly violent crimes)' (Ponte, 2013). In providing evidence for this, Ponte argues that marihuana legalisation was introduced in 2012 alongside a series of measures aimed at combating crime, rather than protecting individual rights and consumer choice. The author points towards some of the policies that the Mujica Administration had been proposing around marihuana regulation to further substantiate this argument, including a state monopoly over production and sales, as well as a national user registry, implying that these policies ran counter to a more liberal view on the issue. Yet, his analysis is not entirely convincing since it does not explain—as many scholars and observers tend to do—whether and to what extent these policies were driven by public security concerns exclusively.

Overall, these studies strongly suggest that the Mujica Administration's concern for public insecurity is the only reason why marihuana legalisation was pursued in Uruguay, but they fail to provide adequate proof of this finding. Their main weakness is that they offer limited evidence for why a modified version of the Mujica Administration's 2012 proposal included policy measures that the President and his Security Cabinet did not support such as home cultivation and cannabis clubs (Musto, 2018, Ramsey, 2016). A partial explanation provided by Queirolo (2020) is that civil society organisations 'did have a salient role but only after the government discussion of legalization within the security agenda' (Queirolo et al., 2018). Yet, while her study

suggests that pro-legalisation groups began to evolve in 2012, policy change tends to take place over longer periods, thus requiring an examination of the events and processes that took shape at least a decade prior to the passage or implementation of policy (Sabatier and Jenkins-Smith, 1993). Other research (outlined below) indicates that civil society organisations and leftist political factions, such as the Young Socialists of Uruguay (JSU) (Lissidini and Pousadela, 2018), had been advocating for policy reform since 2005, with two legislative proposals to depenalise home cultivation (Pou, 2010b) being considered by the Uruguayan Parliament at the time that President Mujica introduced the *Strategy for Life and Coexistence* in 2012 (Repetto, 2014), one of which would have also enabled the development of cannabis clubs (Núñez et al., 2011). Thus, these analyses disregard key elements that might have facilitated, obstructed or channelled the Mujica Administration's executive proposal to regulate the marihuana market.

2.4.2 Individual liberties

Another significant priority within marihuana policy debates in Uruguay has been the need to protect the individual rights of users to access the substance without the risk of criminal prosecution, a movement that has been strongly associated with left-wing political activists, cannabis user rights groups and younger politicians within the ruling left-wing party, Frente Amplio (Arocena and Aguiar, 2017, Castro, 2014, Garcia, 2013, Garat, 2016, Draper and Sienra, 2017, Musto, 2018, Repetto, 2014). These authors analyse how the marihuana policy problem in Uruguay is rooted in a decades-long legal inconsistency in Uruguay's drug law (outlined in Section 2.3), which decriminalised drug use but criminalised any form of access to illicit substances, including marihuana. To fully understand the pursuit of marihuana policy reform as a civil liberties issue, these studies draw attention to the bottom-up efforts led by civil society organisations dating back to the 1980s (Castro, 2014, Arocena and Aguiar, 2017, Musto, 2018). They demonstrate that marihuana policy reform cannot be understood without considering the historic legacy of the military dictatorship on Uruguay's drug policies and enforcement practices (Draper and Sienra, 2017, Garat, 2016, Musto, 2018), although as Castro (2014) argues in his paper, this does not mean that public security concerns have failed to contribute to the pursuit of this reform.

Drawing on interviews, textual analysis and ethnographic work, Castro maps the context, actors and processes that explain why Uruguay decided to transition from a 'war on drugs' strategy to a regulatory approach over the marihuana market. After the election of the first left-wing government in Uruguay's history in 2005, cannabis liberalisation groups and other leftist political actors were crucial to advancing marihuana legalisation to the political agenda by arguing that

drug users had a right to access marihuana without the risk of criminal prosecution or police harassment. Overall, Castro concludes that policy reform occurred because marihuana as a policy problem 'lost its political significance, rather becoming a solution to more pressing issues' related to rising use of cocaine paste (Castro, 2014). He also argues that to understand how marihuana policy reform reached the government's agenda in 2012, it is important to pay attention to the ways in which marginalised actors such as cannabis liberalisation groups framed home cultivators as people who wanted to 'break free from the illegal market' and stop contributing to drug trafficking. Yet, Castro's findings do not seem to support his conclusions since a majority of his data demonstrates how cannabis liberalisation groups problematized the issue around the legal consequences of drug enforcement for individual users (e.g. only one of his participants mentioned depenalising home cultivation as a solution to the rise in cocaine paste use).

In contrast to Castro, Garcia (2013) argues that to understand how marihuana regulation was pursued in 2012, the consequences of the legal inconsistency in Uruguay's drug law on drug use and public insecurity also need to be considered. Although Garcia agrees that the demand for marihuana legalisation began in the 1990s, as home cultivators and leftist political parties began to organise in support of drug policy reform, he suggests that in the 2000s (at which time the country underwent a severe economic crisis) Uruguay saw a rise in the use of cocaine paste among marginalised groups, while marihuana consumption began to grow in the general population, particularly among young people. He suggests that the legal inconsistency in Uruguay's drug law led to a rise in marihuana use because young people no longer considered the substance to be harmful compared to cocaine paste, concluding that 'the public discussion, the drastic increase in cannabis use, as well as shift in public perception about high and low-risk drugs, was seen by promoters of the legalisation of cannabis cultivation as a 'window of opportunity' to incorporate the drug [marihuana] into the individual rights agenda.' However, this argument is not convincing since much like Castro, Garcia provides no empirical evidence demonstrating that cannabis activists took advantage of rising use rates of cocaine paste to promote marihuana policy reform.

A number of other scholars and observers argue that marihuana policy reform in Uruguay was pursued as part of a wider liberal agenda focused on other sociocultural reforms, including the depenalisation of home cultivation, decriminalisation of abortion access and marriage equality (Arocena and Aguiar, 2017, Aguiar and Muñoz, 2007, Lissidini and Pousadela, 2018, Musto, 2018). This is an aspect of Uruguay's marihuana policy reform that previous academics tend to overlook, as reflected by some studies in this review. Musto (2018), as well as Lissidini and Pousadela (2018) and Arocena and Aguiar (2017), examine such historical factors in shaping

Uruguay's marihuana policy reform, but with less emphasis on the role of the public security agenda as the main driver of the regulatory process. They argue that the demand for marihuana legalisation began in the 1980s when a youth movement known as the Antirazzia[5] Coordination began to organise against police raiding and targeting of marihuana users and other marginalised groups. Although this historic context is important to understanding the origin of the problem, these authors appear to agree with the findings of other studies that the 1990s was a pivotal era for marihuana policy reform. In particular, this was a time in which Uruguay saw rising arrest rates of marihuana users that grew plants at home for personal use, which led to the emergence of several cannabis activist groups in the 2000s who called for the depenalisation of home cultivation as an alternative to the status quo (Draper and Sienra, 2017, Forné, 2017, Garat, 2016, Aguiar and Muñoz, 2007).

Although the authors tend to overemphasise the influence of civil society organisations in placing marihuana policy reform on the government's agenda in the 2000s, their evidence points to older and more complicated contextual factors that preceded the problem of cocaine paste and public insecurity. The long time span of these studies, particularly by Musto (2018) and Arocena and Aguiar (2017), helps unveil poorly known but important elements, such as the role of the secularisation process in Uruguay dating back to 1917 in constraining the influence of religion and the Catholic Church on the state's affairs. This secularisation process, as Musto (2018) contends, '[led] to the conformation of a 'new rights' political coalition that was heavily defining the problem as one of the users' individual autonomy, rather than supplier-led social harms as defined by the executive.' These studies therefore exemplify how the 'problem' of marihuana criminalisation as a civil liberties issue preceded the narratives around rising public insecurity and drug-related violence in the 2000s. Nonetheless, the authors tend to focus on the actions and political strategies of youth organisations and marihuana user groups rather than how their specific concerns and priorities influenced the development of marihuana regulation.

Despite the difficulties in pinning down whether this reform was pursued as a civil liberties movement or whether it constituted part of a wider liberal agenda, it seems that there is at least partial consensus that liberalisation advocates sought to address a legal inconsistency in Uruguay's 1974 drug law. At the same time, the arguments described in the different studies also demonstrate—although the authors tend to gloss over it—that there appears to be potentially

[5]Razzia is a Spanish term derived from the Arabic word 'ghaziya' used to describe a raid for plunder or capture of slaves, especially one carried out by the Moors (who ruled over Spain for 700 years from 711 to 1492 AD) in North Africa (Gallois, 2018).

two distinct concerns driving marihuana activist efforts among civil society organisations. The first concern relates to the need to protect the right to consume marihuana without exposure to the illicit market or drug traffickers. On the other hand, another specific concern seems to be related to the need to protect the right to consume marihuana without state repression or prosecution. To ignore these differences is to partially examine the underlying concerns and priorities of those promoting policy reform from a civil liberties perspective. Secondly, these studies have largely ignored other concerns (aside from public insecurity) that might have been crucial in shaping the need for marihuana policy reform. For instance, they have also disregarded concerns for growing marihuana use in the 2000s, the political actors associated with this concern and how this added to the regulatory reform taken in 2012 (discussed below and in more detail in Chapter 4 of this thesis). Consequently, these studies are missing key aspects of the marihuana policy debate that might have shaped or constrained the development of marihuana regulation from a civil liberties perspective.

2.4.3 Harm reduction

In spite of these recent findings of the significance of public security and civil liberty priorities, very few studies have focused on explaining the relevance of harm reduction concerns to the development of marihuana regulation. A review of the literature found two analyses that focus on the events leading up to the period of reform (1995-2012) (Garcia, 2013, Musto, 2018). Both studies highlight how the election of the Jorge Batlle government in 2000 marked a pivotal period for drug policy reform in Uruguay, in which the Drug Control Board underwent a significant organisational transition, moving from a completely 'repressive' orientation to an official policy framework based on harm reduction.

Garcia's (2013) study draws on the Advocacy Coalition Framework (Sabatier and Jenkins-Smith, 1993) to map the context, actors and processes explaining why Uruguay transitioned from a prohibitionist approach to drug control to a so-called 'harm reduction model.' He argues that in the 1990s, an emergent harm reduction coalition, particularly identified with social workers, civil society organisations and addiction specialists, started to gain political power. Such shifting dynamics seemingly allowed these civil society actors to insert their ideas on harm reduction into the programmatic agenda of the Drug Control Board, which eventually would replace the prohibitionist model dominating Uruguay's drug policy over the last several decades. Overall, the study concludes that this transition was shaped by a process of policy-oriented learning by many crucial actors in Uruguay that drew on their personal experiences and international examples in harm reduction, particularly in the European context, to inform their thinking on the need for a

different approach to drug policy (the study does not mention whether this was for all drugs or marihuana specifically). However, this transition was ultimately made possible by the 2000 election of the Jorge Batlle government, which allowed for 'new' policy actors (many of whom had previously worked for civil society organisations) to enter the drug policy subsystem and since then, this harm reduction coalition has allegedly defined the direction and orientation of Uruguay's drug policy. Particularly problematic with this study is that it tends to gloss over these elements, with weak empirical evidence, and only discusses the motivations and actions of harm reduction practitioners in the context of harsher illicit substances, but not marihuana directly (e.g. the author includes needle exchange programmes and supervised consumption rooms but not product quality control or drug treatment in his 'drug policy subsystem' table).

Musto's (2018) analysis is also based on the Advocacy Coalition Framework (Sabatier and Jenkins-Smith, 1993), but the analytical focus is on the ideology and value systems that shaped how the marihuana policy problem was framed by key actors in Uruguay. Drawing on 42 semi-structured interviews (with domestic and international policy actors), documentary research and participant observation, her study is a comprehensive analysis of the political and social factors that led to the passage of Uruguay's marihuana regulation in 2013. After the election of President Mujica in 2010, the Drug Control Board and civil society organisations working in harm reduction began to coordinate their activities with marihuana liberalisation groups, but did not become engaged in efforts to reform marihuana policy until 2012, when President Mujica introduced his executive proposal to regulate the marihuana market as a public security measure (Musto, 2018). She highlights the reasons why harm reduction advocates were largely absent from efforts to pursue marihuana policy reform between 2004 and 2012. For example, because there were relatively low risks for cannabis users of consuming products in the illicit market, as marihuana is not associated with acute or chronic toxicity, addiction or social harm, marihuana legalisation was a low policy priority for harm reduction advocates in Uruguay. Although Musto argues that this harm reduction coalition became important to the reform process in 2012, the study concludes that actors with harm reduction concerns operated largely from a 'satellite position', helping to manage conflicts and minimise tensions between public security proponents and individual liberty advocates (Musto, 2018).

While these studies provide important contextual information about this reform, less is known about the relevance of harm reduction concerns and priorities to the development of the specific contents of marihuana regulation. To ignore this is to partially analyse the ways in which marihuana regulation was debated, negotiated and designed. By analysing the concerns and priorities of harm reduction advocates in relation to marihuana policy specifically, it is likely that

the importance of including product regulation, education campaigns and treatment services in the development of marihuana regulation will be highlighted. These studies have also largely ignored antecedent events that might have shaped how harm reduction advocates, as well as other key actors, approached marihuana regulation. For instance, they have disregarded the relevance of Uruguay's leadership role in tobacco control and recent legal challenges brought by the tobacco industry in 2010 (Section 2.2.2), as well as failed attempts to regulate the alcohol market in Uruguay in 2013 (Section 2.2.1), which involved some of the same policy actors that have been identified here as part of a 'harm reduction coalition' (Garcia, 2013, Musto, 2018), e.g. the Drug Control Board (discussed in Chapter 5 of this thesis). Thus, their analysis is missing elements that might have shaped or constrained the pursuit of policy coherence within health governance in the development of marihuana regulation, at both horizontal and vertical levels.

2.4.4 Population health

In the literature, the relative importance of population health concerns to marihuana policy reform in Uruguay is subject to considerable debate. One line of argument is that population health priorities were not central to marihuana policy debates, as those promoting this position were in favour of the status quo, and therefore, relatively insignificant to this process (Garcia, 2013). Garcia (2013) argues that a 'prohibitionist coalition', consisting of representatives from public order institutions, medical professionals and some conservative politicians, was relatively powerful during the military dictatorship, when law enforcement would take advantage of the legal inconsistency in Uruguay's 1974 drug law to arrest marihuana users with the charge of intent to distribute. Drawing on MacCoun and Reuter (MacCoun and Reuter, 2001), his study defines the 'Uruguayan prohibitionist model' as constituting a particular belief system that considers drugs as inherently immoral and which seeks to protect individuals and the population from the negative consequences of drug use through state repression of individual freedom. During the 1990s, Garcia suggests that the influence of this coalition over Uruguay's drug policies was weakened, stating that 'the vision of social psychologists, therapists and psychiatrists produced a fissure in the hegemonic prohibitionist belief system' and 'conflict between the coalition promoting punitive policies and the coalition for harm reduction policies was settled in favour of the latter' (Garcia, 2013), but offers no evidence to substantiate these claims.

Following this line of thinking, Musto contends that a 'conservative' coalition led by right-wing politicians and medical professionals did not seem to exist in Uruguay (Musto, 2018). She suggests that those promoting 'conservative policy positions' were less decisive and relatively uncoordinated and therefore, ineffective in opposing policy reform, a claim also echoed by

Murkin (2014) and von Hoffmann (2016). Grounded in Haidt's (2012) moral foundation spectrum, Musto's conceptualisation of conservative policy positions seems similar to Garcia's 'prohibitionist model', defined as the endorsement of prohibitionist policies based on the belief that respecting authority, social order and traditional values is more important than protecting individual freedom.

While a conservative coalition is usually seen as significant in the US and UK contexts (Stevens and Zampini, 2018, Monaghan, 2008), it is not entirely clear that this is an accurate depiction of the positions and priorities of medical professionals and politicians with population health concerns within Uruguay's marihuana policy debate. This might be because in relying on arguments and belief systems derived from evidence on US political ideology (MacCoun and Reuter, 2001, Haidt, 2012), Musto and Garcia make no attempt to consider how the positions of different actors would need to be adapted to the underlying contours and political dynamics of Uruguay's marihuana policy debate. According to Musto's own interview data, medical professionals and national legislators from Uruguay's traditional parties seemed primarily concerned with how harm reduction policies might send an inappropriate message to young people about marihuana being innocuous and therefore advocated for prevention as a policy goal, a point which seems significantly different from concerns about drug addiction and supporting prohibitionist measures. For instance, she writes:

> For the legislators opposing cannabis regulation, the issue of cannabis consumption was framed as a public health problem but never as a sin that should be directly punished. Their opinion was centred on the premise that the wider availability of cannabis after legalisation would increase the amount of cannabis consumed in the country and, consequently, the amount of other drugs consumed… Like the reformers, the opposition also framed cannabis regulation as circumstantially linked with harm reduction tools, a framework sponsored by the government that should likewise be rejected. Conversely, from this point of view, drug use harms should be principally prevented but not reduced (Musto, 2018).

This raises questions around whether the crude divide between prohibitionists and legalisation advocates depicted in much of the international literature (Stevens and Zampini, 2018, Goode, 1998, Monaghan, 2008) should be used to assess policy positions and priorities within Uruguay's marihuana policy debate. Importantly, other research offers potentially contradictory findings about the relevance and relationship between prohibitionist policy goals and health-oriented priorities. In a 2018 study, Lissidini and Pousadela trace the development of the reform proposal, examining the interactions, motivations and actions of key policy actors between 2005 and 2013. Citing evidence from analysis of government documents and three interviews with key advocates of marihuana policy reform, they list several health-related arguments that were promoted during the legislative debate between 2012 and 2013, but found no indication of policy actors

advocating prohibition as a solution. These arguments include how tobacco and alcohol have more harmful consequences on health than marihuana; those with problematic use behaviour should be offered treatment instead of criminal sanctions; legalisation will allow the state to promote information that encourages responsible use; and the industrial and medicinal uses of marihuana could contribute to solving other issues.

The authors conclude that health-related priorities were driven by public organisations and medical professionals engaged in addiction treatment, on the one hand, and medical research groups and civil society organisations interested in exploring the medicinal benefits of cannabis on the other (Lissidini and Pousadela, 2018). However, they make no attempt to explain how these different groups relate, if at all, to the arguments listed above or their relevance to the specific contents of the legislation adopted in 2013. This is a similar issue with a 2017 legal analysis by Forné, who suggests that the law's health objectives are to:

> Reduce the morbidity and mortality of drug users; decrease or minimise psychosocial deterioration; improve the quality of life of drug users; establish contact between the largest possible number of users and health services; increase retention of users in treatment; respect for human rights and social inclusion… In turn, in Article 4 when the law refers to addressing problematic use of psychoactive substances, it does so by referring to the measures that seek to educate, raise awareness and prevent the risks that cannabis use, in particular, can entail, as well as prioritising 'the promotion of vital attitudes, healthy habits and the well-being of the community' (Forné, 2017).

Yet, the question of how or why these health-related objectives of marihuana regulation were included in the final law is under-explored and the relevance of population health concerns to this process has not attracted much interest to date. This indicates a need to understand the various perceptions of the 'problem' and potential 'solutions' of marihuana criminalisation that existed among those advocating 'use prevention' as the overarching goal of policy reform. By analysing policy positions within Uruguay's marihuana policy debate from the vantage point of competing priorities and preferred policy outcomes, it is possible that the relevance of Uruguay's historic and contemporary approaches to unhealthy commodity regulation (Section 2.2) will be highlighted, as these ideas and policies could have been brought to the debate by medical professionals engaged in addition treatment or politicians with population health concerns.

These studies have also failed to address the ways in which Uruguay's historical and political differences might have shaped the underlying contours and dynamics of this debate. While it may be that population health advocates were relatively insignificant to this process or largely absent from the debate, previous research on the politics of policymaking in Uruguay suggests that proponents of reform often have to build consensus for their legislative initiatives in order to pass controversial legislation (Buquet, 2009). It has been found that reform advocates

strategically adapt their proposals to the preferences of opposition parties and pressure groups, thus encouraging incremental policy reforms over radical transformations to the status quo (Buquet and Pineiro, 2016, Forteza et al., 2003, Zucco, 2013, Castiglioni, 2018). This suggests that we might expect reform advocates with potentially competing priorities and concerns—for example, combat drug trafficking, promote individual freedom or reduce use-related harms—to strategically adapt their legislative proposals to the preferences of those advocating use prevention and mainstream population health positions in the development of marihuana regulation.

2.4.5 A confluence of potentially competing priorities?

The critical role of both public security and individual liberty priorities, and to a lesser extent harm reduction, in understanding the development of Uruguay's marihuana regulation has been acknowledged by a number of scholars (Musto, 2018, Garcia, 2013, Lissidini and Pousadela, 2018, Arocena and Aguiar, 2017). As discussed above, there seems to be partial consensus that local marihuana activists were key to shaping public opinion, setting the agenda, and prioritising marihuana liberalisation between 2005 and 2013 (Musto, 2018, Arocena and Aguiar, 2017, Garcia, 2013), whereas the public security agenda was critical in bringing political salience to the issue (Repetto, 2014, Queirolo et al., 2018, Lissidini and Pousadela, 2018). Nevertheless, most scholars appear surprised that public security and individual liberties advocates came together in 2012 (Forné, 2017, Musto, 2018, Rivera-Vélez, 2018, Aguiar and Muñoz, 2007, Arocena and Aguiar, 2017, Ponte, 2013, Valdomir, 2015) because of their very different ideological orientations underlying policy positions (Musto, 2018, Ponte, 2013, Arocena and Aguiar, 2017).

Given this apparent paradox, several attempts have been made to explain how public security and individual liberties advocates came together to pursue marihuana policy alternatives. Arocena and Aguiar (2017) point out that although the public security agenda was rejected by the cannabis liberalisation movement, politicians within Frente Amplio strategically brought these different groups together to develop a new integral law that included home cultivation, cannabis clubs and state control over the production and sale of marihuana. Repetto (2014) and Queirolo (2020) agree, arguing that legislators from Frente Amplio and civil society organisations took advantage of the public security agenda by aligning with the Mujica Administration to ensure that rights and health priorities were also included in the final law, but these overlaps and interactions have yet to be critically examined.

Other research offers potentially contradictory findings about the strategic alignment of harm reduction and liberalisation advocates with key actors of the Mujica Administration. An analysis

by Obradovic (2019) examines how Uruguay's marihuana regulation can be explained by the social and political dynamics that shaped the reform process. The study concludes that the Mujica Administration's framing of the issue around concerns for public health and safety, 'with a reference to human rights', shaped the core objectives of the legalisation initiative, resulting in a regulation that sought to reduce access to drugs for minors, ensure quality products for current users and remove the market from organised criminal groups (Obradovic, 2019). However, the study does not analyse the political process related to the development of the specific design and detailed provisions of Uruguay's marihuana legislation, and consequently, it is unclear whether and to what extent the regulation was shaped or constrained by concerns for public security, public health or human rights, or a combination of all three.

Conversely, Garcia (2013) claims that government officials and cannabis users formed part of a liberalisation coalition based on their shared belief that personal integrity and individual autonomy of drug users was more important than respecting sociocultural norms. Although this view was also shared by harm reduction advocates, Garcia argues that the liberalisation coalition differed because of its emphasis on the idea that 'there are no grounds that warrant state intervention to prohibit individuals from using cannabis' (Garcia, 2013). He also found that tensions persisted within the liberalisation coalition, reflecting divergent priorities and goals of marihuana regulation, with government officials supporting state control over production and distribution to address public insecurity and combat the illicit market, and marihuana users favouring the depenalisation of home cultivation to promote individual freedom. Likewise, Lissidini and Pousadela (2018) suggest that marihuana legalisation was viewed by different political actors as an 'instrument for other purposes', which allowed each to partially achieve their own priorities and goals. The authors conclude that Uruguay's policy reform can be seen as a 'result of interactions between actors that ended up aligning for markedly different reasons – public security and combating the illicit drug market, health and harm reduction, individual rights and freedom' (Lissidini and Pousadela, 2018). In a similar vein, Musto (2018) attributes the success of the legislation to the convergence of actors with competing priorities, but which was able to reach a wider set of social values and concerns necessary for advancing the issue to the legislative debate and its ultimate passage in 2013.

These findings seem moderately consistent with prior research on drug policy debates in the United Kingdom (Monaghan, 2008, Stevens, 2007) and the United States (Ferraiolo, 2014), which found that while policy actors coalesced around the overall aims of specific drug policies (e.g. prohibition or harm reduction), conflicts within coalitions persisted because of apparent divisions over which priorities should be emphasised over others. At the same time, the

perceptions and views described in the different studies on Uruguay's marihuana legislation also demonstrate—although most authors tend to disregard it (a notable exception is Lissidini and Pousadela (2018))—that even in the context of overwhelming public opposition to marihuana policy reform, there seems to be broad consensus among policymakers in Uruguay that the 'war on drugs' approach had failed and that marihuana was not the main problem, but rather legalising its market was viewed as a solution. For the purposes of this research, the literature demonstrates that these different priorities and perspectives have implications for the policy instruments pursued or foci of marihuana regulation (e.g., combat drug trafficking, promote civil liberties or reduce the harms and risks of drug use), in which there might be some overlaps, but also important conflicts and tensions that will likely be relevant to the development of Uruguay's approach to marihuana regulation, and the question of whether and in what ways some objectives are prioritised over others.

2.5 Discussion

In this chapter, I outlined the ways in which previous literature has addressed the relevance of domestic factors and international influences in understanding the development of Uruguay's approach to marihuana regulation. The first point to highlight about the literature on Uruguay's marihuana legislation is that development of this policy experiment was a complex and dynamic process, involving both domestic factors and international influences that cannot be considered in isolation. To begin with, marihuana policy reform in Uruguay appears to have been driven by a combination of regional support for policy alternatives to drug prohibition, combined with domestic momentum for depenalising home cultivation and a government willing to pursue marihuana legalisation for public security concerns. However, other important political factors, particularly Uruguay's historic and contemporary developments and innovations in approaches to unhealthy commodity regulation, with particular reference to tobacco and alcohol, are also clearly visible in the literature, the implications of which for marihuana regulation should not be disregarded. Finally, an uncertain response from the international community, in particular, the US government as the traditional global defender of drug prohibition, has been portrayed as providing Uruguay with the space to experiment with and ultimately adopt marihuana regulation, despite contravening the state's obligations under the UN drug conventions.

As much of the literature has focused on the process of marihuana policy reform, there are several notable gaps regarding how Uruguay developed the content and specific provisions of marihuana regulation. First, while there is general agreement among scholars that Uruguay's historic and contemporary approaches to unhealthy commodity regulation were relevant to the

development of marihuana regulation, there appears to be lack of consensus regarding how these experiences influenced the law's development. The literature tends to focus on the historic legacy of the state alcohol monopoly and more recent innovations in tobacco control, implying that these were the main types of approaches influencing the development of Uruguay's marihuana legislation. The studies examined in Section 2.2.3 indicate that there is overall more focus given to so-called public health best practice interventions in examining the relevance of unhealthy commodity regulation to marihuana policy development. However, failed attempts to pass comprehensive legislation to regulate alcohol and more recent challenges to protect national policy space in tobacco control may arguably constrain feasible policy coherence as well as shape how policymakers approached marihuana regulation in Uruguay. Understanding the relevance to marihuana policy of Uruguay's historic and contemporary approaches to regulating unhealthy commodities is explored in greater depth in this research and the implications of these experiences are examined.

Second, the literature discussed in this chapter shows that attention is particularly given to Uruguay's domestic political factors in shaping the marihuana reform process. In particular, this chapter demonstrates that the relevance of both public security priorities and unhealthy commodity regulation in marihuana policy debates and their influence over the development of the legislation has been particularly debated and contested. As such, this thesis focuses on these two government sectors when exploring *to what extent Uruguay's approach to marihuana regulation was influenced by the promotion of policy coherence within health, with particular reference to tobacco and alcohol, and across other policy spheres, with particular reference to public security*, which is dealt with in Chapter 5. I also analyse how other goals and objectives, with particular reference to public security, interacted with the health goals of marihuana regulation: how these goals may be seen as neutralised or even impaired by the impact of other policies.

In terms of international constraints and pressures, existing research has tended to focus primarily on the process of *how Uruguay passed marihuana regulation despite contravening the state's obligations under the UN drug conventions*. However, these studies are limited in scope by focusing on the process of policy adoption and therefore have not yet considered how Uruguay's international obligations and other sources of external pressure might circumscribe the state's ability to implement marihuana regulation. In terms of challenges with policy implementation, most scholars have linked such issues exclusively to domestic factors and knowledge gaps regarding how to produce a sufficient supply to meet public demand. Yet, no studies have yet addressed the question of *how coherence issues and tensions with the objectives of the international drug treaties and other external pressures shaped the space available for Uruguay to implement marihuana regulation*,

in addition to the challenges of passing national legislation. In the US context, research has found that the international control of drugs and money laundering has constrained implementation of marihuana policy at the subnational level, despite the newfound legality of marihuana in Colorado and Washington State (Subritzky et al., 2015, Conti-Brown, 2018), which also seems pertinent to the current study. As such this thesis focuses on international drug and finance policies when exploring *how the UN drug conventions and other relevant international pressures shaped and constrained the policy space available for Uruguay to implement marihuana regulation*, which is dealt with in Chapter 6.

I then explored the literature on the supposed relevance of other marihuana supply precedents to the development of Uruguay's approach to marihuana regulation. After reviewing the relevant literature, I argued that although most scholars readily agree that Uruguay's marihuana regulation is qualitatively distinctive from other marihuana policy experiments, several scholars show a tendency to assume rather than demonstrate policy divergence. This perhaps reflects a generally narrow focus within the existing literature that examines the overall process dynamics of whether Uruguay would reform marihuana policy, with limited attention paid to development of the regulation's specific contents and detailed provisions. More recently, some research has emerged that suggests Uruguay's distinctive political and legal features shaped which marihuana policies in other jurisdictions were brought to Uruguay by international drug policy experts (Musto, 2018). However, much less is known about how such institutional and political factors shaped the nature and content of these policies in the development of marihuana regulation.

Additionally, some studies have mentioned epistemic communities and international drug policy experts as playing a role in providing ideas and sometimes presenting recommendations and sharing experiences with alternative forms of marihuana regulation (von Hoffmann, 2016, Murkin, 2014). Yet, there remains significant contestation around the relevance of other international actors such as the INCB, the US government, Argentina and Brazil, and the extent to which these actors shaped or constrained the actions and motivations of policymakers in Uruguay, as outlined in Section 2.3.2. This thesis therefore deals with these questions in greater depth in Chapter 7, which considers *to what extent international pressures can explain Uruguay's distinctive model of state regulation of marihuana supply*.

The discussion now turns towards literature related to competing perspectives on understanding Uruguay's marihuana policy experiment. Overall, several scholars recognise that marihuana policy reform was pursued by a confluence of potentially competing priorities that aligned for markedly different concerns, ranging from public security and combating the illicit drug market,

individual rights and freedom and health and harm reduction. Having highlighted this apparent consensus, to date, there has been little agreement on the relative importance of public security, individual liberties and health and harm reduction concerns to the development of marihuana regulation. While some scholars have identified actors promoting health priorities as part of a prohibitionist coalition, this would seem to conflict with other claims concerning the broad political consensus underpinning the decision to pursue marihuana policy alternatives for public security and civil liberty concerns, implying that a prohibitionist coalition might not be relevant to the Uruguayan context. Furthermore, although several scholars appear somewhat surprised that actors with seemingly competing priorities, namely individual liberties and public security advocates, came together to pursue marihuana policy alternatives in 2012, so far, there has been little research exploring how Uruguay's historical context (Section 2.2) and political system (Section 2.4.4) shaped the underlying contours and dynamics of this debate. This thesis will therefore explore in greater depth this apparent confluence of potentially competing priorities in Chapter 4 by examining *what the relevant perspectives and positions were of the key actors involved in marihuana policy debates within Uruguay*.

Taken together, the review points towards the significance of exploring the development of Uruguay's marihuana regulation through the analytical lens of policy coherence and its diverse dimensions. To clarify, policy coherence might be a useful lens to explore dynamics across this confluence of actors because it examines how the goals of one policy sphere interact and possibly conflict with another (Nilsson et al., 2016). This is significant because one observer has already drawn attention to the paradox in actors that aligned for markedly different reasons, which, in turn, appear to have implications for their preferred policy approach and goals of marihuana regulation. For example, the review highlighted how public security advocates desired more state control over the market whereas individual liberty proponents sought to expand freedom through minimal state interference (Ponte, 2013). While there may be some overlaps in priorities and concerns, as Rogeberg (2015) and Hall (2000) point out, these disagreements over the role of the state and personal freedom, among other issues, are normative questions that cannot be easily addressed via consensus building but rather will likely be resolved through the political process.

Relatedly, although marihuana largely remains outside of broader health governance debates, marihuana regulation in Uruguay has been presented as strongly linked to the state's historic and contemporary approaches to tobacco and alcohol regulation. However, other priorities and concerns are also relevant to marihuana policy debates in Uruguay, with the Mujica Administration promoting public security priorities in 2012 and liberalisation advocates

emphasising the protection of civil liberties since at least the 1980s. If marihuana regulation, which has been widely framed by key officials in Uruguay as constituting part of a coherent approach to regulate unhealthy commodities (Romani, 2015b, Roballo, 2017, Cánepa, 2013a), is also shaped by public security and civil liberty concerns, how can development of this policy be explained with reference to the pursuit of policy coherence in health governance?

Second, another aspect emerging out of this review of the Uruguayan context is the significance of focusing on vertical coherence from the perspective of policy space through a case-based review of the literature. As outlined in Section 2.2.2, the international trade dispute with Philip Morris International (PMI) illustrates the potential tensions arising from conflicts between trade and health objectives in the implementation of a national health policy innovation. However, up to now, little attention has been paid to the implications of the international trade dispute with PMI for marihuana regulation in Uruguay. To date, research has focused primarily on *how Uruguay was able to overcome the limitations of the international drug conventions by arguing that marihuana regulation was consistent with Uruguay's other obligations under international health and human rights frameworks*. Yet, from the perspective of policy space, a key question that this research seeks to address is *how higher levels of incoherence* (i.e. lack of vertical coherence) *with the objectives of the UN drug conventions and other external pressures* (e.g. international finance as indicated in Section 2.3.3)*, shaped and constrained the space available for Uruguay to implement marihuana regulation*.

This thesis therefore explores how and why Uruguay developed marihuana regulation, including the extent to which this was influenced by existing health and drug governance approaches (both regionally and internationally), from initial discussions to depenalise home cultivation in 2005 (Musto, 2018, Arocena and Aguiar, 2017) to more recent international challenges with policy implementation in 2017 (Hudak et al., 2018, Queirolo, 2020). The study is concerned with how Uruguay's marihuana regulation was designed and its most distinctive provisions developed. It proposes an analytical framework that considers diverse dimensions of policy coherence and that understands how the goals of one policy area might shape and constrain the development and implementation of another. Following on from the Methods (Chapter 3), this analytical framework is described and policy coherence is operationalised in relation to Chapters 5, 6 and 7 in the Preface to the Results (pp. 131-146).

3 Methodology

This chapter develops a comprehensive description of the methodology, methods and thematic analysis that informed this research. In the following, I explain my methodological approach and reasoning for adopting a qualitative case study design. Next, I describe the research process, with particular reference to my approach to data collection, participant selection and recruitment, procedural ethics and data analysis. It will then go on to discuss the study's limitations and the challenges of conducting this research. I close by establishing a position on researcher positionality, situating myself in relation to the project and explaining my process for self-reflection and reflexivity. Before detailing why I chose a case study design, the next section describes and justifies the qualitative method guiding this research.

3.1 Qualitative case study

This research is grounded in an interpretive philosophical perspective, which understands knowledge acquisition as inductive, value laden and context specific (Snape, 2003). I acknowledge that the reality of policymaking is socially constructed and must be understood within the cultural and historical context in which individuals experience reality and their interactions with others (Carter and Little, 2007, Jennings, 1983). In approaching this research, I therefore sought to select a methodology and methods that were appropriate for addressing the research questions and that were consistent with this research philosophy. Given my interest in the perceptions, experiences and interpretations of key actors involved in the development of marihuana regulation in Uruguay, it was evident that a qualitative approach was preferable over quantitative methods. In particular, I was interested in gaining a deeper understanding of the complexity and particularities underlying the development of some very specific details of the legislation—insights that a quantitative approach could not provide (Creswell and Poth, 2016). To explore the development of marihuana regulation in Uruguay, I therefore, conducted a qualitative case study that draws on the perceptions, views and interpretations of key actors actively engaged in this process. This study employs a variety of data sources, including documentary analysis, participant interviews and fieldwork notes, and draws on a thematic analysis to explore issues and specific situations relevant to understanding the case.

3.1.1 Case study design

The use of qualitative case studies is a well-established approach in the social sciences. This method is widely recognised as appropriate for developing a deeper understanding of complex social processes, particularly when the phenomenon in question is either new or not well

understood (Yin and Campbell, 2018). In the absence of a significant body of research on the development of marihuana regulation in Uruguay, an exploratory case study design was therefore deemed a suitable research strategy. Such method would allow for a flexible and inductive approach to addressing questions that captured the 'particularity and complexity' (Stake, 1995) of the specific contents and provisions of Uruguay's marihuana legislation and how they were developed, one of several criteria for justifying an exploratory case study design (Yin and Campbell, 2018). More specifically, the benefit of this approach is that it can provide an understanding of this process beyond that which is available in existing research by exploring additional questions and investigating the topic in more depth (Hancock and Algozzine, 2011).

In light of the dearth of research on Uruguay's policy process in general, I also had to consider that existing theoretical approaches to understanding policy development might be inappropriate for the Uruguayan context, as most theories have been derived largely from case studies in high-income countries, e.g., the United States and the United Kingdom. The value of a case study approach is that it lends itself to testing the applicability of concepts and frameworks developed based on empirical work in other political contexts to determine whether they can feasibly be applied in Uruguay. For example, in Chapter 4, I draw on Stevens and Zampini's prominent drug policy constellation framework (Stevens and Zampini, 2018) to test whether this is a useful way to understand the underlying contours and dynamics of the marihuana policy debate within Uruguay.

Yin (2018) also argues that a case study design is a preferred approach where the researcher has little control over the events; focuses on exploring a phenomenon in a real-life context; and where the boundaries between the phenomenon and context are not clearly defined. The latter aspect is particularly relevant to the case: the boundaries between priorities and their relationship to marihuana regulation are fuzzy, as are questions of whether and in what ways the promotion of policy coherence within health and across other policy spheres shaped the development of the specific contents and detailed provisions of marihuana regulation. Further, the boundaries between different levels of governance, e.g. domestic political context and international constraints, are also blurred, particularly in understanding the development of Uruguay's distinctive approach to state regulated marihuana supply and implementation challenges. Other advantages of a case study design are that it is not constrained by method (Simmons, 2012) and provides the flexibility to respond to shifts in focus and identify issues or specific situations to explore that are unique to the case (Creswell and Poth, 2016), attributes that were deemed critical given the exploratory nature of this research. Finally, qualitative case studies have been used in other research on marihuana policy development (Subritzky et al., 2015), including in Uruguay

(Musto, 2018), though with a focus on different processes relevant to understanding the case (as described in the previous chapter).

To clarify further, I used a qualitative, within-site, intrinsic (Grandy, 2009) case study methodology, focused on the specific case of development of marihuana regulation in Uruguay. My strategy was a single case study insofar as the development of a current, real-life case of marihuana regulation in Uruguay within a bounded timeframe was identified as the site of analysis. This enabled me to gather rich data, as the 'study of more than one case dilutes the overall analysis' (Creswell and Poth, 2016), as well as develop a deeper understanding of the context (Grandy, 2009, Gilson et al., 2018) under which marihuana regulation was developed. It also provided the flexibility to incorporate and 'explore contested viewpoints and influence of key actors and interactions between them' (Simmons, 2012), including those that were uncertain about policy reform and those against marihuana regulation. Finally, the intrinsic case study design offered the space to explore what participants interpreted as the most relevant issues for understanding the process and dynamics of marihuana policy change that emerged during fieldwork.

This research is intrinsic in that the case was of primary interest (Grandy, 2009) and selected to provide insight into a phenomenon that has 'unusual interest in and of itself and needs to be described in detail' (Creswell and Poth, 2016). Rather than conduct multiple case studies, I focused on a selection of pertinent issues within the case to help illustrate the complexity of developing marihuana regulation and identify common themes that transcended across such issues. For instance, I was interested in understanding the specific tensions and coherence issues between marihuana regulation and international drug and finance agreements in shaping implementation challenges, as explored in Chapter 6, as well as the development of the particular features of Uruguay's distinctive approach to state regulated marihuana supply, as considered in Chapter 7. The value of examining such issues and specific situations is that it allowed for a more comprehensive understanding of how international and domestic pressures, as well as the interplay between them, shaped and constrained the development and implementation of marihuana regulation in Uruguay.

A drawback of the intrinsic case study is that it cannot contribute to theory building and the findings are not generalisable to broader populations (Hancock and Algozzine, 2011). An alternative approach would have been to conduct a comparative analysis of the development of marihuana regulation between two or more jurisdictions such as Uruguay and Colorado and Washington State. Although this was my original intention, upon further reflection, I determined

that this would have been unfeasible given the different political and legal features between Uruguay and other jurisdictions with legal marihuana regimes, as well as impractical due to the time constraints of the PhD and geographical challenges of conducting fieldwork in multiple locations.

A comparative case study was also considered inappropriate because of the exploratory nature of the research and depth required in terms of answering the research questions. In this exploratory context, it was unclear how Uruguay developed its approach to marihuana regulation prior to conducting fieldwork, and consequently, I had to consider that policymakers in Uruguay might have also drawn on past experiences with marihuana regulation in other contexts, including Colorado and Washington State. Additionally, the research aimed to capture how policy approaches from tobacco and alcohol, as explored in Chapter 5, and marihuana policy experiences in other jurisdictions, as discussed in Chapter 7, were interpreted and thought about by policy actors and how these interpretations influenced the development of marihuana regulation. This enabled consideration of more than one interpretation of other approaches, and multiple ways in which other examples may be understood and practically applied in the development of marihuana regulation. Such complex nuances likely would have been difficult to capture if I were to have employed a multiple case study approach (Creswell and Poth, 2016). Finally, because the case study investigates the development of marihuana regulation in the specific Uruguayan context, this indicates that the lessons it can provide for other areas of public health policy, e.g. tobacco and alcohol, are also likely limited. While there may be some issues that might seem relevant to understanding the interactions between health and other policy spheres and across vertical dimensions, it is also likely that several features were specific to Uruguay being the first country in the world to develop a marihuana supply system in the context of continued international prohibition of marihuana production, distribution and sales.

Although the findings are not generalisable to broader populations beyond the case, focusing on a selection of pertinent issues and specific situations within the development of Uruguay's marihuana regulation might produce knowledge with wider significance (Simmons, 2012, Creswell and Poth, 2016). I am aware that selecting a number of cases of marihuana policy development in different jurisdictions or unhealthy commodity regulation in Uruguay would have increased the generalisability of the study. However, the international significance and relevance of the Uruguayan case ultimately shaped my decision to focus exclusively on the development of marihuana regulation. This allowed me to create a comprehensive and detailed understanding of the development of the specific design and content of Uruguay's marihuana regulation, which would have been impossible had I adopted a comparative approach.

Accounting for the limitations of adopting a single case study, I made significant efforts to conduct a detailed and integrated analysis of the data and provide a detailed account of data collection, analysis, interpretation (see Section 3.2) and reflection (see Section 3.4). Because of the international significance of the case, I also included in the interview schedule a specific question about the potential lessons that can be drawn from Uruguay's experience in developing the world's first comprehensive marihuana supply system. Therefore, regardless of the limitations of a single case study design, I consider the benefits of providing a deeper understanding of this process over producing generalisable results, including key challenges and barriers that policy actors faced in the development of marihuana regulation, far outweighed these potential drawbacks.

3.1.2 Defining the case timeframe

I selected for study the development of marihuana regulation in Uruguay between 2005 and 2017 as the case study timeframe. In Chapter 2, I discussed how scholars have suggested that local marihuana activists began promoting the idea for policy alternatives around 2005 (Ponte, 2013, Musto, 2018, Garcia, 2013), whereas transnational actors and epistemic communities began shaping public opinion and policy formation between 2012 and 2013 (von Hoffmann, 2016, Musto, 2018). Using these developments as a guide, I had initially decided to delimit data collection and analysis to events and processes that occurred around marihuana policy reform in Uruguay between 2005 and December 2013, or shortly after the law's passage. On further reflection and information gathered from interview participants, I decided to expand the timeframe to cover events and processes that occurred up until mid-2017, or after commercial sales took effect. This was because several participants were keen on discussing emergent issues and challenges taking place at the time that I was conducting fieldwork. Given my interest in exploring the complexity of the Uruguayan case from the vantage point of key actors involved in the process, I determined that these events should therefore be included in the analysis.

Expanding the timeframe was also supported by the literature on policy change, which suggests that understanding political events requires an exploration of the context before and after the event occurred. According to Sabatier and Jenkins-Smith (1993), case studies that explore processes of policy change should begin data collection at least a decade prior to the adoption or implementation of policy. Secondly, policy change tends to occur following a crisis or systemic shock brought on by external stimuli including changes in 'socio-economic conditions and technology, electoral changes in new governments adopting different agendas, priorities and leaders, as well as policy changes in other systems, affecting another policy sub-system' (Stone,

2001). While one study suggests that Uruguay does not fit within traditional theories of policy change because there was no 'regime change, institutional reform or treaty revision preceding it' (von Hoffmann, 2016), there were two important electoral shifts that occurred during the selected period of study.

In 2005, the first left-wing government in Uruguay's history, a coalition led by Frente Amplio, won the presidential election, ending a nearly 100-year era of traditional party rule (Chasquetti, 2007). Although Frente Amplio won the presidential seat with the election of President José Mujica in 2010, the president's centre-left political party, Movement of Popular Participation, lost its majority in the Uruguayan Parliament to far-left political factions (Ponte, 2013, Buquet, 2009). This included the Young Socialists of Uruguay (JSU), which as described in Section 1.4 and in more depth in Chapter 4, was a key group promoting marihuana policy reform. Previous research on abortion politics in Uruguay suggests that political activists and student organisations took advantage of this 'window of opportunity' presented by the transition of power and power asymmetries within the governing coalition to pursue abortion policy reform in 2010 (Arocena and Aguiar, 2017, Briozzo, 2016), which according to data produced from this research, also applied to marihuana policy change in 2012.

3.2 Methods: Data collection and analysis

The remainder of this chapter describes the research process of data collection and analysis for this study. Exploring the development of the specific content and provisions of Uruguay's approach to marihuana regulation required different types of data to be collected and analysed at various points in time during the project. This section provides an overview of the collection and review of documentary data, an explanation of my approach to selection, conduct and analysis of semi-structured interviews and a description of my approach to collection and analysis of fieldwork observations. The first subsection (role of gatekeepers) provides an account of my relationships with key actors in Uruguay and how I drew on these relationships and local knowledge in developing my approach to data collection. In the second subsection (documentary sources), I present the search strategy, inclusion criteria and approach used in analysing documentary data. The third subsection (on interviews) describes the development and piloting of the interview schedule, selection and recruitment of interviewees and the process of conducting the interviews. The fourth subsection (on fieldwork observations) discusses how I collected and drew on fieldwork observations to inform subsequent data collection efforts and analysis of documentary and interview data. The section then closes by discussing my approach to procedural ethics and analysis.

3.2.1 Role of 'gatekeepers'

Given the exploratory nature of the case study, the fieldwork process was intended to be adaptable to the dynamics of the Uruguayan context and to respond to the possibility for data collection. This flexibility meant that the stories and experiences that emerged from data collection during the initial stages of fieldwork would inform later aspects of the research process. Consequently, my fieldwork in Uruguay involved three parallel stages of data collection.

Phase one involved scoping the field and identifying key people in Uruguay who could help me navigate the political landscape, negotiate access to policy actors and point me towards relevant source material. As an outsider to the Uruguayan context (the practical challenges of which are described in more detail in Section 3.4), I relied significantly on informal relationships that I built with three key people or 'gatekeepers' from the health and drug policy sectors. Two of the gatekeepers were approached via email months before I planned to start fieldwork and then directly upon arrival in Uruguay in October 2017. All three resided in Montevideo, the city where I would be living while conducting interviews, and therefore, I perceived that they would be relatively accessible during the course of conducting this research. This subsection describes how I sought to develop relationships with these key people in Uruguay, which laid the foundation for my approach to data collection, particularly participant recruitment discussed in Section 3.2.3.

The three gatekeepers were identified using a combination of different search methods commonly used in ethnographic fieldwork: personal connections and purposive internet searches (Latchem-Hastings, 2019). None were categorised as the principal gatekeeper, but rather each served a particular role in the research process. Pursuing multiple avenues for gaining access to interview participants was selected since it can help reduce the 'potential bias of only speaking to people within a particular social network' (Harvey, 2010). Secondly, this decision was based on my previous experience in conducting research on marihuana policy development in the US context, where I found it was beneficial to form relationships with a diverse range of key people who could help gain access to potential interviewees due to their knowledge of and connections to specific sectors or organisations within the research population, e.g. leaders of cannabis user groups and civil servants in public health departments.

The first gatekeeper, defined here as 'public health advocate', was approached in November 2016 through one of my supervisors with whom they happened to have a professional relationship. Several researchers have found that a personal contact to the study population can facilitate the negotiation of access (Reeves, 2010, Latchem-Hastings, 2019). I certainly found this was the case. Because I was being verified by my supervisor who also established the credibility

of the study, the public health advocate was immediately welcoming and supportive of the research. I was later introduced to my second gatekeeper, identified here as 'politician', by the public health advocate when I arrived in Uruguay in October 2017, with whom they had both a personal and professional relationship. Finally, the third gatekeeper, defined here as 'drug regulator', was identified using the available literature on Uruguay's marihuana regulation and their contact information was found via internet searches.

Since I was completely unknown to the setting and did not have contacts in the community I wished to research (Latchem-Hastings, 2019), establishing these initial connections early on in the project was essential. The three gatekeepers played a 'key informant' role in helping me gather a sense of the content and contours of the policy landscape and in directing me towards particular actors and organisations within their professional networks. Upon arrival in Uruguay, I arranged informal meetings with all three gatekeepers to discuss the nature and purpose of the research, who I was interested in interviewing and preliminary fieldwork plans. At these meetings, I also asked the gatekeepers if they could provide any background information about marihuana policy reform in Uruguay that they felt would be pertinent to the study, including whom they perceived as the most important actors to this process. Extensive notes were taken following these informal meetings, which I subsequently drew on to develop the list of potential interviewees and content for the interview schedule.

The gatekeepers also became critical influencers of my approach to data collection (Latchem-Hastings, 2019), particularly recruitment strategy. The politician approached current and former legislators, representatives of the Ministry of Public Health (MSP) and key officials of the Vázquez Administration on my behalf. They were also able to facilitate access to a friendly workspace at a local NGO, where I would analyse policy documents, prepare for interviews and reflect on fieldwork activities (discussed in more depth in Section 3.2.5). Their assistance in gaining the agreement of potential interviewees was crucial, as the politician was able to establish the credibility of the study with some key representatives of the MSP and national legislators, with whom I was experiencing challenges in recruiting for interviews. The drug regulator was able to negotiate access to current and past representatives of the Drug Control Board and acted as a point of contact for me within the marihuana activist community, with marihuana producers and retailers and former high-level officials of the Mujica Administration. They also directed me towards events where I could meet potential interviewees, e.g. 2017 Cannabis Expo in Montevideo, Uruguay, and even introduced me to key people at these events.

The support of gatekeepers as sources of information was also crucial, as they were able to point me towards potential interviewees and organisations within their professional network that were not easily identifiable from the documentary analysis. While some aspects of this regulatory process produced official government documents that were made publicly available, other aspects were not clearly documented but were identified via discussions with key informants and gatekeepers. As outlined in Section 1.4, one such aspect was the establishment of a technical working group by the Mujica Administration in 2012, which I became aware of only through one of my gatekeepers, who provided me with a list of names and contact information of relevant participants, which I subsequently contacted for participant interviews as discussed in Section 3.2.3.

3.2.2 Selection and analysis of documentary data

Phase two of this research involved identifying and analysing policy documents and other relevant source material that included information about the development of marihuana regulation in Uruguay. The first set of documents was drawn from written and verbal submissions made by individuals and organisations to the Special Commission on Drugs and Addiction and the Senate Public Health Commission between 8 August 2012 and 13 December 2013 and related texts. Although documents can serve a variety of purposes (Bowen, 2009), the primary reasons for selecting and analysing policy documents were to understand the context under which the development of marihuana regulation occurred, identify who were the relevant actors involved and familiarise myself with the arguments raised in this process. The second purpose was to draw on the more detailed analysis of selected documents to develop the interview schedule, contextualise data collected during the interviews and verify the findings from the interview data. In the following, I describe my process of searching and selecting documents and reviewing documentary data.

The Parliament of Uruguay's searchable online database (https://parlamento.gub.uy/buscar?) contains public hearings, parliamentary transcriptions and versions of the proposed law that are publicly available. This includes documents from the consultation process of the Special Commission on Drugs and Addiction between 8 August 2012 and 31 July 2013 and legislative debates of the Senate Public Health Commission between 1 August and 26 November 2013. It also includes documentation of the debate in the Uruguayan Parliament between 1 December and 20 December 2013, when the proposal was signed into law (available at: https://parlamento.gub.uy/documentosyleyes/ficha-asunto/113662). This database was searched between 15 October 2017 and 23 November 2017 for documents dated between

January 2005 and August 2017 to gather an overview of the nature of the marihuana policy debate and its development in Uruguay. Initial search terms included: 'marihuana', 'cannabis', 'drogas [drugs]', 'autocultivo [home cultivation]', 'clubes cannábicos [cannabis clubs]' and 'regulación y control de marihuana [regulation and control of marihuana]'. These terms were included on the basis that they define the governance structure of Uruguay's marihuana market. Initial searches informed additional searches including terms and relevant documents, individuals and organisations. Searches primarily focused on documents produced between January 2005 and August 2017, although documents deemed relevant to the current study were considered if they provided a more comprehensive overview of the policy process and the actors involved.

Using the information that had been gathered from the initial document search, more targeted searches were conducted using the search engines of various governmental departments relevant to the development of marihuana regulation in Uruguay. This included the Office of the President (https://www.presidencia.gub.uy/), the Institute for the Regulation and Control of Cannabis (https://www.ircca.gub.uy/), the Drug Control Board (https://www.gub.uy/junta-nacional-drogas/), the Ministry of Public Health (https://www.gub.uy/ministerio-salud-publica/) and the Ministry of Livestock, Agriculture and Fisheries (https://www.gub.uy/ministerio-ganaderia-agricultura-pesca/). I also searched the websites of various civil society organisations that had been identified as particularly important to the policy process for additional information and documents (see Appendix 2). Overall, this process resulted in a list of 33 documents to analyse, which were divided into two main types of documents: 1) position papers produced by administrations and civil society organisations between 2005 and 2017 that focused on marihuana regulation and/or drug policy; 2) draft legislation, parliamentary meetings and consultation proceedings pertaining to the formulation and implementation of marihuana regulation (examples of the documents selected and the data analysed are provided in Appendix 3). Other documents that were not selected for documentary analysis were drawn on as background information, helping to situate marihuana regulation within its wider historical and political context.

Initially, I read through the set of policy documents to gather the following information on individuals involved in the Special Commission on Drugs and Addiction, and legislative debates of the Senate Public Health Commission and Uruguayan Parliament between August 2012 and December 2013:

- Names and participation dates: dates that a policy actor participated on either or all three of the processes identified above;

- Organisational affiliation: each policy actor was assigned to one of eight categories, including executive branch; national legislator, national ministry, quasi-governmental organisation, academics, nongovernmental organisation; intergovernmental organisation or commercial sector;
- Geographical remit of organisation: defined as either international, regional or domestic;
- Interactions with other policy actors: each policy actor was assigned to one of three categories in relation to other actors and groups including active collaboration; shared positions or goals; competing positions or goals.
- Policy positions: each policy actor was assigned to one of six policy positions, including support marihuana regulation; against state control over marihuana market but support home cultivation and/or cannabis clubs; neither in favour or against marihuana regulation; against policy reform but support administrative change or programmatic focus of marihuana control; support status quo; support increased penalties on drug users.

On the second reading, I began to annotate selected documents using written notes and headings in the margins of the text. I then reread and reviewed the written material and identified themes that emerged from government documents that were pertinent to understanding, to the best extent possible, all aspects of the marihuana policy debate in Uruguay. Policy documents were analysed with respect to views on the policy problem; type of approach advocated for in public debate; preferred objectives of marihuana policy reform; preferred policy instruments; and views on the potential consequences of policy reform. I also analysed policy documents concerning instances where tobacco and/or alcohol experiences and approaches were drawn on to support policy positions. This included instances where participants mentioned policy coherence with tobacco and/or alcohol based on the following criteria: primary use of coherence, e.g., normative or strategic, type of coherence advocated, e.g., horizontal versus vertical and objectives of policy coherence.

It is recognised that policy documents, including policy statements such as white papers, should be carefully analysed and placed in the context under which they were developed. Although they often are depicted or referred to as 'firm evidence of what they report' (Atkinson and Coffey, 1997), policy statements are a product of negotiation and consensus, which attempt to consider a diverse range of views and perspectives in their development. Considering this, I carefully reflected on whether and how policy documents could serve a particular purpose for this research. To be clear, my strategy has been to draw primarily on the detailed analysis of policy

documents in developing the interview schedule and to explore different interpretations of this process from the actors involved (see below). I also drew on the documentary analysis to verify the coding of interview data and corroborate the findings from the thematic analysis of the interviews. If there were contradictions between the policy document and interview data, this prompted me to investigate further by asking additional questions to interview participants. One key example can be observed in a policy document produced by the civil society organisation, Responsible Regulation, which promoted the idea that marihuana regulation should be developed in a similar way to Uruguay's approach to tobacco control (Regulación Responsable, 2013). However, when a representative from that organisation was asked in a 2018 interview to explain how they viewed the significance of this argument in the public debate, the participant argued that:

> *It was important. Not that it was important for us. We used it a little. For example, alcohol prohibition. They are substances. There are drugs like tobacco and alcohol. That was a great argument. A winner. They are bad for you but also, they are regulated and we control them. We used it. We used it. But we did not spearhead it.* (P26, civil society)

On the other hand, Bowen argues that this strategy is beneficial to the research if there is convergence between various data sources since it can improve the credibility of the findings (Bowen, 2009). As I conducted and analysed the interviews, I continuously returned to read and review the initial set of documents and other documents collected in the course of conducting this research (e.g. working paper drafts and personal notes of the proposed marihuana legislation, advocacy materials and presentations), which also shaped my interpretive framework. The process of integrating different methodological approaches is discussed in more depth in Section 3.3.1.

3.2.3 Interviews

In designing this project, I decided that semi-structured elite interviews would be the primary source of data, seeming best suited to address my objective of gathering insights into the perceptions, beliefs and perspectives of the key actors involved in developing marihuana regulation in Uruguay. Aside from interviews being the most common methodological technique employed in social science to obtain knowledge on people's personal experiences (Brinkmann, 2013), I also observed that previous research on marihuana policy change in Uruguay had drawn primarily on analyses of government documents and newspaper media (Garcia, 2013, Repetto, 2014, Queirolo, 2020, Queirolo et al., 2018) (for a notable exception see Musto (Musto, 2018)). While documents can provide valuable 'data on the context within which research participants operate' (Bowen, 2009), there is potential that they may offer an incomplete picture or biased

depiction of the development of marihuana regulation, as certain issues might not have been considered and voices not represented (Bacchi, 2009). Thus, a key benefit of qualitative interviews is that they can offer a different analytical lens for understanding how policy decisions evolve and are eventually made compared to relying on a single method such as documentary analysis (Harvey, 2010). As discussed in the previous section, I decided that the findings from the interview data would be supplemented by the documentary analysis and fieldwork notes to reduce the impact of potential biases of the study. Although the interview data constitutes much of what is quoted directly in the thesis, drawing on material from the documentary analysis and fieldwork observations has been important in triangulating the findings (Denzin, 2017) and providing an additional perspective on issues emerging from interview accounts.

Interviews allowed for an in-depth examination of the policy positions advanced in the documentary analysis and to investigate further the public positions proposed by interview participants. Researchers that draw on qualitative interviews anticipate that perceptions, personal motivations, strategies and reflections of processes and events can offer meaningful insights into the social world (Jovchelovitch and Bauer, 2000). Interviews not only allow respondents to recall historical events but also offer the opportunity for interviewees to reflect on, attach meaning to and interpret how such event occurred (Brinkmann, 2014, Hilden, 2014, Jovchelovitch and Bauer, 2000). I therefore attempted to understand each respondent's key priorities and concerns and gather insights into the underlying beliefs and values used to justify policy positions. The interviews also sought to identify similarities and contradictions between respondents' public positions and that which was presented in the interviews as well as understand how the positions that key actors advanced were related to their preferred policy approaches to marihuana regulation. Furthermore, research indicates that interviews are particularly suited for gathering in-depth information about a historical process or event and in gaining further insight into the mechanics of complex political processes that might be difficult to obtain otherwise through alternative methods, particularly if they occurred in informal settings or behind closed doors (Mikecz, 2012, Higgins, 2019). Therefore, interviewing key decision-makers and other stakeholders provided the opportunity to move beyond publicly available documents to explore the personal experiences, perceptions and motivations of individual actors involved in developing marihuana regulation in Uruguay.

3.2.4 Methodological literature on interviewing 'elites'

While it is the most commonly used method in the human and social sciences (Brinkmann, 2014), conducting effective qualitative interviews is a challenging task (Harvey, 2010, Lilleker, 2003). Although I had previously conducted interviews as part of my past employment at UCSF, these interviews were qualitatively different for a number of reasons: I did not have a significant academic or political network to rely on in Uruguay, the interviews were conducted in a culture and language that is not my own and the research design was exploratory in nature. I therefore turned to the methodological literature on interviewing 'elites' to prepare for the next phase of the research process. There is considerable research that deals with the complexity of power relations in interviews and some of the issues inherent in conducting interviews with elites about their experiences and perceptions (Aguiar, 2012, Lilleker, 2003, Bradshaw, 2001, Hertz and Imber, 1995, Ostrander, 1993). This literature suggests that researchers face a number of specific challenges when interviewing people in positions of power that one might not otherwise encounter with so-called non-elite populations. This may include misinterpreting the tone of the interview, conducting awkward and tense interviews, gaining trust and access and gauging how to position oneself in relation to the interviewee (Harvey, 2010, Aguiar, 2012).

Although I observed some illustrations of these issues in conducting interviews with elites, I do not think that my experience mirrors Bradshaw's assertions that elites are more likely to dominate and shift the conversation and avoid issues that they prefer not to discuss (Bradshaw, 2001). Understandably, participants that were currently representing the Uruguayan government at the time of study did present their organisational views, but some also presented their personal accounts and beliefs on marihuana regulation, including those in higher-level positions. Instead, my experience seems to reflect Smith's account that there is nothing inherently different about interviewing elites and that the problems outlined in the literature are instead issues that all qualitative researchers may encounter (Smith, 2006). Note that while most of my participants could be characterised as 'elite', not all of my interviewees were in such positions of power.

More recently, there have been some important critiques of such structural depictions of power in the methodological literature, particularly by feminist researchers and geographers (McDowell, 1998, Rose, 1997, Smith, 2006). This research suggests that power relations concerning the intersections between age, gender, race and national origin can affect the interview process in unexpected and fluid ways (Smith, 2006). For example, some literature outlines how conducting interviews in a researcher's non-native language can place the interviewer in a vulnerable position, as avoiding to ask additional questions or clarify points might be a strategy employed to

avoid embarrassment (Winchatz, 2006). Indeed, my initial experience as a young, female researcher interviewing in Spanish did entail some problems: I was reluctant to intervene and at times, I felt like I would waste my participant's time if I did. Although I anticipated that my interviewees might attempt to exploit this perceived power imbalance by speaking over me or controlling the conversation, this rarely was the case. Instead, what I perceived to be a power imbalance as a non-native speaker, actually seemed to work in my favour, as reflecting Chen's (2011) experience, I felt compelled to ask 'interviewees to define their concepts, deferring to their position as a language authority and recognizing one aspect of the power relationship'. This is illustrated in the following extract, in which I originally felt quite uncomfortable by the tone of the interview, but then directed the conversation to more pertinent issues by deferring to the interviewee's position as a 'language authority' (Chen, 2011). For example:

RB: *I wanted to say that that is not what I wanted to ask you.*

P26: *Oh sorry. You can ask me in English if you would like.*

RB: *Ok for this part if you don't mind because it is important that I get the wording correct.*

This could have been a difficult experience, especially since the discussion was about what I perceived to be a relatively controversial issue within Uruguay's marihuana policy debate: the extent to which marihuana regulation was consistent with Uruguay's approach to tobacco control. Although it is difficult to convey the mood of the interview, this marked an important point in the conversation, as the respondent began to explain in quite some depth about why they felt marihuana should *not* be regulated like tobacco and how this argument was incredibly useful as a political strategy, as discussed in more detail in Section 5.1. While this was an awkward and tense situation, it did not leave me feeling disempowered, as I had anticipated from reading the methodological literature on elite interviews. Instead, this example seems to offer a clear depiction of how the interviewer can take advantage of their 'outsider' status to redirect the conservation towards issues that are pertinent to the aims of the research (Herod, 1999).

Having outlined the background to selecting elite interviews as the primary source of data for this thesis, I will now move on to describe the approach taken to develop the interview schedule, select and recruit interviewees, process for conducting the interviews and reflect on some of the challenges encountered while carrying out this part of the research.

Developing the interview schedule

The early themes that emerged from the first two phases of the project informed the development of phase three involving interviews. This research employed a semi-structured approach to interviews (sometimes referred to as conversational or informal interviews). The

semi-structured approach has a number of attractive features: first, it can gather a large amount of data in a short period compared to more time-consuming methods such as focus groups and questionnaires (Harvey, 2010). It can also provide a flexible structure while simultaneously allowing for 'interviewees to raise questions and concerns in their own words and from their own perspective' (Brinkmann, 2014), which was important given the exploratory nature of the research design. Compared to an unstructured approach, the semi-structured interview can offer the interviewer greater control in directing the conservation towards issues that they perceive as most relevant to the aims of the research project. Taking this into account, I therefore sought to organise the interview schedule around five key themes:

- Positions, priorities and concerns in marihuana policy debates;
- Perceptions of relevant actors, marginalised or excluded voices;
- Perceptions of health impacts of marihuana regulation in Uruguay;
- Perceptions of the role and use of policy coherence in marihuana policy debates; and
- Perceptions of lessons learned about the experience with marihuana regulation in Uruguay and their implications.

While semi-structured interviews offer the benefit of both structure and flexibility, a potential drawback is that they can be overly technical and the question-and-answer structure may inhibit in-depth and fluid conversation. The methodological research suggests that semi-structured interviews therefore require 'careful preparation and reflection on how to involve interviewees actively, how to avoid flooding the conversation with social science categories, and how to provoke interviewees in a respectful way to bring contrasting perspectives to light' (Brinkmann, 2014). In anticipating these issues, I conducted three pilot interviews with four key people (one was a paired interview) who were identified as knowledgeable about marihuana policy debates in Uruguay, but not directly engaged in the process of policy development. This included one drug regulator (whom I met at the 2017 Cannabis Expo in Montevideo) and three public health advocates working in tobacco control (one of which was one of my gatekeepers and two whom I met through the work exchange at the local NGO). The interview with the drug regulator was carried out in January 2018 and the other three were conducted in March 2018. All four participants were made aware that they would be interviewed as part of a pilot and that I was interested in hearing their reflections on the content, structure and style of the interview. For example, at the end of each pilot interview, I asked all four participants the following questions:

- Do you have any feedback on the questions I asked?
- Were there any issues or areas that I did not cover?

- Did you find any of the questions awkward or difficult to answer for any reason?

Although significant changes were made to the interview schedule subsequent to the pilot interviews (mostly around the specific wording of questions and translation issues), the content of the pilot interviews provided valuable information for the study, and so all four were included in the final sample.

As I piloted the interviews, I found that the initial list of questions required a significant level of background knowledge and technical expertise on marihuana policy development in Uruguay. The interview schedule also did not leave sufficient space for interviewees to explain their broader experiences or raise issues that they felt were particularly important to understand this process. Reflecting recommendations by participants in the pilot interviews, I modified the interview schedule by clarifying that I was interested in hearing their perspectives as experts in a particular field or policy area; and for the purpose of the study, a participant did not have to be involved directly in the development of the content of the legislation, but rather I was interested in hearing their views on this process and their implications for public health policy. I also modified the interview schedule by first, requesting that participants introduce themselves and their organisation, and then encouraged respondents to describe their personal experiences related to how and why they became involved in marihuana policy debates in Uruguay, attempting to do so without interrupting the participant.

Additionally, I made two important material refinements to questions that contained concepts central to the overall analysis. As discussed in Chapter 1 (Section 1.2), the term 'coherencia' in Spanish seems to be synonymous with the English word for 'consistency' (Chevallier-Govers, 2013). Due to this conceptual challenge, I had to clearly define what I meant by the concept of policy coherence at the relevant part in the interview (see Appendix 4). After explaining what I meant by coherence, I further investigated its significance by asking participants to describe their views on the relevance of policy coherence with tobacco and alcohol policy in the development of marihuana regulation. Visual feedback from pilot interviewees indicated that further clarification was needed, particularly when I mentioned policy coherence with alcohol and some for tobacco. Therefore, I also included a question on whether they felt that marihuana should *not* be regulated like tobacco or alcohol, and if so, in what ways. It was important to explore the diverse meanings and conceptualisation of policy coherence at this stage, as it related specifically to issues with the various frameworks that I would later draw on for data analysis.

A second conceptual issue emerged around questions related to the interactions between different actors. Most participants were reluctant to state with whom they or their organisation

aligned, often informing me that they did not align with anyone or questioned what I meant by 'aligning with others'. I had to consider that this policy field may not have clearly defined and demarcated groups of actors working together to promote their preferred policy position, or that actors even had a clear policy preference for regulating the marihuana market. I therefore modified the interview schedule to ask participants what other actors they thought had supported their views or ideas on marihuana regulation. This also helped in thinking about which conceptual frameworks I could draw on to understand and analyse the apparent confluence of priorities and perspectives involved in shaping marihuana policy debates in Uruguay, as described in the previous chapter. Exploring the underlying dynamics and contours of marihuana policy debates in Uruguay seemed to require a conceptual framework that considered values and priorities to be central, but that did not presuppose a high level of coordinated activity over long periods, as might be the case with an analytical lens such as the Advocacy Coalition Framework (Sabatier and Jenkins-Smith, 1993). This is addressed in more detail in the Preface to the Results (see pp. 140-146).

Finally, the pilot interviews encouraged me to make a number of changes to the language of the interview schedule. As likely is the case with most interviews conducted in the researcher's non-native language, I initially felt the need to write very detailed interview questions to indicate my preparedness. This process became easier as I conducted more interviews because I was able to ask questions more spontaneously and use language that was simpler to pronounce in Spanish. As time progressed, I also became more comfortable in conducting the interview if a respondent was unsure about how policy measures were developed, who was directly involved in their development, what evidence was used to justify policy decisions, what the health objectives were of marihuana regulation and the potential health implications of regulating marihuana. Information on what was not known by some participants was used to formulate specific questions for key actors who might likely possess such knowledge, as outlined below.

Depending on the interviewee, the schedule was modified slightly, and following conversations with earlier interviewees, I adjusted some of the language in the interview schedule for subsequent interviews. For example, I added specific questions about how different actors perceived the process of developing some of the more distinctive features of Uruguay's marihuana regulation, e.g. 40 grams per user, 6 plants per household, 99 plants per club and 15-45 members per cannabis club (see Appendix 4). In addition, interview schedules were adapted to reflect emerging policy developments, such as the international challenges to implement marihuana regulation in July 2017. In response, I added some questions about key actors' perceptions and concerns of implementing marihuana regulation in the context of international

financial systems and whether and how that issue was being resolved. A sample interview guide in both English and Spanish is included in Appendix 4.

Selection and recruitment of participants

The next phase of this project involved identifying a list of potential interviewees. This list was developed using a combination of sampling strategies commonly used for research that employs interviews as a key source for data collection: purposive and snowball sampling (Robinson, 2013). A benefit of purposive sampling is that it can systematically identify study participants according to a predefined set of inclusion criteria and provides the flexibility of constructing an intentionally heterogeneous sample (Robinson, 2013). In practice, I began by reading through media coverage of Uruguay's marihuana regulation to identify key people and finding their contact information via internet searches. I then contacted some of these actors in September 2017, informing them of the aims of the study, anticipated dates for fieldwork and desire to interview key actors that they felt influenced the development of marihuana regulation between 2005 and 2017 (see Appendix 6.3 for a sample email template). One key actor, who I later recruited as a gatekeeper (see Section 3.2.1), provided me with a list of potential interviewees and their contact information, including email and mobile number, which were involved in the development of marihuana regulation in some capacity (see Appendix 5.1; contact information has been removed). Although this list proved to be valuable overall (for example, one of the key actors on the list invited me to the 2017 Cannabis Expo in Montevideo, where I was able to meet a number of potential interviewees), I noticed that it tended to include people that were key proponents of marihuana regulation.

Building on this, I then identified potential interviewees using parliamentary reports and particularly the Special Commission on Drugs and Addiction and the Senate Public Health Commission where the marihuana regulation bill was debated between 2012 and 2013. As I was interested in interviewing key actors that represented a wide range of backgrounds, perspectives and positions, including those that were uncertain about policy change and those that were opposed to changing the law, I focused my efforts on identifying policy actors who were advocating different views on the problem and potential solutions. This decision was made to show different views on the problem and process from a perspective beyond that of key proponents of the law. Criteria for identifying potential interviewees were as follows:

- Policy actors who were actively engaged in the development of marihuana regulation;

- Policy actors who participated on behalf of an organisation or state entity in the development of marihuana regulation.

Because purposive sampling can place significant limitations on sample size (Majchrzak, 1984), I also relied on snowball sampling to identify additional participants. This sampling technique is often used in combination with purposive methods and draws on the knowledge of research participants to identify whom they perceive as relevant to the study's aims (Robinson, 2013). At the end of each interview, I therefore asked interviewees whether they knew of anyone else who had a particular interest in the development of Uruguay's marihuana regulation. Although this might run the risk of sample bias towards subjects that are more cooperative or oversampling of participants with larger personal networks (Heckathorn, 1997), a major advantage of snowball sampling is that it can help locate potential interviewees that might not be readily identifiable in public documents (Cohen and Arieli, 2011). To minimise the risk of generating a biased sample or including potential interviewees that were less knowledgeable or not centrally involved, I only added potential interviewees to the list if they were mentioned frequently by other participants (between 3-5 times) or if one of my gatekeepers felt that they were important to this process.

A combination of purposive and snowball sampling techniques generated a list of 140 potential interviewees. This list included information about key decision-makers in Uruguay; academics and medical professionals that participated in parliamentary debates; civil society organisations and international experts involved in deliberating and designing the law's content; and several other policy actors. Drawing from this initial list, 71 potential interviewees were approached based on their professional backgrounds and that I felt were relevant to marihuana policy development and marihuana policy debates in Uruguay more broadly. The removal of 69 interview participants from the 140 total potential interviewees was based on the following two criteria: 1) if I felt that the policy actor could not discuss (based on their professional expertise or personal involvement in marihuana policy debates) the topics under investigation; 2) if there existed another person of the same professional background or organisation that I felt was better positioned to speak about the development of marihuana regulation. The process of approaching potential interviewees and undertaking interviews was continued until the point of data saturation or when no new or relevant information emerged from the interviews (Given, 2008). I determined that data saturation was reached when additional interviewees were no longer providing new perspectives or explanations about how Uruguay developed marihuana regulation in ways that would enhance or change the findings of the study.

After deciding to recruit a particular actor, following discussions with gatekeepers and one of my supervisors, potential interviewees were contacted via electronic mail or telephonically (predominantly using the application WhatsApp Messenger, a freeware and cross-platform messaging and Voice over IP service owned by Facebook) between October 2017 and July 2018. Initially, I began contacting participants via their professional or personal emails, which I identified via internet searches (namely for actors identified through documents) or via one of my three gatekeepers for the study. However, I found that this form of communication was not as effective for accessing participants compared to newer communication platforms such as WhatsApp Messenger. When contacting participants via email, I typically received either no response or was requested by a participant to send them a WhatsApp message to coordinate a time and date for the interview. Conversely, when contacting participants initially via WhatsApp Messenger (the contact information which I usually received from one of my gatekeepers or other interviewees), most responded immediately, informing me of their interest to participate in the study and available dates to conduct the interview.

My gatekeepers confirmed that WhatsApp was an appropriate form of communication used in Uruguay for contacting politicians and civil society organisations. Moreover, it was often the case that at the end of each interview, participants would send me the contact information of potential interviewees that they perceived as relevant for the study via WhatsApp, requesting that I inform that person that I had received their contact information from the study participant. After determining that this was a more effective way to access participants, initial contact was made via WhatsApp, in which participants were sent the following introductory message:

> *Greetings, I hope that you are doing well. My name is Rachel Barry and I am a doctoral researcher from the University of Edinburgh. I was recommended by [X participant] to contact you regarding an academic study that I am carrying out on the development and implementation of Uruguay´s marihuana regulation law, in which I would like to interview you to incorporate your perspective on the process of developing and implementing such regulatory framework. The study´s aims are to understand how and why Uruguay developed marihuana regulation, and understand the type of ideas or evidence that was used to inform such process. It bears mentioning that this research is funded by a University of Edinburgh School of Social and Political Science PhD scholarship and has been approved by the Ethics Committee of the School of Social and Political Science.*

Reflecting on the first few engagements with participants, I grasped that it was important to include information on the funding source and ethical approval of the study in the introductory message in order to encourage participation. I found that when initially contacting potential interviewees that some were hesitant to participate in the study because of the type of information that could be released to the media. At initial contact, some potential interviewees raised concerns by asking questions such as: 'Is this a real academic study funded by a real

university? You are not a journalist, right?' These responses seem potentially reflective of the international interest in Uruguay's marihuana regulation, in which a number of journalists and researchers had become interested in learning more about why Uruguay pursued marihuana regulation from those directly involved in this process (Musto, 2018). This, of course, raises the risk of interview fatigue for those that had been interviewed more frequently by the media than other research participants in recent years, which might have discouraged some key actors from participating in this study or reduced the quality of the data that was provided by those that had agreed (Lavrakas, 2008). For those that did agree to participate in the study, I assured them that all interviews would be anonymised, even if some participants (mostly proponents of the law) declared that it was acceptable to identify them by first and last name (see Ethics below).

Despite these potential risks, of the 71 people who were contacted, most were willing to partake in the study (43/71=61%), suggesting that people involved in marihuana policy debates in Uruguay were generally interested to talk about their experiences and perceptions of this process for this project. These actors included representatives of the Executive Branch, ministers and ex-ministers who had held positions relevant to marihuana regulation, e.g. Ministry of Public Health (MSP), legal and medical experts, domestic and international NGOs, international health and drug organisations and the commercial sector. The latter three categories were ones that I did not originally intend to interview, though their relevance to this process became increasingly clear as the research progressed.

For groups in which a larger number of people were approached, i.e. academics and politicians, I aimed to engage with potential interviewees from a range of different perspectives, as outlined above. To aid this process, I developed a table whereby I included academics and politicians (see Appendix 5.2), to ensure that I had included a range of interviewees with diverse backgrounds, perspectives and positions on marihuana regulation. Considerable efforts were taken to include the perspectives of academics with varying types of research and professional backgrounds (e.g., tobacco, alcohol, drug treatment, toxicology, pharmacology, and cannabinoid medicine) and who had advanced different positions on marihuana regulation in public debates. This resulted in my interviewing a greater number of legal and medical experts than any other type of interview participant (though these actors were also more cooperative, as none declined or failed to respond to my request for an interview).

For politicians, I contacted civil servants, ministers and ex-ministers from a variety of relevant government sectors (including health, public security, finance, drug control, social development, agriculture and education). To manage the interview process, I divided the list of participants

into two rounds. This allowed me to focus the second round of interview requests strategically on policy actors that were relevant to areas which had been underrepresented in the initial round of interviews. The second round of interviews, for example, focused on recruiting policy actors that seemed ambivalent about marihuana regulation such as representatives from the MSP and the Uruguayan medical sector as well as those that were involved in policy implementation. Finally, in sequencing interviews, I prioritised recruiting domestic actors for the interviews over international experts, as these interviews could technically be conducted later in-person or via video call. Despite some challenges, I did manage to collect an arguably well-balanced sample that captures a broad range of actors, positions and backgrounds, with a few exceptions.

I was unable to find a representative from a pharmacy trade union, international health or drug organisations or national legislators against marihuana policy reform who were willing to be interviewed. A number of participants informed me that prominent international health bodies such as the Pan-American Health Organisation (PAHO) or the World Health Organisation (WHO) were not directly involved in this policy debate, which might explain the challenges that I faced in recruiting a representative from either of these organisations. Nevertheless, these perspectives were broadly covered via interviews with local policy actors and international experts who work closely with PAHO and the WHO. Although I was unable to recruit a representative from one of the pharmacy trade unions in Uruguay or an international drug organisation, e.g. the International Narcotics Control Board (INCB), insights about their relevance were covered by analysis of policy statements, consultation reports and relevant media sources. Finally, I did manage to interview national legislators that represented Uruguay's major traditional parties, who informed me that while there was broad consensus to depenalise home cultivation, they were ambivalent about or against state control of the marihuana market, potentially explaining why I could not find someone to interview that was against policy reform.

Table 3.1 Recruitment by stakeholder type					
Stakeholder category	**Contacted**	**Accepted**	**Declined**	**No response**	**Total interviewed**
Executive Branch	9	7	2	0	7
National Legislators	13	10	0	1	6
National Ministries	8	4	0	4	4
Quasi-governmental organisations	2	2	0	0	1
Academics, medical and legal experts	14	14	0	0	14
Domestic NGOs	8	7	0	1	6
International NGOs and academics	5	5	0	1	2
International organisations	2	1	0	1	1
Commercial sector	8	5	1	2	2
Total	71	56	3	10	43

Conducting the interviews

Between March 2018 and August 2018, forty-three interviews were conducted with policy actors actively involved in the process of developing Uruguay's approach to marihuana regulation between 2005 and 2017. To prepare for each interview, I ensured that I had collected background knowledge on the participant and the organisation that they represented from publicly available sources. This included relevant information regarding the participant's organisational roles, involvement in the development and implementation of marihuana regulation in Uruguay, their public or organisational position, arguments presented in the media and/or in parliamentary debates and their relationships with other participants and organisations that I wanted to discuss in more detail. One week prior to conducting the interview, I sent an email reminder to the participant with the information sheet and consent form attached, although I brought physical forms of both to the interview for the participant's convenience.

Herod (1999) emphasises the importance of 'cross-cultural comprehension and expectations' when conducting interviews outside of the researcher's home country. Therefore, in an attempt to make each interviewee feel as comfortable as possible, interviews were arranged based on the participant's convenience, with most interviews conducted in Montevideo, Uruguay and often at the residence of the participant. The methodological literature tends to advise against home-based interviews because of the potential risk for the interviewee to become distracted or interrupted by family members (Brinkmann, 2013, Harvey, 2010). Yet, Harvey (2010) found that in his research on elite business leaders informal settings can actually lead to different types of

data being disclosed, as interviewees often expand on sensitive issues that they might not otherwise be willing to share in the workplace. It is impossible to know whether conducting interviews at the participant's home residence affected the data in terms of substantive responses to interview questions. However, interviews conducted at the respondent's home were generally longer than the interviews conducted in workplaces and public spaces like cafés, with one lasting four hours, and I often felt that I had more space to introduce myself and the project.

When I arrived at the interview site, I initially explained my interest in Uruguay's marihuana policy change, the aim of the study and the expected timeframe for conducting the interview. I then asked each interviewee for their informed consent, both signed and verbal, and permission that the interview be recorded. Participants were also asked to mark on the consent form their preferred level of anonymity based on one of three criteria:

- identified as an interviewee but all identifiable features are removed from the data and no direct attribution of quotes;
- identified as an interviewee but all identifiable features removed from the data with the use of anonymised quotes; or
- identified by their preferred generic professional title with direct attribution of anonymised quotes (see consent form, Appendix 6.1).

Most respondents (n=41) selected to be identified using a generic professional title and direct attribution of quotes. Two participants desired to be identified as an interviewee but for quotes not to be attributed to them directly.

Before initiating the interview, all participants were asked if they had any questions regarding their participation in the project or about the specific aim and purpose of the research. Interviewees were encouraged to present their concerns and priorities in the development of Uruguay's marihuana regulation, even if they were not directly involved in shaping its content, with the hopes of eliciting frank discussion on the topic. Although I had prepared an interview schedule with specific questions to probe interviewees, I tried to make the process as conversational as possible. I began by asking interview participants to introduce themselves, why they became involved in marihuana policy debates, and what their main priorities and concerns were related to regulating the marihuana market, which tended to promote a more conversational style of interview. This seemed to allow me to pay attention to the specific issues that were of particular interest to the interviewee, provide me with a deeper understanding of

their role in the process and identify their underlying priorities and perspectives concerning the issue.

At a break in the conversation, I subsequently requested interviewees to elaborate on specific points that had been raised and asked detailed questions from the interview schedule. Often, these included questions related to tensions and interactions with other actors, the potential public health impacts of regulating marihuana and the relevance of policy coherence to the development of the regulation. Subsequent questions also usually dealt with issues relating to the lessons that can be drawn from Uruguay's experience with regulating the marihuana market and their awareness of international interest in learning from that experience. At the end of each interview, I invited the interviewee to present any additional information that they felt was relevant but not covered during the interview and any other relevant actors that would be useful to contact for an interview. I then closed the interview by thanking the interviewee for participating in the study, asking if they had any additional questions or concerns regarding their participation and if it would be acceptable that I contact them later with follow-up questions or for further clarification on points raised during the interview.

Following each interview, I listened to the audio recording and attempted to transcribe it as soon as possible, although this varied based on the number of interviews that I had conducted in a given week. When I arrived home from the interview, I documented difficult moments in the interview and reflected on areas where I could have asked additional follow-up questions or framed a question in a different way for subsequent interviews. While these limitations are acknowledged, they were not perceived as major barriers to the overall project, as participants assured me that it would be entirely appropriate to follow-up with additional questions via email or telephone for further clarification and verification.

All forty-three interview participants signed the written consent form prior to beginning the interview. After conducting a number of interviews, I realised that the introductory part of the process, including the signed consent form, did not help establish an amicable rapport with the participants. Often, interviewees felt that the introductory part was overly formal, although it was important to clarify that the study was for academic purposes (as opposed to journalistic intentions) and that participants could refuse to respond to questions or request to go 'off the record' at any point during the interview. In subsequent interviews, I began the interview more casually, introducing myself personally, e.g. research background, time spent living in Uruguay and why I spoke Spanish. I focused on clarifying the more formal points around anonymity, their rights as an interview participant and the academic purpose of the study, which seemed to

develop a friendlier rapport. All interviews were recorded using a digital audio recorder. The interviews varied in length with some lasting three hours; however, most were around 70-90 minutes in length. Lengthy interviews did require a significant amount of work as these had to be personally transcribed, verified and coded. The audio files of five interviews were professionally transcribed due to their length and sound quality. I communicated the importance of confidentiality of the files with the transcriber and they returned the audio files on completion of the transcripts. All interview data and fieldwork notes (outlined below) were stored on the University of Edinburgh's secured network drive and were not made available through my personal drive, portable media or email account.

Almost all of the interviews were conducted one-on-one, with two paired interviews. Although I would have preferred to avoid paired interviews, as it would be difficult to intervene to ask questions or transcribe places where both participants were speaking at the same time (Herod, 1999), I determined that it was more important to include these voices as both were from what I had identified as excluded or marginalised perspectives in the process of marihuana policy development. Notes of any observed agreements or alliances on issues, power dynamics, conflicts or disagreements or different interpretations of historical events were used to inform the data analysis.

I attempted to transcribe all interviews verbatim into the participant's native language, i.e. Spanish or English, opting for a more detailed level of transcription, e.g. 'eh', 'laughing', long pauses and non-verbal cues. I later drew on this to reflect on the questions that seemed to provoke certain reactions such as long pauses or feelings of discomfort among interview participants. Following the completion of transcription, all interviews were checked for accuracy using a word processor. Note that I did not translate entire interview transcripts into English, but rather focused on excerpts that were relevant to key themes of the thesis. I decided to code the interviews in Spanish, where applicable, assuming that translating entire interviews into English might lose the meaning of words or phrases that cannot easily be replicated or do not carry the same meaning when translated into English, 'coherencia' being a prime example.

Out of the 43 interviews, four were conducted with international experts via Skype, owing to the geographical and economic challenges presented by attempting to conduct face-to-face interviews with these key people. Potential interviewees from outside of Uruguay resided in several different countries, including the United States, Canada, Scotland, Holland and Spain, which would make face-to-face interviews impractical and highly costly. Skype was deemed the most appropriate solution to these issues since it can be used to communicate with most people

in the world and is free of cost (Mikecz, 2012, Brinkmann, 2014). Secondly, some of the international experts were extremely busy people (at least this was how it was communicated to me) and therefore, Skype offered them an opportunity to plan the interview around their schedule (Harvey, 2010). They could also alter the date or time if they so needed, which might have increased participation in the study.

In the methodological literature, there are a number of drawbacks associated with conducting interviews via Skype or telephone (Brinkmann, 2014, Mikecz, 2012, Herod, 1999, Brinkmann, 2013, Higgins, 2019). First, this interview format might exclude potential interviewees since it requires access to a computer, internet and prior knowledge on how to use Skype. For the international experts and advocates that agreed to participate in the study, I asked if they had access to and knowledge of how to use Skype prior to conducting the interview, which all four participants assured me that they did. It was often the case that the international experts that I contacted offered Skype as an alternative to conducting an in-person interview, implying that this form of communication was relatively familiar to them. Mikecz (2012) raises the point that while Skype is economically advantageous, it is difficult to develop a rapport with the interviewee, probe for detailed answers and can constrain the researcher's ability to tune in to subtle cues, e.g. sighs, facial expressions, and long pauses. Brinkmann (2014) also suggests that telephone interviews can foster an asymmetrical distribution of power, are less effective with complex issues, inhibit thoughtful responses and are not suitable for interviews that discuss sensitive topics.

Although I found that the interviews with international experts and advocates did not have the same depth and quality as the in-person interviews conducted in Uruguay, it is not entirely clear that this issue was related strictly to the interview format. To a certain degree, the issues I encountered could be characterised as inherent to the challenges of conducting any qualitative interview. International experts seemed willing to discuss at length what they knew about Uruguay's marihuana reform process, and most had a sense of what occurred in Uruguay and the key actors involved in developing the regulation. But international experts also informed me during the interview that their intimate knowledge of the policy process was limited due to their short length of stay in Uruguay, sporadic participation and language barriers. Only one of the international actors interviewed for this study had lived in Uruguay during the time that the law was debated and developed, and thus spoke Spanish, but was less familiar with local dynamics and implementation challenges since the law's passage.

3.2.5 Fieldwork observations

In addition to policy documents and interview accounts, this research also draws on fieldwork notes and ethnographic insights gathered from living in Uruguay over a 12-month period. Fieldwork notes are widely recognised as a valuable component of rigorous qualitative research, as they allow the investigator to gather important contextual insights that help guide data collection efforts and subsequent data analysis. They also aid in 'constructing thick, rich descriptions of the study context' (Phillippi and Lauderdale, 2018), an important attribute given the intrinsic nature of the case study design. Furthermore, Gilson and colleagues (2018) note that health policy analyses in low and middle-income countries require attention to contextual factors that might influence policy dynamics and the role that policy actors play in the process of policy development. Such observations were also important to the overall study because previous research on Uruguay's marihuana policy process was conducted by scholars who seemingly have not spent a significant amount of time in the country (for notable exceptions see Musto (2018), Repetto (2015) and Queirolo (2020)), and therefore, might have failed to account for important contextual factors influencing the dynamics of marihuana policy change.

I collected two main types of fieldwork notes about the study context and interviews. (The information that was documented for interviews is outlined in the previous subsection.) For the purpose of study context, I recorded insights about the geographic setting (e.g. access to marihuana via pharmacies and cannabis clubs), demographics (e.g. beliefs about the role of the state in political decision-making) and societal pressures (e.g. low approval rating for marihuana regulation among the Uruguayan public (Cruz et al., 2016a)) that shaped the policy environment in which my participants were situated. Extensive fieldwork notes were also taken following informal conversations with relevant policy actors and key events that I attended, which were later drawn on to guide subsequent data collection efforts and analysis (discussed below). Fieldwork notes were also drawn on during reflective stages of the research process to identify any inherent biases or ways in which my previous experiences and assumptions might interact with data collection and analysis (see Section 3.4). Fieldwork observations were collected either through hand-written notes or dictation via an audio recorder. Because of the sensitivity of the topic in question, written and audio-recorded observations were not shared with people in Uruguay or otherwise. I also did not archive or disseminate fieldwork notes to other researchers, and rather destroyed any files containing identifiable information about interview participants following the writing-up phase of the project.

The time I spent living in Montevideo, Uruguay and being embedded—to an extent—with a local tobacco control NGO provided valuable contextual and ethnographic insights that have been important in shaping my analytical lens. These insights, for example, provided useful contextual information about the concerns of population health advocates and the perceived absence of the Ministry of Public Health (MSP) in this debate, as explored in Chapters 4 and 5. As noted in Section 2.4.4, such complex nuances have not been adequately captured in prior research about Uruguay's marihuana policy reform. I also attended the 2017 Cannabis Expo in Montevideo, where I was able to meet and have informal conversations with several key actors involved in marihuana policy development, including representatives of the Vázquez Administration, Drug Control Board and the Ministry of Livestock, Agriculture and Fisheries (MGAP), which I subsequently recruited for participant interviews. At this event, I attended a one-day seminar on the key regulatory issues and challenges facing Uruguay, which helped to inform my decision of gathering insights and perspectives about the constraints on policy implementation arising from tensions between marihuana regulation and international financial systems, as discussed in Chapter 6. Similarly, observations of the general lack of pharmacies selling marihuana to the public reinforced my decision to explore the relevance of ongoing international constraints to the development of Uruguay's legal marihuana market. Finally, local perspectives about the significance of societal pressures to prevent marihuana commercialisation and address public security issues also helped to inform my analysis, particularly concerning the challenges and constraints that local policymakers faced in the development of Uruguay's distinctive approach to state regulation of marihuana supply, as examined in Chapter 7.

3.2.6 Access

While the relative ease in accessing most participants was seen as a key benefit to case study selection, some challenges in the form through which I accessed and recruited participants are noted. I found that while WhatsApp Messenger was a useful tool for accessing most participants in Uruguay, several respondents were reluctant to schedule interviews in advance. For example, if interview participants were contacted on a Monday morning, requests for interview times and dates were often for the following day or later in the week. This experience in Uruguay was unlike previous research that I had conducted in the United States, in which individuals were formally invited via email to participate in the interview and interviews were scheduled several weeks in advance. I observed that this situation affected my ability to prepare and organise interview dates in a more strategic manner, most often having to rely on the availability and convenience of interview participants. As a practical matter and reflecting Herod's experience (1999), I also found that conducting interviews in a language that is not my own is simply

exhausting. This was particularly so in one situation in which I conducted two interviews back-to-back, without a break in between, not expecting that the first interview would last four hours. In order to avoid interview fatigue, I therefore limited myself to no more than two interviews per day (one morning and one late afternoon/evening) and five per week. This information was communicated to participants if the available times for interview slots for that week had already been filled by other interviewees, which did not appear to pose any problems with suggesting alternative dates for interviews.

3.2.7 Procedural ethics

This PhD research was granted Level 1 ethical approval by the School of Social and Political Science of the University of Edinburgh in February 2018. Ethical approval was sought during the first year of my PhD project in August 2017 by submitting a self-audit Overseas Travel and Field Work Risk Assessment form for level 1 ethical review and a research ethics review form for level 1 approval to the Research Ethics Committee at the University of Edinburgh's School of Social and Political Science. I also submitted a consent form (Appendix 6.1) and participant information sheet (Appendix 6.2) for ethical review.

Consent

All data collected from human subjects were conducted in accordance with the research ethics procedures of the University of Edinburgh's School of Social and Political Science. Written and verbal consent to participate in the study were collected from all participants at initial contact, through a signed consent form, and reinforced prior to conducting the interview. The written consent form also provided participants with information on how the data would be treated and stored. All participants were given an information sheet one week prior to conducting the interview, which detailed the aim and objectives of the research and explained that their participation was voluntary. A sample consent form is provided in Appendix 6.1

Risks

This study involved discussion of policy development for a previously illegal substance in Uruguay. This included discussion of this process in the context of a past military dictatorship, in which some interviewees were former political prisoners. This situation can raise issues with personal experiences of discrimination, criminalisation, stigmatisation, oppression, among other issues. Although I did not ask participants about these issues or experiences, nor were they relevant to the aims or objectives of the research, discussions of a participant's personal experiences in the development of marihuana regulation at times indirectly raised some of these

issues. For example, some of my participants are self-proclaimed marihuana users and often would discuss their experiences of police harassment and discrimination. Some participants also provided personal accounts of being incarcerated for marihuana-related offences to explain why they became politically engaged in marihuana policy reform.

I also interviewed some participants that were, at the time of data collection, civil servants working for ministries that were involved directly in the development of marihuana regulation. This presented some potential challenges for these participants in terms of their level of comfort in providing specific details on the development of the contents of marihuana regulation, insofar as they did not want to discuss intimate details that might pose risks to their employment or relationships with other individuals. (I have provided further detail on how I handled these risks as they relate to anonymity below).

Anonymity

The sensitive nature of marihuana as an illegal substance in most jurisdictions and the international dimensions of the project suggested that the identities of participants required careful consideration around anonymity. Participants were offered anonymity for themselves and their organisations to increase participation and encourage open discussions on the complexity of developing marihuana regulation. Names, organisational affiliation, and backgrounds of participants were removed and replaced with a generic occupational identifier (e.g. high-level official, civil society, medical professional) associated with their professional background or government sector given approved consent by interview participants. Individuals were only identified in the study if this information was already publicly available via documentary or media sources. There were no anticipated harms or risks to these individuals as a result of carrying out this study.

The small size of Uruguay posed some challenges around anonymity; however, I am confident with the practical decisions I made in terms of protecting the identity of all participants. Although there were some ambiguities associated with using WhatsApp as a recruitment tool, which did not necessarily fit with the original research design that I had anticipated, I was complying with the stated requests of interview participants. Furthermore, and as discussed in Sections 3.2.1 and 3.2.4, gatekeepers and snowball sampling techniques were important to the research process because without these initial contacts it likely would have been more challenging to recruit other potential interviewees due to my 'outsider' status. A sample email template is included in Appendix 6.3, which shows how I sought to protect the identity of my

gatekeepers when initially contacting potential interviewees (see p. 110 for a sample WhatsApp Messenger template used to contact research participants).

Draft copies of the excerpts that were quoted from the interviews were circulated to all participants to ensure that they felt other people in Uruguay or otherwise could not identify them. Participants were also requested that they verify the interview transcripts and extracts with an emphasis on accuracy and anonymity. This was explained in the written consent form and before conducting the first interview, and subsequent correspondence, if relevant. While there was a risk that interview participants could have decided to remove themselves from the study at the data verification stage, I determined that accuracy and depth rather than breadth, as well as protecting the identities of the participants, far outweighed these potential costs.

Benefits

The primary benefit communicated to interview participants that agreed to partake in this study was obtaining an in-depth understanding of how Uruguay's approach to marihuana regulation was developed, which could be shared with the wider academic community, policymakers and civil society organisations in Uruguay and other contexts. Following submission, I plan to make subsequent publications available to research participants and organise an information exchange conference with research participants in Uruguay, some of which I have already been in contact with regarding the potential to organise such an event.

3.3 Thematic analysis

I analysed interview data, documents and field notes using an iterative, thematic approach. Given the relative dearth of research examining the development of the specific contents and details of Uruguay's marihuana legislation, I determined that this was the most suitable approach (Elo and Kyngas, 2008), as it would allow for relevant themes to emerge that were specific to the Uruguayan case and context. In practice, I developed an iterative analytical procedure that was based on the aim of the research project and insights gathered from the documentary analysis and fieldwork notes. This involved the identification of explicit and underlying ideas, concepts and themes that emerged organically during subsequent readings of the data, resembling Clark et al's approach to qualitative data analysis (Clarke et al., 2015). I began by reading the interview transcript alongside the audio recording to familiarise myself with the data and noted any analytical observations. This was performed twice: once shortly after the interview and then again upon completion of data collection and transcription. As I listened to the audio recordings, I annotated thoughts, perceptions and reactions to the interview in the margins of the text and noted emergent ideas and issues of interest. I also noted issues that needed further clarification

and reflected on the quality of the interview, e.g. wording, structure of questions or areas that were uncomfortable or unclear.

In subsequent readings, I highlighted, coded and labelled relevant features that I perceived had portrayed meaningful understandings concerning how Uruguay's approach to marihuana regulation was developed. This process allowed for the identification of themes that emerged consistently across the data and seemed relevant to the aim of exploring the extent to which Uruguay's approach to marihuana regulation can be understood with reference to policy coherence in health governance. I then drew on these emergent themes to develop a preliminary coding framework, consisting of code name, description of each code and an illustrative example using a quotation from the interview data. This framework included initial codes such as: 'key priorities and concerns'; 'preferred policy approach'; 'relevance of the promotion of policy coherence with tobacco and alcohol'; international constraints on policy development'; and 'development of particular features of Uruguay's marihuana legislation'. All interviews were coded using these themes; emergent themes were included in the code list if they were deemed relevant to the aim of the study (Boyatzis, 2000). This process involved reflecting on whether a potential code was identified as a consistent feature of the central organising concept, i.e. coherence, and whether it was able to tell me something about this concept as this related to the aim of the research (Clarke et al., 2015).

The themes that emerged through the course of data analysis were subsequently drawn on as guides to focus and organise the empirical chapters. Because I had collected a significant amount of interview data, I selected four key themes from the broader coding framework that I felt would be interesting in telling the story of how Uruguay developed marihuana regulation, which I presented to my supervisors for discussion. These four themes included: 'concerns and priorities of key actors'; 'promotion of policy coherence within health and across other policy spheres'; 'role of international constraints on policy space'; and 'policy learning from other marihuana policy experiences.' Once this stage was completed, I transferred all relevant interview quotes to Excel and organised them by themed headings, so that I could compare the content of different interview accounts and identify similarities and differences across the various interpretations of interviewees. To ensure that interview excerpts were not taken out of context and avoid the risk of misinterpreting the data, I made sure to return to the full transcript to reread the context under which the statement was originally made (Jovchelovitch and Bauer, 2000).

My analysis continued to develop as I began writing and reflecting on the empirical chapters, a common strategy found in interpretive research (Carter and Little, 2007). As I wrote, reflected on and discussed draft empirical chapters with my supervisors, my interpretation evolved; in other words, this process seemed to form a critical part of the overall analysis. I made best efforts to retain the original meaning of all quotes presented in the thesis, which I translated personally, although some significance was likely lost in translation. To minimise this, I used the online translation memory database Linguee (available at: https://www.linguee.com/), which stores phrases, sentences and paragraphs that have been previously translated by professional translators, with the purpose of understanding the word or phrase used in context. I was a professional translator of Spanish to English where I previously used similar translation memory databases and so am confident in the steps I took to ensure that the original meaning of interview excerpts was retained. All interviewees that had agreed to the use of anonymised quotes were also provided with excerpts attributed to them in Spanish and English to verify accuracy prior to publication.

3.3.1 Integration of different methodological approaches

This final subsection briefly discusses the process by which analysis of interview, policy documents and fieldwork notes were integrated during fieldwork and the writing up phases of the project. Reflecting Phillippi and Lauderdale's (2018) experience, I found that my analysis on the development of Uruguay's marihuana regulation was highly dependent on context. Consequently, fieldwork notes provided essential context to inform analysis of interview and documentary data and facilitated the development of my preliminary coding framework and iterative study design. Additionally, policy documents and other relevant source material were drawn on to gather a comprehensive understanding of the development of Uruguay's marihuana regulation, including key actors involved, the arguments raised in policy debates and timeframe of particular events, e.g. policy debate, development of detailed regulations and policy implementation. The documentary analysis was also used to develop the semi-structured interview schedule so that I could focus the interviews around specific issues and themes (as outlined in Section 3.2.4). The interview data were later drawn on to triangulate the findings of other participant interviews and documents related to marihuana regulation to capture different dimensions of the policy process (Denzin, 2017). I also drew on interview accounts to collect additional documentary sources relevant to understanding the complexity of the case, source material that was less visible via the initial documentary analysis. One example of this process is outlined below.

This research project began with the intention of exploring the development of marihuana regulation between 2005 and 2013. During fieldwork, this timeframe was expanded to capture emerging issues and challenges derived from fieldwork observations (see Section 3.2.5) and interview data, particularly implementation of commercial sales through pharmacies, which was occurring at the time of data collection (i.e. 2017 and 2018). Therefore, the interview data was drawn on to gather additional documentary sources that were interpreted as particularly relevant by those directly involved in these processes. For instance, interviewees repeatedly mentioned that the US Patriot Act, the US Department of Justice's Cole Memorandum, the Financial Action Task Force's Anti-Money Laundering Standards and Uruguay's 2015 financial inclusion legislation (discussed in more detail in Sections 6.2.1, 6.2.2, 6.2.3 and 6.3.2 respectively) were particular features of the constraints on Uruguay's ability to fully implement marihuana regulation. The interview process likely would have benefitted from a more in-depth analysis of such policy documents beforehand, so that I could probe interviewees with follow-up questions. Yet, it is unlikely that I would have understood such complex nuances or made these links by relying solely on document analysis. Accordingly, this example demonstrates how my interpretive lens was informed by fieldwork observations and interview data to explore additional issues that were less visible in policy documents but important to understanding the complexity of the case.

3.4 Methodological reflections

The interpretive approach guiding this research requires a brief discussion on reflexivity. In line with Clarke, Braun and Hayfield, I acknowledge that I am an integral part of the research process, and therefore, cannot be entirely objective or removed from the context in which this research is situated (Clarke et al., 2015). In order to promote transparency and research integrity (Carter and Little, 2007), I aim to be open and honest about how I perceive that my contributions to marihuana regulation debates in other contexts, prior knowledge and assumptions and positionality shaped my approach to this research.

Cannabis researcher in health policy

My motivations behind researching cannabis policy have been strongly influenced by my particular experience as a cannabis and health policy researcher in the United States, as well as my prominent role in cannabis policy debates in that context. I became engaged in cannabis policy research at the University of California, San Francisco, and worked as a research assistant at the Centre for Research on Tobacco Control and Education, an institution that is primarily concerned with being on the cutting-edge of publishing policy-relevant research. This research was predominately in a tobacco control context, and I was approaching the issue of cannabis

regulation from a commercial determinants of health position. As a result of this experience, I came to understand that criminalising drug users and those involved in the drug trade is cruel and unjust for multiple reasons: it is stigmatising; enforcement is carried out in discriminatory ways; having a criminal record disrupts social relationships and creates barriers to education and employment; illicit drugs lack quality control and can be laced with more dangerous substances, some of which can be deadly in small doses.

Conversely, I also understand that, much like criminal justice approaches to drug control, the burden of disease and the commercial drivers that contribute to it, often fall on the most vulnerable members of society. Because inequalities in the justice system and health are both avoidable, I consider their existence to be a social injustice. I view the benefits and consequences of marihuana regulation as something that should be understood and researched empirically to develop alternatives that could potentially reduce the criminal justice burden of discriminatory drug enforcement efforts while preventing the development of a commercial cannabis market. The assumption that it is possible to develop an alternative approach to drug prohibition that prioritises public health over commercialisation has been a key driver behind this research. However, I have become increasingly sceptical that avoiding the development of a commercial marihuana market is possible in the current neoliberal paradigm.

Although I recognise the immense benefits of having an academic research background prior to entering the PhD, I found that this experience limited the sort of research questions I would ask or type of research with which I would engage. Admittedly, my prior assumptions that cannabis regulation should be informed by so-called 'public health best practices' had, at times, restricted my capacity to be inquisitive and exploratory. Conversely, my previous background as a public health researcher facilitated some important elements of the fieldwork (e.g. I was offered a friendly space to work on the PhD at a local non-governmental organisation working in tobacco control) and has provided me with important local knowledge and contacts (e.g. civil servants working in Ministry of Public Health (MSP) and high-level officials). I was also offered a safe space to discuss and consult with local researchers working in tobacco control, which often helped me think through my project and how to modify the language of some of my interview questions. Without this prior research experience, it certainly would have been more challenging to carry out this study.

Uruguayan context

As I lived in Uruguay for one year, I became immersed in the cultural context that I was exploring. This allowed me to gather important insights into the political and cultural realities of

Uruguayan society, which I felt were relevant to understanding the development of marihuana regulation, and in important ways influenced my interpretive lens. Undoubtedly, the clearest example has been the relevance of Uruguay's historic tradition of state regulation of public goods and industry to this process. But this also involved other important features such as the significance of public security issues and how marihuana policy reform did not seem to be as polarised as might be expected in the UK or US contexts, a theme explored in more depth in Chapter 4.

However, not being born or raised in Uruguay, or even another Latin American country, meant that I entered this research context as an outside observer. In the words of Hilden (Hilden, 2014), I was an 'outsider' to the group I wished to explore and understand. Although I felt like an insider in some respects with the local tobacco control group—concerning how my perspective was seen as sympathetic towards a value of preventing marihuana commercialisation—I did not possess insider knowledge of the subculture in which my participants were situated. There are of course benefits and drawbacks to occupying this position (Herod, 1999). For example, I could see issues from a different viewpoint, yet I was unable to grasp some aspects that I did not understand or failed to recognise as relevant. Following Dwyer and Buckle (2009) I do not consider that my insider/outsider status was detrimental to the research, but rather acknowledge its existence and have attempted to remain conscious of and reflective on how my point of access, personal identity, social position and subjectivity influenced the nature of this research.

My positioning, particularly as a young female, American and an academic from a world-renowned university are therefore sites of reflection in terms of how these experiences shaped my ability to conduct this research. There is a significant literature from Latin American studies, which suggests that an ideology of 'anti-Americanism' has come to be seen as somewhat of a shared cultural experience in Latin America (McPherson, 2004), a staunchly anti-imperialist sentiment often linked to the historic legacy of militarism and economic sanctions imposed by the US government (McPherson, 2006, Grandlin, 2006). Certainly, this 'anti-American' or 'anti-imperialist' sentiment, as it relates to this research, was most often felt through a consistent narrative of a US-imposed 'war on drugs' approach in the Uruguayan context. Yet, Latin Americans have also come to admire the 'material wealth and the opportunities [that] this creates' (Baker and Cupery, 2013) resulting from US-Latin American relations and American popular culture seemingly has become valued by citizens in the region (McPherson, 2004). Being a cannabis policy researcher from a well-known UK-based university, but also American, therefore provided me with certain opportunities, while also reinforcing my status as an outsider

in the Uruguayan context. I came to inhabit a position of simultaneous acceptance and outsider status, insider by knowledge and assumption and outsider by definition (Herod, 1999).

The main challenges that I faced in conducting this research were related predominately to my position as a young, female researcher in a foreign country. Having the ability to write and speak Spanish fluently was met with some surprise by research participants who often stated that my level of Spanish was not what they expected from an American 'yanqui' (Yankee). I remember one encounter with a participant who asked me 'Are your parents Uruguayan or something? How do you write and speak so well?' and said that they probably would not have accepted the interview had I not spoken Spanish fluently.

Interviewing in Spanish as my second language presented some issues related to power imbalances, but also unexpected opportunities. Many of my research participants were young, white males and, in some respects, I found that this difference was a potential barrier to accessing particular information. I was slightly uncomfortable intervening to direct the conversation towards more relevant issues and themes, viewing that some of the younger male participants tended to dominate the conversation and discuss issues that were of interest to them, which, in part, might explain the length of some of the interview sessions. At other times, I benefitted from my outsider identity, as I felt that my participants were completely aware of my status as a foreign-born, English speaker and often would elaborate on aspects of the Uruguayan culture and historical context in some detail, which was immensely beneficial to the research process. Likewise, a former high-level official of the Mujica Administration spent some five hours with me one day, talking at length about aspects of Uruguayan culture about which I had questions. On several occasions and reflecting Chen's experience (Chen, 2011), I observed that if I did not understand how a participant was describing a core concept, e.g. policy coherence with tobacco and alcohol, I felt that I could request that they elaborate and explain the concept in more detail, which otherwise might not have been as available had I been a native Spanish speaker (see the example in Section 3.2.4 on p. 104).

Conducting research on marihuana policy also presented some unique challenges that were often unanticipated, as I found that my academic research background, as well as research interests, seemed to shift the balance of power and authority in the interviews. Participants, if they chose to do so, could read my previous research (Barry et al., 2014, Barry and Glantz, 2018, Barry and Glantz, 2016) to learn more about where I stand within the cannabis policy debate. On one occasion, a research participant did bring up my prior research stating: '*I've been reading some of your work. You know a lot about the issue*'. Admittedly, I was a bit taken aback and felt slightly vulnerable

by this encounter, as I did not want it to shape the interview in any way. Other researchers also implied that being from a well-known university and the public health focus of my research would make it easier to recruit some interviewees, whereas one participant informed me that they only accepted the interview because of my interest in policy coherence with tobacco and alcohol in the context of Uruguay's marihuana regulation.

The final point relates to the question of a researcher's positionality within drug policy debates and how that may shape the research process. In the interviews, I found that attempting to present a neutral position on marihuana regulation was always difficult to navigate and I am not necessarily sure it is a useful endeavour. Neutral in this context means that I was attempting to present myself as an outside observer of events. While some researchers may attempt to present themselves in certain ways depending on the situation—either trying to 'fit in' by expressing commonality on the drug issue or emphasising one's outsider status to maintain a critical distance (Herod, 1999, Harvey, 2010)—the researcher cannot control how their positionality is interpreted by their interviewees. I have found that in some situations where I was attempting to be an outside observer and certainly viewed myself in this light, I have not always been so clearly perceived of as such by my participants.

This became very clear when conducting interviews with some of the public health researchers at the local NGO where I volunteered between 2017 and 2018. I recall in an interview that one of my participants said to me: 'It is something that they should have done! And using a baseline study that *you* know Rachel, where you have a study that allows you to follow the population.' The fact that this participant had effectively stated that they felt that we were in alignment about how Uruguay's marihuana regulation was a 'public health failure' meant that I felt I was not viewed as a clear 'outsider' but instead my positionality was somewhat blurred. Although I wanted my participants to express their views openly, reflecting Hilden's experience (Hilden, 2014), oftentimes I felt that they were also trying to understand what my perspective was, so that they could negotiate the type of information that they felt was acceptable to reveal. In reality, I often shared most of the concerns of my participants around the harms of criminalising users and illicit drug markets as well as perspectives that marihuana commercialisation should be avoided. Certainly, I was reflecting on my own views about cannabis regulation as I conducted this research. Other times, my perspective was taken to mean that because I was interested in marihuana regulation, I was also sympathetic to my participants' concerns, opinions and perspectives. I do not have an answer for how other drug policy researchers could deal with this issue. But I realise that the ambiguity of my position was an advantage, as it seemed to make it

easier for my participants to open up about their experiences or perhaps assume that my politics closely aligned with theirs.

These exchanges led me to reflect on how little I understood the potential influence of my positionality on the research process. The point here is not to argue that I should not have undertaken this research because of my prior experiences and identity, but rather to state that I am aware and continue to reflect on how my unique background, knowledge and positionality influenced the development of this research.

3.5 Summary

In this chapter, I analysed the benefits and drawbacks of employing a qualitative case study design to explore the development of Uruguay's approach to marihuana regulation. The chapter highlighted how understanding the complexity and particularities of the development of some very specific features of Uruguay's marihuana legislation justified the qualitative orientation of the research and single case study design. It outlined the data sources and approaches to selection and analysis of documents, participant interviews and fieldwork notes. It then argued that the exploratory nature of this research required an analytical approach that was flexible and responsive to the research questions, data collection method and interpretive framework, making a strong case for employing a thematic analysis to studying the development of marihuana regulation in Uruguay. The chapter concluded with a discussion on researcher reflexivity, presenting my approach to reflexive engagement with the data and some of the challenges in conducting this research.

Preface to the Results Section

The preceding literature review (Chapter 2) set out existing empirical literature on Uruguay's marihuana policy reform. In this Preface to the results, I will outline the key conceptual literature that I have drawn on in undertaking the analyses. This includes the concept of policy coherence, the organising principle for Chapters 5, 6 and 7, and its various dimensions, as well as Stevens and Zampini's (2018) policy constellation framework, which was drawn on to unpack and identify the diverse perspectives, priorities and concerns of the relevant key actors involved in shaping Uruguay's marihuana policy debate in Chapter 4. In discussing each of these analytical frameworks, I will describe the relevant literature from which they were drawn as well as consider their applicability and potential adaptability in helping to understand the process of marihuana policy reform in Uruguay.

I first turn towards the concept of 'policy coherence', exploring its origins in the development literature and its potential applicability in examining health governance. As noted in the Introduction (p. 13), policy coherence can be defined as: 'the extent to which conflicts between policy agendas are minimized and synergies maximized' (Blouin, 2007). I will then specifically consider its potential as a conceptual foundation for understanding the development and implementation of Uruguay's marihuana regulation. Policy coherence is examined with reference to its horizontal and vertical dimensions, and an account is given of how this concept helped to inform the development of the research questions that underpin Chapters 5, 6 and 7.

Policy coherence and its relevance to the Uruguay case study

The pursuit of policy coherence is a defining challenge of the UN Sustainable Development Goals (SDGs) and has been described by the UN Environment Programme (UNEP) as important 'for ensuring that policies in different sectors are mutually supportive and do not work against each other' (United Nations and Department of Economic and Social Affairs, 2020a), as reflected in Target 17.14. Recognition of policy coherence as a core governance challenge, particularly within the UN Sustainable Development Agenda of 2030, reflects rising concerns among policymakers about how best to manage conflicts and minimise trade-offs across the interactions of policy issues as diverse as poverty, health, education and climate change. The idea of policy coherence therefore draws attention to how such challenges emerge and continue to persist due to the ways in which diverse policy issues are managed by different ministries and agencies within and across government sectors (domestically), across different levels of governance (regionally and internationally), and between the state and other policy actors, rather

than operating as part of an 'indivisible whole' (Nilsson et al., 2016). According to Nilsson and colleagues:

> Implicit in the SDG logic is that the goals depend on each other…The importance of such interactions is built into the SDGs: 'policy coherence' is one of the targets. The problem is that policymakers and planners operate in silos. Different ministries handle energy, agriculture and health. Policymakers also lack tools to identify which interactions are the most important to tackle, and evidence to show how particular interventions and policies help or hinder progress towards the goals (Nilsson et al., 2016).

The inclusion of a focus on non-communicable disease (NCD) prevention within the Sustainable Development Goals (SDGs 3) further highlights this increased awareness of the linkages across the objectives of health, economic development and environmental protection. For instance, SDG Target 3.4 recognises that reducing premature death from NCDs by at least one-third is a systematic requirement for the attainment of not only enhanced health and well-being but also for promoting economic development and mitigating climate change. This is particularly relevant in Uruguay, where there has been increased interest in promoting policy coherence as a national NCD prevention strategy since at least 2007 (Sola, 2017, World Bank, 2018) and more recently in the global health agenda (World Health Organisation, 2017c). In the lead-up to the 2018 High-Level Meeting of the United Nations (UN) General Assembly on NCDs, Uruguay hosted the WHO Global Conference on NCDs in October 2017, which had the stated objective to assist countries in reaching 'SDG target 3.4 by 2030 by influencing public policies in sectors beyond health and enhancing policy coherence' (World Health Organisation, 2017b).

Uruguay's apparent commitment to policy coherence as a key NCD prevention strategy is also highlighted via its participation in Bloomberg's Task Force on Fiscal Policy for Health, which was created in 2018 to address the growing burden of NCDs in low and middle-income countries through enhanced policy coherence across health, development and fiscal policies (Bloomberg Philanthropies, 2019). This rhetorical commitment to policy coherence across health and other policies in the global health agenda is also evident in a July 2018 speech made by then-Uruguayan President Tabaré Vázquez, Co-Chair of the WHO Independent High-Level Commission on NCDs, in preparation for the UN High-Level Meeting in New York of that year:

> We need to protect our citizens from the main risk factors of NCDs, like tobacco and unhealthy food and drinks, harmful use of alcohol and physical inactivity. We also need to promote policy coherence with collaboration of all governmental sectors, as well as to achieve the commitment of all stakeholders in society to contribute to those efforts (United Nations, 2018).

As detailed below, policy coherence is a core concept within the development literature and in studies examining the challenges of multilevel governance and fragmented political systems

(Lenschow and Bocquillon, 2018, Nilsson et al., 2012, Cedujo and Michel, 2017). In this study of marihuana policy development, the concept of policy coherence is significant because it helps to unpack the ways in which the goals, values or practices of one policy sphere or governance level can shape or constrain the development and implementation of policy in another sphere or level (Blouin, 2007). The different components of policy coherence processes—who is involved in policy development, how their priorities and goals relate and interact and how national policy aims are reconciled with internationally agreed objectives and commitments also offer insight into how governments manage conflicts and minimise trade-offs (Nilsson et al., 2012). Following the outcome of the literature review and because of the claims made to promoting policy coherence across NCD policies in Uruguay, it is useful to analyse Uruguay's marihuana policy development through the lens of policy coherence since it can help facilitate understanding and explanation of how this process was shaped or constrained by broader political considerations.

Before discussing policy coherence in the context of Uruguay's marihuana regulation, it is important to reflect on how the concept has been defined in the literature and some of its key elements. In the development literature, policy coherence refers to the relevance and impacts of other policies on development processes and outcomes (Ashoff, 2005). However, it is important to note that there is no agreed definition of what constitutes the notion of 'coherence' (Ashoff, 1999). As such, I adopted the definition suggested by Blouin (2007), as this conceptualisation implies that policy coherence can have different meanings according to the priorities and perspectives of those promoting it as a strategy. This definition captures both minimalist and more ambitious understandings of policy coherence, and offers a clear way to analyse how the idea of coherence might be interpreted and used among diverse policy actors in the development of marihuana regulation. This definition also largely corresponds to the perceptions of key actors in Uruguay of understanding of the term, as derived from the interview data.

Within this definition, policies can either operate simultaneously without impairing each other's goals (i.e. consistent), complement one another to achieve another goal (complementary) or mutually reinforce each other's goals with the view to achieving overriding policy objectives (symbiotic). The interactions between policies can be either within (e.g. health policy) or across policy spheres (e.g. between health and other policy spheres), as well as across different levels of governance (e.g. international frameworks in relation to national policy frameworks) (discussed further below). In my analysis of marihuana regulation in Uruguay, I draw on Blouin's (2007) definition in order to assess and interpret whether the interactions between health and other policies (Chapter 5) are viewed as mutually reinforcing, complementary or at least not neutralising each other's goals (i.e. consistent or absent of contradiction). I also employ Blouin's

definition in order to understand the degree to which coherence issues and tensions between Uruguay's marihuana regulation and the policies and processes of a diverse range of international actors (Chapter 6) are regarded as constraining domestic policy space and limiting regulatory scope to implement marihuana regulation (discussed below).

Second, in Chapters 5, 6 and 7, I analyse different types or dimensions of policy coherence. The literature offers a variety of approaches for understanding such diverse dimensions (Siitonsen, 2016, Den Hertog and Stroß, 2011, Horký, 2010, Ashoff, 2005, Nilsson et al., 2012). This study draws on the typology suggested by Siitonsen (2016) who outlines five distinct interactions that can take place both within and across governance levels:

- horizontal coherence (interaction between various policy areas, such as health and non-health policies);
- vertical coherence (between policies of an intergovernmental organisation such as the UN and those of its member states);
- donor–recipient coherence (between industrialised countries' policies and policies adopted by developing countries);
- multilateral coherence (between different international organisations such as the UN and the World Health Organisation); and
- inter-organisational coherence (between policies of governments and those of civil society organisations) (Siitonsen, 2016).

Each of these dimensions of policy coherence are relevant to marihuana regulation[6]; however, data from this study suggest that leading challenges are in i) horizontal coherence, i.e. between the policies across policy spheres within government and ii) vertical coherence, i.e. between the policies within policy spheres at different levels of government. The relationship between 'policy agendas' in the definition provided above can be characterised by the tensions and synergies arising from the interactions between different policies in the same policy sphere (such as health) or across different policy spheres (such as health and public security). Another specific challenge

[6]In terms of donor-recipient coherence, one example might be the interactions across the policies and goals of Uruguay's marihuana regulation and the drug-related aspects of US foreign policy towards Latin America. For multilateral coherence, this might be seen as the interactions across the policies, strategies and goals of the UN drug conventions and other international agencies relevant to drug control such as the World Health Organisation and the UN Development Programme. Inter-organisational coherence could be identified as the interactions between Uruguay's marihuana regulation and the priorities and goals of international drug policy NGOS or international policy institutes that finance drug policy reform in different countries.

may arise in what might be defined as a particular subtype of vertical coherence; that is, the interactions of Uruguay's policies and processes with those of various external actors at the same level of governance (e.g. the policies of other countries in relation to Uruguay's marihuana regulation).

This primary focus on horizontal dimensions of coherence corresponds with predominant usage in the global health policy literature, particularly concerning efforts to reconcile tensions between health and trade agendas (Collin, 2012, Blouin, 2007, Hawkes, 2015, Ruckert et al., 2016, Battams and Townsend, 2018). By contrast, such focus on vertical dimensions of coherence parallels primary usage of the term in the development literature, principally around addressing tensions arising between domestic policies implemented by advanced and emerging economies and the development goals of low and middle-income countries (Den Hertog and Stroß, 2011, Carbone, 2008, Ashoff, 2005). These dimensions of policy coherence reflect relationships between policies either within government (horizontal) or across governance levels (vertical). However, Horký (2010) notes that 'an analysis by actors also seems to be handiest when multiple levels of governance are considered…[i]t allows [for] a consideration of the actors as unitary or fragmented according to the level of analysis'. I draw on these insights to examine the extent to which Uruguay's ability to fully implement marihuana regulation was shaped or constrained by tensions between its marihuana policy and the policies and processes of a diverse range of international actors, with particular reference to the UN drug conventions, the US Patriot Act, the Financial Action Task Force's International Anti-Money Laundering Standards and the World Bank's Financial Inclusion Initiative (Chapter 6).

Third, I use policy coherence in a relatively fluid manner, reflecting its diverse usage emerging from the empirical data of this research. In this sense, policy coherence is conceptualised as both a process and a tool of 'good governance', defined as a normative commitment relating to how different policy actors seek to promote policy coherence (Collin, 2012). Conceptualising policy coherence in this manner aligns well with the definition of coherence provided above (Blouin, 2007) and can apply to horizontal and vertical dimensions. Policy coherence as a process involves attention to power relations and structures that facilitate or constrain the behaviour of decision-makers (Siitonsen, 2016). From a process perspective, this implies less focus on policy coherence as an outcome (what is achieved) and more on how political and institutional contexts shape and constrain the choices and decisions of policymakers in the development of policy (Siitonsen, 2016). Policy coherence as a tool of good governance focuses on whether and to what extent different policy actors seek to promote policy coherence as a specific policy outcome. From a normative perspective, policy coherence implies more emphasis on how the priorities

and goals of different policy actors reinforce or at the very least do not neutralise or impair one another in the pursuit of different overriding objectives (Nilsson et al., 2016).

Finally, the interactions between different policies can be either 'positive' or 'negative.' 'Positive' implies the complementary interaction of policies in a given policy domain with the view to achieving overriding objectives (Ashoff, 2005), while 'negative' indicates 'inconsistencies between and the mutual impairment of different policies.' This is particularly salient to the Uruguayan marihuana policy context in relation to coherence across policy sectors and governance levels given the novelty of marihuana regulation as a policy issue. As Nilsson points out, policymakers often lack empirical evidence and knowledge about how the goals and policies of one sector might interact with and shape another both positively and negatively (Nilsson et al., 2016), an observation that also seems relevant to the data that emerged from this study, as discussed in Sections 5.5.3 and 6.2.1.

Conceptualising policy coherence in this manner helped to shape the empirical analysis, as I consistently analysed the development of Uruguay's marihuana regulation in terms of the relevance and impacts of other policies within and across policy spheres (horizontal) and governance levels (vertical) (Siitonsen, 2016). Furthermore, such conceptualisation allows for an analysis that is reflective of its diverse usage (Blouin, 2007), as this was derived from the interview data. Relatedly, it enables the analysis to identify the interviewee's perspective of coherence (Carbone, 2008); that is, the ways in which the same decision may be viewed as coherent from a public security perspective but incoherent from an unhealthy commodity regulation standpoint.

Operationalising policy coherence in results chapters 5, 6 and 7

As Chapter 1 outlines, this thesis is guided by the overarching research aim of examining the extent to which Uruguay's marihuana regulation can be understood with reference to the pursuit of policy coherence in health governance. To address this aim, the following subsidiary questions were developed, each of which explores the relevance of policy coherence within and across governance levels:

> *i. To what extent was Uruguay's approach to marihuana regulation influenced by the promotion of policy coherence within health and across other policy spheres?*
>
> *ii. How did the UN drug conventions and other relevant international pressures shape and constrain the policy space available for Uruguay to implement marihuana regulation?*
>
> *iii. To what extent can international pressures explain Uruguay's distinctive model of state regulation of marihuana supply?*

Consistent with the interpretive lens underpinning this research (Clarke et al., 2015), the finalisation of the research questions was informed by the relevant literature, preliminary analysis of the data, reflections on fieldwork observations and discussions with key actors in Uruguay, including gatekeepers. First, the literature review identified three key themes as important to understanding the development of Uruguay's marihuana regulation: domestic political context, international pressures and diverse dimensions of policy coherence. The first two themes directly related to the development of the study's research questions—the review served to highlight knowledge gaps in relation to the development of the particular details and provisions of Uruguay's marihuana regulation and the relevance of competing priorities and perspectives in shaping marihuana policy reform, as well as the extent to which historic and contemporary approaches to unhealthy commodity regulation, international pressures and other marihuana policy experiments informed that process. Regarding the third theme, the literature review suggested that considering diverse dimensions of policy coherence would be a useful framework through which to explore the development of Uruguay's marihuana regulation and analyse implementation challenges.

The final research questions were also informed by emerging themes from the analysis of interview and documentary data and fieldwork notes. Preliminary analysis of interview data, for example, suggested that within the domestic political context theme, it was Uruguay's contemporary challenges to regulating alcohol and tensions between tobacco control objectives and public security policies that seemed to be crucial in understanding the relevance of the promotion of policy coherence within health governance in the development of marihuana regulation. Further, interview participants consistently discussed the international challenges to develop a legal marihuana market arising from tensions between marihuana regulation and international financial systems. Finally, interview data also indicated that the complex interplay between international and domestic pressures was relevant to understanding how key actors drew on other marihuana policy experiences in the development of Uruguay's distinctive approach to state regulated marihuana supply.

In light of the above material, I decided that the final subsidiary questions guiding empirical Chapters 5, 6 and 7 should focus principally on the domestic political context, international pressures and other marihuana policy experiments, whereas diverse dimensions of policy coherence would be used as the analytical framework to explore these particular developments. The first question is addressed in Chapter 5 and the second in Chapter 6; Chapter 7 builds on the knowledge about the relevance of domestic and international pressures to explore how this complex interplay shaped some very distinctive features of Uruguay's marihuana regulation,

notably state regulation versus a commercial model, the marihuana traceability system, national user registry, sales through pharmacies, cannabis club restrictions and monthly consumption limits. Following this, the thesis Discussion (Chapter 8) considers the overall findings and their significance to current understandings of Uruguay's marihuana policy experiment.

Throughout Chapter 5, 'horizontal coherence' refers to the interactions between different areas of policy in a nationally specific context (Siitonsen, 2016). In the context of Uruguay's development of marihuana policy, horizontal coherence refers to the consistency in governance approaches within health and across other policy spheres that interact with the health goals of marihuana regulation. This is particularly significant given the extent to which marihuana regulation intersects with diverse policy areas beyond health, including but not limited to public security, justice, finance, agriculture, foreign affairs and education (Muscat and Pike, 2012). To clarify, this chapter specifically deals with the coherence across health and public security policies as well as the coherence across different areas of health policy, as these were the most visible sources of tension within Uruguay's marihuana policy debate at the domestic level. The question of the relevance and impacts of other policies on health objectives is also prompted by the observation that policy paradigms are difficult to change (Hall, 1993) and the health goals of marihuana regulation may be linked with or even subordinated to other political objectives or interests (Ashoff, 1999)—in this case public security (discussed below).

In terms of coherence across policy spheres, I focus on the consistency in governance approaches between Uruguay's unhealthy commodity regulation policy and that of public security. Coherence across health issues refers to the consistency in governance approaches related to marihuana health policy and unhealthy commodity regulation, with particular reference to tobacco and alcohol. In this context, horizontal coherence is operationalised in terms of the different policies that have an effect on the supply and demand for psychoactive substances. As a normative goal, policy coherence is achieved where such policies reinforce or at the very least do not neutralise or impair one other (Blouin, 2007). On the other hand, policy incoherence can also refer to the negative interactions of policies across different policy spheres (Collin, 2012), which either counteract or may even cancel out the effects of one another in the pursuit of different overriding objectives. In this case, policy inconsistencies are discussed primarily with reference to the perceived effect of public security policies on the supply and demand for marihuana—that is, the ways that public security policies influence marihuana regulation in ways that are viewed as inconsistent with the goals of Uruguay's unhealthy commodity regulation policy at the population level.

In Chapter 6, 'vertical coherence' is addressed with reference to the degree of consistency between Uruguay's marihuana regulation and the policies and procedures of international drug, anti-money laundering and finance institutions that impact on the development of a legal marihuana market. More specifically, this chapter focuses on vertical coherence both in a narrow sense, which involves coherence between Uruguay's marihuana regulation and the policies and objectives of the UN drug conventions, as well as in a broad sense, which involves coherence between Uruguay's marihuana regulation and the norms and practices of the Financial Action Task Force, the World Bank and the US government (in this case the US Patriot Act). This is particularly significant since marihuana regulation is embedded within a broader political context characterised by Uruguay's obligations under international law, as defined by the UN drug conventions, wider commitments of various international and regional organisations, namely the Financial Action Task Force (FATF) and the World Bank (WB), as well as the expectations of other countries, notably the US government (see Section 2.3).

This broader political context suggests that analysing the relevance of vertical dimensions of coherence needs to consider the significance of Uruguay's international obligations under the UN drug conventions as well as the policies and processes of a diverse range of external actors in constraining national policy space and limiting regulatory scope to implement marihuana regulation. This linkage between policy coherence and policy space is evident, for example, in the UN Sustainable Development Goals, with Target 17.14 on policy coherence being immediately followed by Target 17.15 on policy space, based on the recognition that international agreements and obligations can restrict the autonomy available to governments to pursue measures deemed necessary to effectively achieve national policy objectives (United Nations and Department of Economic and Social Affairs, 2020b). The focus of Chapter 6 is primarily on the implications of vertical conflicts and tensions for Uruguay's policy space (discussed in more detail in the introduction to Chapter 6) to develop a legal marihuana market, though other types, specifically horizontal coherence and the interplay between horizontal and vertical dimensions of coherence, are also briefly discussed in Section 6.4.2.

A broad conception of vertical coherence is required to enable understanding of the relevance of coherence issues and tensions in explaining constraints on Uruguay's marihuana policy space to implement marihuana regulation. Data emerging from this study suggest that international drug and finance policies have constrained Uruguay's national policy space to develop a legal marihuana market in two ways. In the first case, other policy goals or priorities assume predominance at the implementation stage, contributing to inconsistencies between the stated objectives and practices of marihuana regulation. Initially, this might seem like a case of

horizontal incoherence (according to the definition above) but because the inconsistency is due to the influence of other international policies, it is treated here as a form of vertical incoherence. In this context, vertical coherence is operationalised as the extent to which international drug and finance policies restrict the range of interventions available to actively encourage users to seek marihuana in the legal market or limit the ways in which the aims of marihuana regulation can be met (Koivusalo et al., 2009). In the second case, marihuana regulation is implemented in accordance with its goals, but these are neutralised or constrained by the impact of other policies. In this case, policy inconsistencies are operationalised by the perceived effect of international drug and finance policies in limiting the capacity of Uruguayan policymakers to fully implement marihuana regulation (Thow and McGrady, 2014).

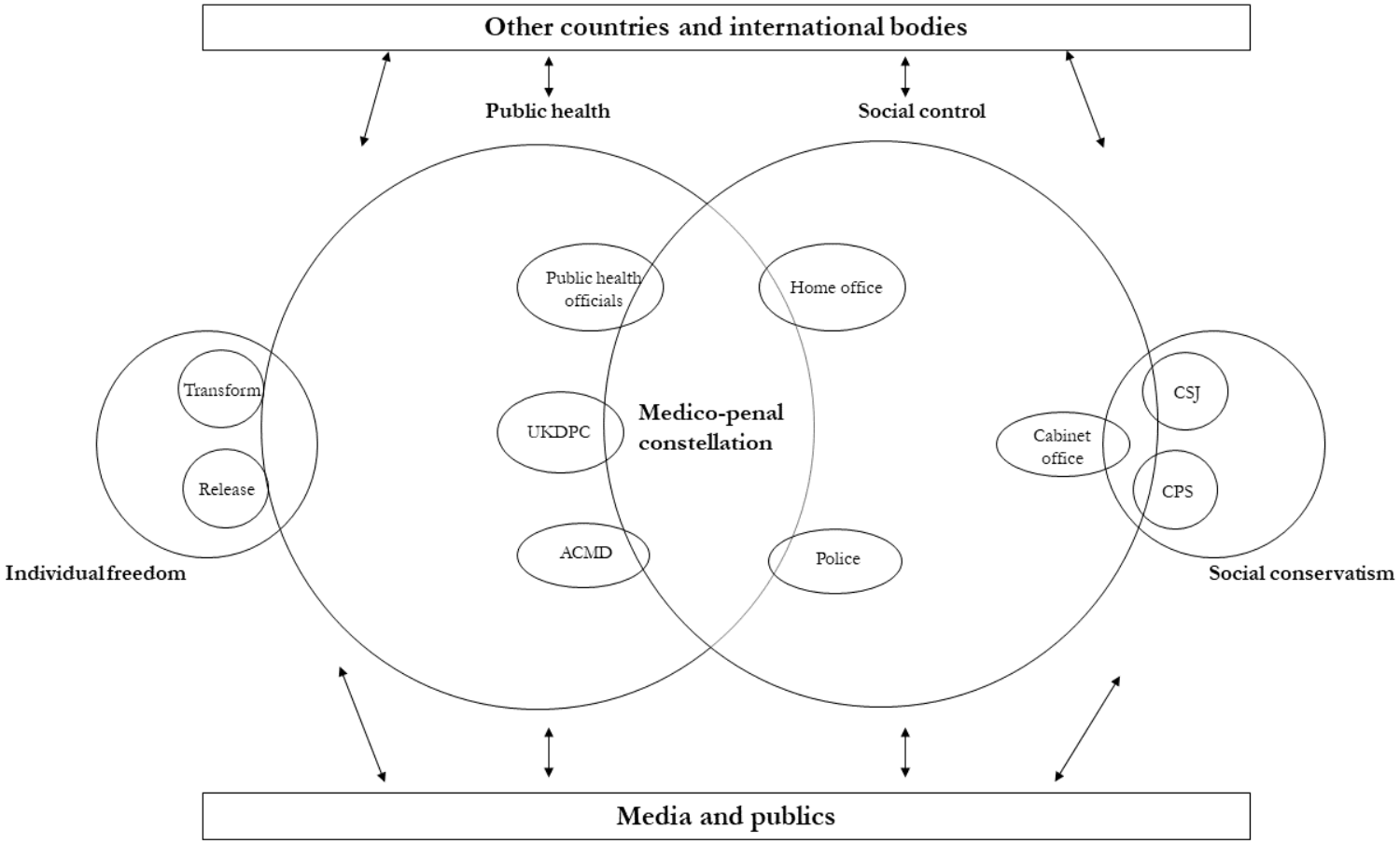
Relevance of the policy constellation framework to the Uruguay case study

The promotion of policy coherence within and across governance levels can be challenging because this involves understanding how a complex milieu of diverse and potentially competing priorities and policy goals interact and relate to one another (Lencucha et al., 2016b, Cedujo and Michel, 2017). Therefore, before analysing the relevance of policy coherence and its various dimensions to the development of marihuana regulation, it is critical to unpack and map the diverse priorities, goals and perspectives of the relevant key actors involved in marihuana policy debates within Uruguay. One potentially promising model for unpacking such horizontal dimensions of coherence (i.e. competing values, goals and actors) is Stevens and Zampini's (2018) drug policy constellation framework. Stevens and Zampini describe policy constellations as 'a set of social actors (individuals within organisations) [that] come together in deploying various forms of socially structured power to pursue the institutionalisation in policy of shared moral preferences and material interests' (Stevens and Zampini, 2018). Applying the concept to the UK context, Stevens and Zampini suggest that drug policy debates and decisions have historically been dominated by the interests of criminal justice and public health institutions in what the authors identify as the 'medico-penal constellation', which was brought together around a shared moral belief that legal coercion was needed in order to protect the public from the harms of drug use.

As **Figure 3.1** shows, Stevens and Zampini argue that actors involved in drug policy debates in the UK can be grouped together based on 'their relative commitment to moral foundations on a spectrum between liberal and conservative positions' (Stevens and Zampini, 2018), in which the priorities of health and crime overlap to maintain the status quo of drug prohibition. At the centre of the diagram are the most influential members of English society, represented by

criminal justice and public health institutions, in this case, the Home Office and the Department of Health, which although emphasising different priorities, i.e. crime control and health protection, promote policies in line with a commitment to abstinence and eradication of drug use. Actors outside of the dominant constellation, which Stevens and Zampini define as 'outsiders' to mainstream UK politics, have also sought to shape UK drug policy debates, but the authors maintain that drug policy decisions are ultimately reflective of the material interests and normative preferences of the medico-penal constellation whose members apparently represent the most powerful actors in English society.

Figure 3.1 Stevens and Zampini's depiction of English drug policy constellations



Acronyms: UK Drug Policy Commission (UKDPC); UK Advisory Council on the Misuse of Drugs (ACMD); Centre for Social Justice (CSJ); Centre for Policy Studies (CPS)

It should be noted that Stevens and Zampini's policy constellation framework is prominent within drug policy studies (Zampini, 2018, Bone, 2019, Klein, 2020). Drawing on their framework, I therefore sought to assess whether a moral foundation spectrum between liberal and conservative positions is a helpful way of capturing the range of positions and perspectives involved in Uruguay's marihuana policy debate. At first glance, the drug policy constellation framework seems like a potentially useful approach for exploring the underlying dynamics of this debate for the following reasons. First, unlike advocacy coalitions or networks, policy constellations are relatively fluid and unstructured, lack fixed rules or membership and do *not* presuppose a high level of coordinated activity over a long period of time (Stevens and Zampini, 2018). Given the novelty of marihuana policy in Uruguay, these seem like relevant features for analytical considerations because advocacy coalitions (Sabatier and Jenkins-Smith, 1993) and policy networks (Rhodes and Marsh, 1992) tend to be based on longstanding relationships. The framework can also explore relationships and interactions across a diverse set of actors whose priorities and beliefs overlap for specific policy proposals, an important attribute to consider based on Goode's observation that those occupying different positions within drug legalisation debates often share more common ground than divergence on what to do about the drug problem (Goode, 1998).

Stevens and Zampini argue that policy constellations are constructed through the deliberate actions between individuals with a shared recognition of a policy problem and mutual support for particular policy decisions, though they may emphasise different points of concern. Actors may strategically create connections and alignments in contest or collaboration with actors of other constellations with different material interests in order to amplify their relative influence in policy debates and decision-making processes. Both of these features seem consistent with the existing literature on marihuana policy debates in Uruguay. As outlined in Section 2.4.5, there is some evidence to suggest that politicians within Frente Amplio brought cannabis liberalisation groups together with public security advocates to develop a new integral law that included home cultivation, cannabis clubs and state control over the production and sale of marihuana (Arocena and Aguiar, 2017). Other studies indicate that harm reduction practitioners and marihuana consumer groups strategically aligned with public security advocates to ensure that rights and health priorities were also included in the final law (Repetto, 2014, Queirolo et al., 2018, Queirolo, 2020). To date, however, no study has explored the applicability of the policy constellation framework

to the Uruguayan context to understand the dynamics of the marihuana policy debate and the positions, perspectives and actors involved.

Although the concept of policy constellations might offer a valuable heuristic device to map the range of actors and perspectives in marihuana policy debates, there are *prima facie* reasons for considering that Stevens and Zampini's framework requires adaptation to the specific historical and political differences of Uruguay. Firstly, Stevens and Zampini's rejection of pluralist accounts of the policymaking process in the UK seems potentially inconsistent with depictions of Uruguay's open-access, pluralist political regime (Zucco, 2013, Forteza et al., 2003). Research indicates that policymaking in Uruguay operates on a strong system of checks and balances (Castiglioni, 2018), requiring that policy actors condition their strategic preferences to public opinion and opposition from actors representing divergent views and priorities, including civil society and opposition parties (Buquet and Pineiro, 2016, Forteza et al., 2003). In contrast to Stevens and Zampini's depiction of English drug policy constellations (Stevens and Zampini, 2018), this suggests that policy actors in Uruguay may be incentivised to align with actors holding different material interests and priorities in order to enhance their relative influence in policy debates and decision-making processes. Such differences of Uruguay's political system may have implications for the dimensions of the drug policy constellation, namely the number and types of actors involved, as well as its structure and power relations (Vanwaarden, 1992).

Secondly, as introduced in Section 1.4 and discussed in more detail in Section 2.3.1, drug policy debates in Uruguay have evolved in very different directions to those in the UK. First, while in Uruguay drug use and possession have been decriminalised since 1974, their production, distribution and sale remain criminal offences. This legal inconsistency in Uruguay's drug law is important since it appears to have helped construct a narrative that the problem of marihuana criminalisation was related to the ways in which the military dictatorship and subsequent conservative governments and judicial system would disproportionately enforce the law, leading to some marihuana users and other marginalised groups being arrested for marihuana possession of amounts that others had not (Garat, 2015, Garcia, 2013). Such historical context suggests that concerns related to individual liberties and oppressive authoritarian regimes may be more salient to the Uruguayan case compared to the UK, given their different legal and historical circumstances.

Furthermore, the problem of drug cartels and their role in contributing to rising drug consumption and public insecurity have been particularly salient to the Latin American experience (Rogeberg, 2015, Reuter, 1998, Organization of American States and General Secretariat, 2013). In Section 2.3.1, it was shown that the problem of drug trafficking in Latin America has shaped a narrative around how the criminalisation of certain drugs has led to more problems than their actual consumption, including more violence, corruption and crime (Latin American Commission on Drugs and Democracy, 2009). This depiction of the drug problem in Latin America suggests that public security concerns and priorities may be more relevant to the Uruguayan context than ideas relating to recovery and treatment characteristic of debates in the UK (Stevens and Zampini, 2018).

To summarise, this preface discussed the concept of policy coherence and its diverse dimensions, including its operationalisation in relation to Chapters 5, 6 and 7. It also outlined the key features of Stevens and Zampini's (2018) policy constellation framework and areas where this conceptual approach might need adaptation to the Uruguayan context. The rest of this thesis is therefore dedicated to presenting the results of the analysis, which are divided into four empirical chapters that explore policy coherence using various analytical frameworks and concepts. In Chapter 4, I unpack and map the diverse priorities, goals and perspectives of the relevant key actors involved in marihuana policy debates within Uruguay to set the foundation for exploring marihuana policy development and implementation challenges in Chapters 5, 6 and 7. The analysis then turns towards exploring the relevance of horizontal and vertical dimensions of coherence in Chapters 5 and 6 respectively. In each, I employ Siitonsen's (2016) typology to organise the results, with sections focused on coherence issues and tensions within health, across health and other policies and between Uruguay's marihuana regulation and the policies and processes of international drug and finance institutions and actors.

Within Chapter 5, I focus on the extent to which policy actors in Uruguay sought to minimise conflicts and maximise synergies in the development of marihuana regulation, as outlined by Blouin (2007), with particular reference to coherence across health issues and across public security policies. In Chapter 6, I focus on how coherence issues and tensions between Uruguay's marihuana regulation and the policies and processes of a diverse range of international actors, including the UN drug conventions, the US Patriot Act, the FATF's International Anti-Money Laundering Standards and the World

Bank's Financial Inclusion Initiative shaped and constrained the space available for Uruguay to implement a comprehensive marihuana supply system. In Chapter 7, I draw on insights gathered from Chapters 5 and 6 to consider how the complex interplay between domestic politics and structures and relevant sources of external pressure, with particular reference to the INCB, Argentina, Brazil and the US government, shaped and constrained the motivations and actions of domestic policy actors in the development of Uruguay's distinctive approach to state regulated marihuana supply. In Chapter 8, I present an overall discussion of the study's key findings, including their implications for health governance in Uruguay, and offer directions for future research.

4 Examining marihuana policy debates in Uruguay through policy constellations

This chapter aims to understand and map the diverse positions involved in Uruguay's marihuana policy debate in order to set the foundation for exploring the process of marihuana policy development in subsequent chapters. It builds on a growing literature that indicates marihuana policy reform was pursued by a confluence of potentially competing priorities that aligned for markedly different concerns, ranging from public security and combating the illicit drug market, individual rights and freedom and health and harm reduction (Repetto, 2014, Queirolo, 2020, Queirolo et al., 2018, Musto, 2018, Garcia, 2013Lissidini, 2018 #938). At the same time, it addresses the apparent gap in this literature, which has paid relatively little attention to the significance of Uruguay's unique historical and political context in shaping the broader contours and underlying dynamics of this debate. Furthermore, it addresses another important question concerning whether and in what ways harm reduction and population health priorities were important to shaping discussions around the need to consider alternative approaches to marihuana criminalisation.

This chapter begins by describing the degree of commonality across the positions and perspectives, before explaining the particular views of key actors in marihuana policy debates in Uruguay. It then presents a descriptive account of the findings of the key actors, their beliefs and concerns, and preferred policy approaches to marihuana policy reform – as this was presented by participants in the interview data and triangulated by analysis of documents and fieldwork notes. The Discussion section brings together these various strands and reflects on the research question of: *What were the relevant perspectives and positions of the key actors involved in marihuana policy debates in Uruguay?* This is followed by a reflection on the applicability of Stevens and Zampini's policy constellation framework to enhancing current understandings of marihuana policy debates in Uruguay (Section 4.7.3). Combined with the wide range of actors, positions and perspectives involved, Stevens and Zampini's framework offers a valuable hermeneutic device for exploring policy dynamics within Uruguay's marihuana policy debate. However, as the concluding discussion highlights, the findings also challenge the policy constellation framework by drawing attention to the importance of studying the unique characteristics of Uruguay's historical context and political system.

As a guide to what follows, **Table 4.1** provides an overview of the different perspectives on marihuana regulation in Uruguay, with particular reference to the key priorities, concerns and policy preferences of each group. These data were derived from an examination of the decision to pursue marihuana legalisation in Uruguay's marihuana policy process between 2005 and 2012. The data in the table is based exclusively on analysis of interview data and policy documents that have been produced in the field of Uruguayan drug policy since 2005. This includes written and verbal submissions made by individuals and organisations to the Special Commission on Drugs and Addiction and the Senate Public Health Commission between 8 August 2012 and 13 December 2013, as well as other documents collected in the course of conducting this research (e.g. working paper drafts and personal notes of the proposed marihuana legislation, advocacy materials, photographs and presentations). I also searched the websites of various government ministries and agencies, as well as civil society organisations, which had been identified as particularly important to the policy process for additional information and documents. Selection of the documents analysed and cited throughout the chapter was informed by conversations with gatekeepers, interviews with key actors and fieldwork notes.

Table 4.1 Key actors, perspectives and priorities

Individual liberties
• Marihuana prohibition violates the right to private action that does not harm others or public safety • Marihuana prohibition violates the right to health and safety of marihuana users • A judicial misinterpretation of Uruguay's drug law, which classifies home cultivation as a crime graver than drug trafficking • Users are exposed to products in the illicit market that are more dangerous than marihuana consumption itself • Protect right to access good quality marihuana without the risk of criminal prosecution • Depenalise home cultivation • Key actors: cannabis activist groups, cannabis users, some politicians
Anti-authoritarian
• Marihuana prohibition is a tool used by conservative governments and state institutions to control marginalised groups • Historic legacy of military dictatorship on legal and police enforcement practices of drug policies in Uruguay • Protect users from social harms of oppressive state institutions • Liberalise widespread access to marihuana • Key actors: cannabis users, social reform NGOs, academics
Harm reduction
• Drug use should be treated as a health and social problem rather than a law and order issue • Drug eradication goals exacerbate health problems because users lack access to quality-controlled products, accurate and reliable drugs use education and treatment services • Reduce the health-related harms of continued drug use and combat illicit market • State control over widespread access to marihuana • Key actors: Drug Control Board, Addiction specialists, harm reduction NGOs
Public security
• Marihuana prohibition is causing more violence and crime • Marihuana is a gateway drug to harsher illicit substances that are associated with crime and delinquency • Reduce public insecurity and drug-related violence • State control over production and sales • Key actors: Mujica Administration, Public Security Cabinet
Population health
• Liberalising the marihuana market will reduce risk perceptions and increase use, particularly among youth • Liberalising marihuana sends an inadequate message that it is harmless, which will increase use and attract new users • Prevent use and disease amongst population • Education campaigns on harms of use and treatment services • Key actors: medical professionals, tobacco and drug control NGOs, some politicians with medical backgrounds

Results

4.1 Uruguayan marihuana policy debate

According to the analysis of documents and interview data that emerged from this study, a striking feature of marihuana policy debates in Uruguay was the near unanimity concerning the inadequacy of the existing legal position of marihuana prohibition. In particular, a number of respondents spoke of the principal problem as a legal incoherence in Uruguay's drug law, which decriminalised possession of a minimum amount of marihuana for personal use, but criminalised all legal forms of access to the substance (Garat, 2015, Garcia, 2013). Most participants also felt that treating marihuana users as criminals increased the size of the illicit drug market and was ineffective at reducing consumption, particularly among young people. Furthermore, there was widespread concern that prohibiting marihuana —a substance that is widely used with relatively modest risks—was causing more harm than its actual consumption. Related to this was a common view that marihuana was probably the least harmful of all illicit and legal drugs, including tobacco and alcohol, two of the most widely consumed substances and the largest contributors to disease and harm, e.g., drug-related mortality and morbidity (World Health Organisation, 2015). Perhaps, more distinctive from other political contexts was that such widespread consensus was operating in the same environment in which there was overwhelming public opposition to legalising marihuana, with 66% of the Uruguayan public stating that they were against marihuana legalisation in 2012 (Equipos Consultores, 2013).

Although there was significant commonality across the positions of different policy actors, there were different dimensions to this debate, with different groups emphasising different concerns. These different positions emerged from an iterative reflection of Stevens and Zampini's drug policy constellation framework, as well as the Uruguayan and international drug policy literature. In this study, interview and documentary data were analysed by first gathering all of the arguments justifying policy preferences, e.g. views on the role of the state and drug use, policy goals, type of supply system and descriptions of the underlying problem, concerns and priorities. I then sorted the arguments into similar categories and derived meaning from them by repeatedly comparing and contrasting the data to Stevens and Zampini's empirical work, as well as the Uruguayan (Musto, 2018, Garcia, 2013) and international literature

on marihuana policy debates (Monaghan, 2008, Euchner et al., 2013, MacCoun and Reuter, 2001). In line with Euchner et al (2013), when more than one argument appeared in an interview or document, the position was ranked according to prominence and frequency. For example, if a policy actor discussed their key concerns as protecting the rights of individual users but later mentions that marihuana regulation could also combat illicit drug trafficking, then the first position was identified as their primary whereas the latter would be categorised as their secondary. This allowed for an understanding of how the diverse concerns and priorities of policy actors within Uruguay's marihuana policy debate overlapped for specific policy proposals (Stevens and Zampini, 2018).

Consistent with the uncertain boundaries of policy constellations (Stevens and Zampini, 2018), the positions identified in this study and many actors did not fall neatly within any of the five groups. However, the categories are useful for heuristic purposes in discussing the different ways in which the marihuana problem is conceptualised in Uruguay and the different dimensions to this debate. Note that the categories represent ideal types used to illustrate broad themes and arguments within marihuana policy debates in Uruguay. Within these debates in Uruguay, actors have coalesced around what can be termed as 'individual liberties', 'anti-authoritarian', 'harm reduction', 'public security' and 'population health' positions. The individual liberties and harm reduction perspectives mirrored similar descriptions found in Stevens and Zampini's framework, whereas public security was consistent with existing research exploring marihuana policy debates in Uruguay (Musto, 2018, Garcia, 2013) and Europe (Euchner et al., 2013).

The anti-authoritarian and population health positions were additional voices found in policy debates in Uruguay that seemed to be missing from Stevens and Zampini's framework as well as the literature on Uruguay's marihuana legislation. As described above, the anti-authoritarian perspective seems reflective of Uruguay's distinctive historical context compared to the UK (Castiglioni, 2018). In relation to population health, Stevens and Zampini have used the term 'abstentionists' in the UK context (Stevens and Zampini, 2018), whereas Garcia and Musto describe medical professionals outside of a 'harm reduction' coalition in Uruguay as part of a prohibitionist camp (Garcia, 2013, Musto, 2018). However, these descriptions seemed to be an inappropriate representation of the views of several medical professionals interviewed for this study.

Some politicians with public health concerns were indeed against state control of the marihuana market. However, data from this study show that several other participants, particularly academics and medical professionals, expressed concern for the potential health impacts of increased consumption by way of increased access to marihuana, but explicitly stated that their view on policy reform was ambivalent; that is, they were neither in favour nor against marihuana legalisation. In line with Rogeberg (2015), I therefore categorised actors advocating for the goal of preventing use and disease among the entire population as forming part of a population health constellation, which is differentiated from actors advocating harm reduction as a policy goal. As suggested above, a more nuanced view of the positions of different actors involved in marihuana policy debates suggests that the great divide between legalisation advocates and prohibitionists, which is seen to characterise US, UK and European policy debates (Nadelmann, 1992, Goode, 1998), appears to have been less politically salient in Uruguay.

Furthermore, the interview data suggest that policymakers across all major political parties in Uruguay were split across the five different groups, with some viewing themselves as intermediaries between the different actor constellations (this was certainly how many of the interviewees presented their positions in relation to other views on marihuana policy). Some politicians expressed concern about the harms of multiple, intersecting consequences of decriminalising use while supply of marihuana remains illegal, including rising arrests of marihuana users, increasing consumption among young people, the growing illicit market and associated levels of violence and crime. In a 2018 interview, one politician described their position on marihuana regulation in this way, asserting:

> *I always say that the law has three dimensions. One is health, another is rights and the other is public security, [as] this has affected violence, crime in neighbourhoods and in prisons. So, I always aspired to have a more holistic vision of the issue. I think that we have advanced in different measures for each one of these issues. From this point of view, an integral vision for regulating drug markets should consider these three issues. Generally, one finds that the health sector is concerned for health, the activists are worried about rights and the government is concerned with public security. I think that in order to achieve an integral vision of the issue, these three things have to be considered because they are not separate from one another. Clearly, rights are being violated, the rights of users. Clearly, health policy was failing to meet its objectives of not increasing consumption and the users could have had better prevention policies. Undoubtedly, public security worsened because drug traffickers were controlling the market.* (P15, politician)

This view was echoed by another politician who felt that while protecting the rights and health of individual users should be the key priorities of marihuana regulation, it was

also important to combat the illicit drug market. When asked what they perceived to be the goal of marihuana regulation, this politician argued in a 2018 interview:

> *The main goal of regulating substances is to improve the quality of life of users. From there, it seems that there are other objectives such as the fight against drug trafficking. I think that is part of the objective as well. But the main thing for me is respecting people's freedom and improving the quality of life of all people. Of all people…Then make sure that those who consume substances, in this case marihuana, do not have to resort to the black market to get it. Truly, in South America, possibly the entire world, but here it can be very complicated and it can cost you your life. It can cost you your life. So try to protect them. Then the quality of the substance… Improving the quality of the substance is essential, you know. Then there is the whole issue of drug trafficking, right? I think the person goes first, then the matter of the drug trafficking issue.* (P7, politician)

Having outlined some of the diverse perspectives within two of the key actors in **Table 4.1**, the remainder of this chapter presents a comparison of the five groups, discussing only the degrees of differentiation across the various positions. Each subsection is organised by first presenting a descriptive account of the key groups associated with these five positions, their views on the marihuana policy problem, the arguments used to justify positions and preferred policy solutions to achieve particular goals and objectives.

4.2 Individual liberties

As shown in **Table 4.1**, several marihuana activist groups and home cultivators advocated for the depenalisation of home cultivation as a way to reduce the criminal justice harms, i.e. unjust searches and seizures and arbitrary detention sentences, caused by a perceived judicial misapplication of Uruguay's drug policy. This includes the home cultivation group Plantá tu Planta [Plant your Plant], a collective formed by cannabis cultivators in 2005 in response to the rising arrests rates of marihuana users that grew plants at home for personal use (Draper and Sienra, 2017). It also included la Placita [Little Plaza], a community-based activist group consisting of marihuana users, predominately from Montevideo (Uruguay's capital city), who called for an alternative approach to prohibiting marihuana supply that respected the individual rights of marihuana users to smoke without stigma or risk of criminal prosecution (Muñoz et al., 2007, Garat, 2015). A third group was the Young Socialists of Uruguay (JSU), who defended the right of marihuana users to access a quality product without having to purchase marihuana in the illicit market (Núñez, 2010). These organisations had frequently worked alongside one another in favour of policy reform, forming the Cannabis Liberation Movement (MLC) in 2007 to serve as the united front for their efforts (Movimiento por la Liberación de Cannabis, 2010, Musto, 2018). Some of the

groups later formed independent organisations such as the Uruguayan Association of Cannabis Studies (AECU), established by representatives of Plantá tu Planta in 2011, with the purpose of providing legal resources to home cultivators facing marihuana trafficking charges (Draper and Sienra, 2017). In 2011, some politicians representing all of Uruguay's major political parties, including Frente Amplio, the National, Colorado and Independent Parties also joined the effort to pursue marihuana policy alternatives as an individual liberties issue.

Broadly, cannabis user rights groups and home cultivators defended the rights of users to grow marihuana at home without the risk of criminal prosecution. All cannabis-related organisations identified in this study presented the principal problem as what they identified as a legal incoherence in Uruguay's drug law, which decriminalised possession of a minimum amount of marihuana for personal use, but criminalised all legal forms of access to the substance (Garat, 2015, Garcia, 2013). In their view, such legal incoherence was a violation of an inalienable right to private action that did not harm others or public security, as guaranteed under Article 10 of the Uruguayan Constitution (Movimiento por la Liberación de Cannabis, 2010). Applying this directly to the debate at hand, cannabis user rights groups felt that criminalising access to marihuana infringed upon the civil liberties of marihuana users to exercise a right that they felt should be guaranteed under Uruguayan law. As one representative of the MLC reflected in a 2018 interview:

> *More than anything, this is based on individual liberties. We always said 'I do not want liberalisation' but the counterargument was 'You want to live smoking joints'. It was an argument against such backward thinking, to situate this within a serious political discussion. Because many of us do not fight for this to be able to smoke joints. We fight for individual liberties. Our fight is more political than just a plant because many of us who do this, it is not to fight for an object. We do not fight for consumption. We are not fighting for consumption. We fight for freedom, which later is translated into consumption.* (P14, civil society)

Underlying this position was the assertion that although possession of a minimum amount for personal use was not penalised, the law's ambiguity allowed law enforcement and judicial institutions to determine on a case-by-case basis whether the amount that a marihuana user possessed was intended for distribution. Cannabis activist groups argued that lack of a clear definition on what was deemed to be a maximum amount for personal use was leading to the wrongful arrest of home cultivators for growing plants at home. Secondly, according to the AECU and the MLC, such ambiguity granted authority to the judicial system to prosecute home cultivators for micro-trafficking or the illegal possession of marihuana for distribution

in cases where the judge disputed that the amount was intended for their personal use (Movimiento por la Liberación de Cannabis, 2010), which carried a sentence between 20 months to 10 years in prison (1974). As a representative of the AECU stated in a 2018 interview:

> *In Uruguay, consumption of any drug was never prohibited. Since 1974, the law depenalised those that had in their possession a reasonable amount for their personal use. Now, that reasonable amount for your personal use has to come exclusively from drug traffickers or can it be cultivated by the individual user in the form of a plant? One plant is not a reasonable amount for my personal consumption? So, that was how we demonstrated that there was a legal loophole in the law.* (P27, civil society)

Table 4.1 also indicates that this position was supported by politicians representing all major political parties in Uruguay. However, a critical difference is that national legislators, particularly from Frente Amplio and the Independent Party, felt that the underlying problem was Uruguay's drug law '*indirectly penalised*' (P15, politician) marihuana users for partaking in an illegal activity in order to exercise a right that they felt was indeed guaranteed under the Uruguayan Constitution. In other words, national legislators did not seem to share the view that the Uruguayan Constitution protected the right to grow marihuana at home for personal use, though they did believe that users had a right to consume marihuana without the risk of criminal prosecution or stigma. As one representative of the Independent Party asserted in a 2018 interview:

> *We had a very large regulatory incongruence, which is that what was illegal was access to substances; what was not prohibited was consumption, but access to substances was prohibited. So, two things happened. One was if one did consume that did not constitute an illegal act. However, at the same time, we all knew that they had committed a crime because somehow the substance was obtained. From there, one could also think that accessing the substance somehow constitutes a preparatory act of a legal act. So that was why it was considered a crime. Therefore, it seemed to us that that incoherence needed to be resolved.* (P10, politician)

Another key issue raised by marihuana user rights groups was that criminalising access to marihuana exposed users to significant health harms and safety risks associated with the illicit drug market. For example, the MLC and JSU were concerned by the health-related effects of marihuana prohibition, emphasising the relative toxicity of illicit marihuana in comparison to marihuana grown at home and used in its natural form (Draper and Sienra, 2017, Musto, 2018). Underlying this position was the claim that the type of marihuana available in the illicit market, known as prensando paraguayo (compressed marihuana trafficked from Paraguay), was more dangerous than marihuana produced at home by the user, as it contained additives and chemicals due to the process of trafficking it from Paraguay. As one representative of the MLC explained in a 2018 interview regarding illicit marihuana in Uruguay, '*It had poison, pesticides, dead*

animals, anything. It was a reality.' (P14, civil society) Secondly, the JSU felt that marihuana policy reform was necessary to protect those that continued to use marihuana, asserting that users should not have to expose themselves to dangerous situations of violence and crime in order to obtain the substance. According to a marihuana legalisation activist and former politician of the JSU:

> *Truthfully, in South America, perhaps in the entire world, but here it can be very complicated and it can cost you your life [to buy drugs in the illicit market]. It can cost you your life. So, [the goal was] to try to protect those that continue to use marihuana.* (P7, politician)

Generally, actors that emphasised the legal consequences of drug enforcement for home cultivators did so on the basis of opposition to state intervention in private decisions, arguing that this approach would result in excessive government intervention and control over the individual lives of marihuana users. Rather, cannabis user groups, home cultivators and some politicians argued in favour of an approach that promoted autonomy and respected the right to grow marihuana at home for personal use without moral imposition, stigma or risk of criminal prosecution. Interview accounts suggest that although the MLC and AECU recognised that marihuana use was harmful, they also felt that the legal and personal consequences of drug enforcement efforts for marihuana users were more significant. As such, cannabis user rights groups and home cultivators argued in favour of the depenalisation of home cultivation, seeing this as necessary to reduce the legal consequences of enforcement for users that grew marihuana at home as an alternative to the illicit market. This link between promoting individual liberties and depenalising home cultivation is illustrated in the following interview account by a civil society actor who had been involved in efforts to legalise marihuana dating back to the 1990s:

> *In reality, my first position simply was that human beings have the individual liberty to have in the privacy of their own home whatever plant they wanted. I want to have three plants in my house, I do not want problems with the police and I do not consider that I am doing anything wrong.* (P9, commercial sector)

4.3 Anti-authoritarian

As shown in **Table 4.1**, the group of actors advocating for the liberalisation of the marihuana market as a way to reduce the disproportionate legal consequences of drug enforcement for marginalised groups consisted exclusively of civil society organisations and academics. This included the user rights advocacy group Prolegal, formed in 2005 by left-wing political activists, university students and academics, which called for policy alternatives to marihuana prohibition that protected all drug users from repressive state institutions (Proderechos, 2006). It should be noted that Prolegal had also worked

closely with the AECU and the MLC. However, in 2006 some representatives decided to form Proderechos due to concerns that the single-issue focus of the marihuana legalisation movement described in the previous section did not address broader sociocultural inequalities. Proderechos[7] is a diverse constellation of political activists, university students, LGBT rights groups and feminist and environmental NGOs dedicated to promoting broader sociocultural change related to the legalisation of marihuana, abortion and marriage equality (Arocena and Aguiar, 2017, Draper and Sienra, 2017). A second organisation was Friedrich Ebert Stiftung Foundation in Uruguay (FESUR), a German political foundation whose primary objective is to promote democracy and social justice throughout Latin America (Friedrich-Ebert-Stiftung, 2017). Although marihuana legalisation had not been on FESUR's agenda prior to 2005, the organisation became engaged in marihuana policy debates because several of its affiliate organisations, including Proderechos, were actively involved in problematizing the issue with other civil society actors and groups.

Interview accounts suggest that the conceptualisation of the underlying problem as a crime and justice issue was not shared by representatives of Proderechos and FESUR. Instead, both organisations argued that the principal problem was that laws prohibiting drug use were harmful in and of themselves. They felt that not only was criminalising access to marihuana unjust and oppressive, but the key issue was how marihuana prohibition was used by conservative governments to control powerless groups through legal coercion. From this perspective, drug enforcement was seen as a tool used by conservative state institutions to punish and control marginalised groups in order to preserve social order. For example, one representative of Proderechos asserted in a 2018 interview:

> *Our concern was home cultivation; it was of course people in prison. But, also it was that you cannot put someone in prison and punish them like that. This would lead to young people thinking that the state was worthless. It is there only to repress you for something stupid. We had to change the mind-set of a very conservative country. So, to me personally, although marihuana is the first blow against a conservative country, there was also abortion and marriage equality… Because it is not just about marihuana. We are activists in many different areas, from another point of view. So, we said let's change this. We were not interested only in the marihuana issue.* (P26, civil society)

[7]Although Prolegal is a member of Proderechos, given the shared beliefs and members across the two organisations, both are identified as Proderechos in subsequent chapters of the thesis unless in cases where it is necessary to distinguish between the two organisations.

Underpinning this position was the belief that the increasingly punitive nature of drug enforcement efforts in Uruguay was a direct response to the loss of control over young people among conservative governments in the 1990s. From this perspective, the unequal application of Uruguay's drug law was a reflection of the repressive values of the dictatorship, targeted at those that had been previously constructed as the primary causes of instability and political unrest in the 1970s and 80s (Castiglioni, 2018). In part, this reflects a desire articulated by some representatives of Proderechos and FESUR not only to address the disproportionate burdens of drug enforcement, but also to contest conservatism and public order institutions as harmful legacies of Uruguay's military dictatorship. This contestation of the military regime's legacy is clearly captured in the following quotation, in which the interviewee describes the use of drug enforcement in Uruguay as a way to control young people:

> *Consumption was legal since 1974. The problem was the perverse application of that law, the type of application that only a dictator could do and that only a conservative government could do, which came after the dictatorship. It is the type of application that a society could do that does not get along well with young people and that does not do well with disorder.* (P31, civil society)

Those that emphasised the disproportionate burdens of drug enforcement on marginalised groups favoured an approach with minimal state intervention in the regulation of the marihuana market. Underlying this approach was the view that there was nothing ethically wrong with consumption by its very nature. Indeed, interview accounts would suggest that individuals in the anti-authoritarian constellation were not concerned by whether marihuana use would increase as a result of more liberal drug policies; to them, this was seen as beside the point. As one representative of Proderechos claimed in a 2018 interview, '*we are concerned about the problems associated with marihuana use and to avoid those harms, but we are not concerned about consumption in and of itself.*' (P8, civil society)

For other individuals of Proderechos, a more libertarian view is taken, as one respondent argued in a 2018 interview, '*People have the right to do what they want. They have a right not only to vote, but also they have the right to get high.*' (P26, civil society) On these grounds, it was generally felt by individuals in the anti-authoritarian constellation that any effort to regulate people's behaviour was inherently wrong since its only purpose was to force marginalised sectors of society to act against their free will. For example:

> *Personally, I believe in a world that is not so regulated, rather educate over passing policies. Of course, pass policies but without being the people's father. Sometimes I think that regulation is so that the state can have control over people without power.* (P26, civil society)

However, representatives of Proderechos and FESUR believed that it was important to instil a sense of personal responsibility so that marihuana users could make informed decisions regarding drug use, independent of state or societal forces. From this perspective, state intervention was seen as acceptable in very limited cases; for example, state policies that were oriented towards educating individuals on the harms of drug use were generally favoured over efforts to eradicate consumption through legal paternalism. In terms of the balance between liberty and state control, this distinction was captured in the following quotation by another representative of Proderechos:

> *I recognise that the market and the state, both play roles in our lives. From the point of view of the public good, the state should appeal to the population's interest. The state has the legitimate right to intervene in some market decisions and in some decisions of citizens. Very little though because I prefer the capacity of individual agency to prevail. But, there are certain actors, specific market actors or in other spheres of life, that are against individual agency and for that reason the state has to intervene in the market.* (P12, civil society)

Finally, Proderechos and FESUR strongly favoured an approach that liberalised widespread access to marihuana, viewing accessibility of marihuana as being key to addressing the wider societal problem of state oppression of marginalised groups. This approach, it is argued, was necessary in order to reduce the legal consequences of drug enforcement for all users, independent of their financial status. Underlying this concern was the view that depenalising home cultivation was an inadequate response to address the problem of criminalising access to marihuana, as it would protect only a small proportion of users, but would leave out marginalised groups without the resources to grow plants at home for personal use. As a representative of Proderechos argued in a 2018 interview:

> *We always said that [home cultivation] was not sufficient because it would leave out poor people who could not grow at home. Only if I have money I can have a plant with an 'indoor' system. It was obvious that it would not resolve the problem. It is going to generate a consumption of first class and another of second class. Therefore, we always said that there had to be another form of access, more than just home cultivation and cannabis clubs. From selling marihuana in farmers' markets to —well, we thought of many options.* (P26, civil society)

4.4 Harm reduction

Table 4.1 shows that the group of actors that supported state control over the marihuana market as a way to reduce the individual health consequences of marihuana use consisted of state actors working in drug control, physicians specialising in addiction treatment and harm reduction NGOs. The key organisations were the Drug Control Board, Uruguay's lead drug enforcement agency, which is politically responsible for carrying out the Executive Branch's drug policy agenda (Junta Nacional

de Drogas, 2020). It also included the harm reduction NGO el Abrojo, an organisation that was created in 1984 with the objective of denouncing human rights violations committed during the military dictatorship (Musto, 2018). Though drug policy was not an initial part of el Abrojo's mission statement, in the 1990s advocates of marihuana legalisation incorporated drug policy into the organisation's programmatic agenda (Draper and Sienra, 2017). Some physicians that specialise in addiction treatment also supported the idea to pursue marihuana policy alternatives due to the view that marihuana could be used as a harm reduction tool for more harmful substances, including cocaine and cocaine paste.

Harm reduction advocates argued that marihuana use should be treated as a health and social problem rather than a law enforcement issue. All actors associated with the harm reduction constellation believed treating marihuana users as criminals was not only ineffective, but also exacerbated health problems for those that continued to use. Criminal justice approaches to drug control were seen as inadequate responses to the problem because of their limited scope. It was the view of one representative of the JND that education programmes under drug prohibition were harmful to users because they '*only spoke from a place of persuasion and fear associated with [the message] just say no to drugs.*' (P18, regulator) However, for users that had already experimented with and decided to consume marihuana, abstinence-only interventions were viewed as ineffective and stigmatising, thereby, preventing users with substance use problems from seeking medical attention. As one representative of el Abrojo stated in a 2018 interview:

> *In a world where drugs exist, in a world where people liberally choose to consume or not, when they choose to consume, we as a society have the obligation to accompany them to reduce their harms of use.* (P29, civil society)

From this perspective, most use-related harms of marihuana were associated with the secondary effects of criminal laws, but not use itself. It was contended that such harms were primarily related to the physical dangers of consuming contaminated and uncontrolled products in the illicit market. Harm reduction advocates also highlighted the issue as limited user knowledge on how to consume is less harmful ways as well as lack of medical attention and treatment services for current users. The Drug Control Board's assertions on this issue are indicative of the harm reduction position as a whole:

> *Making drugs legal creates greater possibility for control because black markets are uncontrolled markets. No one has absolutely any control. There is no control over product quality, nor the secondary effects that the product can have. There is low user knowledge and there is no relationship with the health system.* (P11, regulator)

This sentiment was also communicated by an addiction specialist working for el Abrojo in the 1990s, though adding that criminalising access to marihuana was a source of mental stress associated with partaking in an illegal activity for the user:

> *As an expert on the topic, when you see that half of the problems that drug users have is not for the substance but rather have to do with its illegality. If you have an open mind and an attitude of medical ethics for the free exercise of drug treatment, quickly one has to realise that it is true that the effects of drugs themselves in conditions of abuse are dangerous and harmful. However, there is a social harm and even a physical harm to health that is caused by its illegality. Pollution, adulteration and the mental stress that people live under in order to buy substances in conditions of illegality.* (P19, medical professional)

Although there was concern regarding the health consequences of prohibition for marihuana users, harm reduction advocates did not seem preoccupied that liberalising access to marihuana would increase use significantly. Instead, representatives of el Abrojo and the Drug Control Board argued that if use were to increase, then this would be favourable to the current legal situation, as the state could more adequately target the harms associated with problematic use behaviour and provide treatment to those with substance abuse problems. Some representatives of the Drug Control Board also argued that even if use does increase, then this will likely result in a net benefit for public health, as users would be consuming less harmful substances under state control of '*which users know the quality*' (P11, regulator), the risks associated with use and how to minimise those risks. This position partly reflects a desire expressed by harm reduction advocates in the debate not to treat users as addicts requiring treatment towards recovery, but rather as individuals with the right to consume safer products in less harmful ways. Commenting on the benefits of regulation compared to prohibition, one civil society actor working for el Abrojo notes in a 2018 interview:

> *Users are going to be integrated into the system, which from a health point of view is great. Because you don't repress, but you integrate and educate to reduce risks. You attend to those that have problems. Because there will also be people that develop cannabis dependence, as there are with tobacco and alcohol or whatever other drug. You attend to it adequately. You treat it as a health problem and not as a moral problem of an addict that is doing something illegal and that is bad. Illegality also attracts that complicated situation between what is moral is illegal. And that is mortal for a public health policy.* (P29, civil society)

Those favouring a harm reduction approach argued in support of legalising widespread access to marihuana under state control, viewing accessibility to affordable and quality-controlled products as key to reducing the individual health harms of marihuana use. This approach, it was contended, was necessary in order to protect the individual health of marihuana users, while allowing the state to develop adequate education campaigns and treatment services that accepted continued use, thus improving the health and

personal situation of all users. This is clearly expressed in the following excerpt by a civil society actor working for el Abrojo:

> *Yes, you regulate, but you also take care, accompany and provide tools so that people make informed decisions and that they know what to do if they have an acute or chronic problem, how to adjust their use properly. So, no, I don't have any problem if risk perceptions were to increase or if they were to reduce. Now, everyone thinks that use is innocuous. No. Consumption has its risks, but there is no need to create a huge scandal if marihuana use increases a bit in the early days. What you have to focus on is if problematic use increases but not cannabis use itself.* (P29, civil society)

A further argument made by the Drug Control Board (JND) was that liberalising state control over the marijuana market removes users from '*situations of violence and breaks their relationships with organised crime*' adding that the '*state must take responsibility, provide guarantees and security to users so they are not required to have to have a relationship with illegal markets*.' (P11, regulator) Underpinning this position was the view that marijuana use is an inevitable aspect of society and therefore liberalising state control over the market is a desired policy direction to reduce use-related harms and combat drug trafficking. This point was made by the following interviewee, a representative of the JND, who argued that state control could effectively provide users with a quality product while also removing profit from organised crime:

> *In this way, the state takes back governance over the drug market. Because with the illegal market, the state does not have governance over the drug market. It does not regulate the price, the price is regulated by the market, and it does not control the quality. It does not receive in a positive way or in any other way, the money [from drug sales], which remain in the hands of criminal organisations.* (P11, regulator)

4.5 Public security

The group of actors that supported state control over the marihuana market as a way to reduce violence and drug-related crime consisted almost exclusively of state officials working in the broader areas of drug control and public order institutions. As indicated in **Table 4.1**, this included former President José Mujica, who was primarily concerned with the harms of illicit markets, in particular the violence and drug-related crime associated with drug addiction (Malkes, 2012). It also included the President's Assistant Secretary, who expressed concerns about rising marihuana use and the growing illicit market (Cánepa, 2012b). Another key group of actors was the Administration's Security Cabinet, which was created in 2011 by former President Mujica, with the primary function of coordinating policies and governmental strategies related to the maintenance of law and order and promoting public safety (President of the Uruguayan Republic, 2011). The Security Cabinet includes other governmental actors such as the

Ministries of the Interior, Defence, Foreign Relations and Social Development, who were concerned by the violence and drug-related crime associated with use of harsher illicit substances other than marihuana (Peregil, 2012, Musto, 2018).

As suggested above, those emphasising public security priorities were not necessarily concerned by marihuana consumption or even the crime associated with marihuana trafficking (CNN Español, 2012, Garat, 2015). Instead, there was a growing preoccupation among high-level officials of the Mujica Administration and members of the Security Cabinet of the threat of criminal activities associated with rising use of cocaine paste—reflecting the perceived rapid growth in the size of the illicit market for that drug, particularly after Uruguay's 2002 economic crisis (Garat, 2015). Although marihuana itself was not considered to be a dangerous substance associated with crime-related activities, public security advocates argued that the principal problem was that marihuana prohibition was leading to an increase in cocaine paste use, which, in turn, was contributing to a rise in certain types of violence and drug-related crime throughout the country. This depiction of the policy problem is clear in a statement made by former Minister of Defence Eleuterio Fernández Huidobro at a 2012 joint press conference regarding the decision to introduce the bill to regulate state control over the marihuana market, which stated:

> *It is a fight on both fronts: against consumption and drug trafficking. We think that prohibition of certain drugs is creating more problems for society than drugs themselves, as is perfectly visible in our neighbouring countries and in other countries with disastrous consequences. We want to prevent this reality from entering Uruguay. Homicides have gone up and this is a clear symptom of the appearance of certain phenomenon that did not exist before in Uruguay. We want to fight trafficking, and we will do that with this drug [marihuana], and at the same time try to eliminate the trafficking and consumption of cocaine paste, which is one of the least consumed drugs, but which has unaffordable effects and furthermore is scientifically proven to be poisonous* (Huidobro, 2012b).

From this perspective, marihuana was not seen as possessing uniquely enslaving or damaging qualities, though public security advocates did believe that marihuana acted as a gateway to harsher illicit substances that were associated with such negative characteristics. As former President Mujica argued in a 2012 press interview, '*Of course, we are not promoting the vice [marihuana], but we prefer that this market for 'soft' drugs does not serve as a gateway to so-called 'hard' drugs*' (CNN Español, 2012). Underlying this position was the assertion that marihuana use was not the problem of public insecurity, but rather that drug dealers offered marihuana users chemically dependent substances such as cocaine paste when marihuana was not available. This narrative was reproduced in subsequent media statements, such as a 2012 press interview with former Minister of

the Interior Eduardo Bonomi, in which he stated, '*The main harm is not marihuana but the dealers who supply much more dangerous substances such as paco* [cocaine paste]*, which does terrible harm* (Bonomi, 2012). Public security advocates, therefore, made a sharp distinction between marihuana and other illegal substances; for example, unlike marihuana, public security advocates believed that there was a causal relationship between drug abuse of cocaine paste and involvement in criminal activities (Malkes, 2012, Huidobro, 2012b). As one high-level official of the Vázquez Administration argued in a 2018 interview:

> *If one smokes a joint occasionally, they are not harming anyone. However, someone that consumes cocaine paste, yes they have serious addiction problems and quickly they become linked to drug trafficking and criminal activities to maintain the addiction. Furthermore, it has very serious effects on health.* (P28, regulator)

Those prioritising public security concerns argued that the problems of drug use and drug trafficking could not be resolved with judicial and police force alone, asserting that it was necessary to reconfigure Uruguay's public security strategy through a new conceptual framework. Therefore, government officials argued in favour of state control over production and sale of marihuana, asserting that access to an affordable and quality-controlled product was key to combating the illicit drug market (CNN Español, 2012, Tegel, 2012). From this viewpoint, marihuana should become a legal product, available for those that want to use the substance recreationally without exposure to harsher illicit drugs in the criminal market. This market-based approach, it was argued, would allow the state to outcompete the illicit market through measures that would stimulate demand for a legal marihuana supply system under state control, or as former Defence Minister Huidobro suggested at a 2012 press conference, '*the one that produces a better-quality product at a lower price will end drug trafficking*' (Tegel, 2012).

This policy approach was also viewed as a more appropriate response to reducing the harms of drug-related violence and crime associated with the use of cocaine paste. In this sense, providing legal access to current users of marihuana would, as former President Mujica stated in a 2012 press interview, '*break the cycle of addiction and delinquency that occurs when users become dealers*' (Cave, 2012). Finally, it was also seen as a more adequate response to the problem of illicit drug trafficking, as it would allow the state to control marihuana production and distribution in ways that would honour Uruguay's broader commitments to combat drug trafficking. At a 2012 press conference regarding the reason for supporting state control over production and sale of marihuana, Defence Minister Huidobro stated:

> *We have to keep in mind the international treaties, the relationship with our neighbours and diplomatic issues. In particular, we must keep that in mind that this move, it must be clear that this is not liberalisation until the moment when this drug is legal at the international level. We have to take measures not to affect our neighbouring countries nor be accused of being some type of international drug distribution centre. For these motivations, and these alone, state control over production of the drug seems like a better option* (Huidobro, 2012b).

4.6 Population health

As indicated in **Table 4.1**, the group of actors that advocated for a population health approach to marihuana policy reform consisted primarily of people and organisations working in the broader areas of mental health, drug rehabilitation and tobacco control. The first group was the Executive Committee of the Uruguayan Medical Society (SMU), whose members included psychiatrists, addiction specialists and medical doctors specialising in tobacco cessation (Lima et al., 2012). Two of the most prominent organisations of the SMU's Executive Committee were the Uruguayan Psychiatric Society (SPU) and the Uruguayan Psychiatric Society for Children and Infants (SUPIA), who were primarily concerned by the adverse consequences of increased consumption on the health of young people and adolescents (Uruguayan Psychiatric Society and Uruguayan Psychiatric Society for Children and Infants, 2012). A second organisation was the Tobacco Epidemic Research Centre of Uruguay (CIET), which was concerned that marihuana legalisation might renormalise smoking behaviour and undermine tobacco control efforts in Uruguay. Aside from the SMU's Executive Committee, other organisations that were concerned by the health consequences of liberalising the marihuana market included the Uruguayan Pharmacists Association (AQFU), an important professional trade union in Uruguay (Domènech, 2015), and the drug rehabilitation centre Ser Libre (Ser Libre, 2020b). It also included the Ministry of Public Health (MSP) and politicians from Uruguay's Frente Amplio, National and Colorado Parties, particularly those with medical backgrounds.

Several health organisations and medical doctors expressed concern about the risk that legalising state control over the marihuana market might reduce risk perceptions and increase use, particularly among youth. From this perspective, the principal problem was that liberalising the marihuana market would send an inadequate message to the public that marihuana use was harmless and potentially beneficial to health (Lima et al., 2012). According to the Presidents of the SPU and SUPIA in a 2012 press release following introduction of the Mujica Administration's legislative initiative to legalise a state regulated marihuana market:

> *It is clear that from a medical point of view any action that facilitates cannabis use is inadvisable. We believe that if there are signs from the state that its use is safe or even positive, the risk of harmful effects on public health will increase.* (Uruguayan Psychiatric Society and Uruguayan Psychiatric Society for Children and Infants, 2012).

The Executive Committee of the SMU (Lima et al., 2012), the Uruguayan Pharmacists Association and Ser Libre also shared the view that liberalising state control over the marihuana market would likely normalise consumption, as it would increase availability and accessibility of a dependence-provoking substance among the general population. As one representative of Ser Libre argued in a 2018 interview:

> *My principal concern is that when a substance becomes accessible, there will be more consumption. Legalisation, what it does is it makes a substance accessible and more available. Furthermore, another concern that I also had was that this would reduce risk perceptions. In other words, the population begins to perceive that marihuana is something that is legal, permitted by the state, natural, medicinal, recreational. All of that starts to give it a tint of something, like marihuana is very beneficial to use.* (P36, civil society)

For those with population health concerns, the decision to liberalise state control over the marihuana market posed a significant health risk to the public, in the sense that it might increase use-related harms, particularly the primary effects of marihuana use. From this vantage point, most use-related harms were seen as a product of use rather than as a condition of its illegality or the legal risks of accessing marihuana in the illicit market. For example, a 2012 position paper by the Executive Committee of the SMU suggests that the harms of marihuana use were primarily related to its dependence producing qualities and the physical harm of consuming marihuana at a young age, suggesting that '*all problematic consumption implies health harm. Continued marihuana use can lead to abuse and dependence*' (Lima et al., 2012). According to the SPU and SUPIA, increased marihuana use also would likely produce delays in brain development in adolescents and elevated risks of mental health disorders (anxiety, depression, and psychosis) (Uruguayan Psychiatric Society and Uruguayan Psychiatric Society for Children and Infants, 2012). For CIET, the main health risk associated with marihuana liberalisation was that it might undermine tobacco denormalisation goals, citing emerging research about the challenges of tobacco cessation for marihuana users:

> *We do know that there are at least research studies that young people who use cannabis, when they later use tobacco, have greater potential to become dependent on tobacco. It was one of the things that we were concerned about. It would seem that this was even observable in animal studies.* (P5, medical professional)

Population health advocates felt that the best way to prevent disease and promote health among the population as a whole was to discourage marihuana use entirely through education and treatment. In general, though, there were three main categories

—those not supporting or opposing state control over the market but arguing for a precautionary approach, those supporting the depenalisation of home cultivation but opposing state control over the market and those endorsing the status quo, i.e. no policy change.

The MSP, SMU, SPU and SUPIA, CIET and AQFU did not oppose or support state control over the marihuana market. Although the MSP did not take a formal position on marihuana legalisation, at a 2012 meeting of the Special Commission on Drugs and Addiction, former Assistant Secretary of the MSP Leonel Briozzo insisted that the principal objective of any sort of marihuana policy reform should be, '*A healthier society where consumption is reduced in general'* arguing that *'the only thing that ensures that consumption of psychoactive substances is reduced is that people consciously decide not to consume'* (Briozzo, 2012). Similarly, the Executive Committee of the SMU did not oppose state control over the marihuana market, but rather cited concerns about the potentially negative consequences of marihuana use for population health, asserting that policy reform should adopt a precautionary approach in order to prevent the public from perceiving that marihuana use was innocuous or potentially beneficial to health (Lima et al., 2012). This is captured in the following quotation from an interview with a population health advocate that had worked in tobacco control for the past three decades:

> *The position of the Uruguayan Medical Society did not reflect support for the law, but rather a recognition that something had to be done, and that this must keep in mind that there was a problem with consumption and there was a problem with drug trafficking, but we had to be very careful.* (P5, medical professional)

The AQFU was also '*not in favour or against legalising marihuana*' (P34, pharmacist), but strongly opposed selling marihuana through pharmacies, citing concerns that this approach would send an inadequate message to the public that marihuana use was harmless (Olmas, 2013). Finally, the presidents of the SPU and SUPIA did not take a formal position on whether marihuana should be legal, rather arguing that the state should be careful not to trivialise the harms of marihuana use (Borda et al., 2013). As the following representative of the SPU who had participated in marihuana policy debates throughout 2012 and 2013 observed:

> *My principal concerns were not to minimise marihuana use as an innocuous substance, because it isn't. Beyond that, what we wanted to insert [into the debate], in general, were all of the harms that marihuana could provoke, from a medical and psychiatric point of view. At that moment they were sending an inadequate message to the public, including the Secretary of the Presidency at that time, as if it were an innocuous substance. And truly it is not. My opinion at that moment was that this could be a risky issue similar to alcohol. It didn't seem good to*

> *us to prohibit marihuana or anything. It is not our function to legislate.* (P21, medical professional)

Meanwhile, some politicians from Uruguay's Frente Amplio and both traditional parties, as well as Ser Libre were opposed to state control over the marihuana market and did not think that the government should be responsible for dispensing marihuana to the public. However, a small number of legislators from Uruguay's Frente Amplio, National and Colorado Parties felt that it was important to address the legal incoherence in Uruguay's drug law, thereby supporting the depenalisation of home cultivation as a more '*reasonable*' (P17, politician) and '*practical*' (P23, politician) solution. Though supporting the depenalisation of home cultivation, most national legislators from Uruguay's major political parties strongly opposed state control over the marihuana market, citing concerns that it would send the wrong message to young people on the harms of marihuana use. As one politician and medical doctor from Uruguay's National Party argued in a 2018 interview:

> *Marihuana consumption has negative effects on health, on learning and on mental health, triggering serious illnesses such as schizophrenia. I am particularly concerned about its deleterious impacts on education during childhood and adolescence. There is a need to convey a clear message about the negative effects of cannabis use on health and education. Its regulation for recreational use delivers the opposite message: that it is not so harmful; that it is good enough that it can be sold with government approval. I believe that this bill will diminish the perception of harm and will remove the notion of social harm [that it causes to those that consume] among the community. For these reasons, it seems to me that this was a very serious mistake.* (P17, politician)

On the other hand, Ser Libre and some politicians from Uruguay's National and Colorado Parties were strongly opposed to legalising marihuana, arguing that liberalising access to an addictive substance would only exacerbate public health problems. The data do not suggest, however, that groups like Ser Libre or politicians with public health concerns were advocating for a prohibition on marihuana consumption, but rather felt that state control over the marihuana market was unnecessary since there were other ways to reduce consumption without legislative change, including education that promoted drug abstinence (Amarilla et al., 2013, Sander and Montaner, 2013).

4.7 Discussion

The findings outlined in this chapter demonstrate that a diverse range of priorities and concerns shaped the decision to reform marihuana policy, from a focus on the civil rights of users to an emphasis on concerns related to an increase in overall crime and drug-related violence associated with marihuana's illegal status. In marihuana policy

debates in Uruguay, the data show the operation of policy constellations whose members had very different interpretations on the underlying problem of marihuana prohibition, which rest on different policy priorities and desired goals. Although there were different dimensions to this debate, the findings also highlight that all actors seemed to support the need for marihuana policy reform, based on the view that criminalising marihuana users was not the most appropriate response and had unintended consequences on health and public safety. Further, there seems to have been a shared view that marihuana users should have access to a quality product and information on how to consume in less harmful ways. Nevertheless, the key difference that emerged from the findings across the five positions was related to different views on which policies would be the most appropriate for achieving preferred policy goals.

4.7.1 Priorities and goals of marihuana policy reform

Broadly, the findings suggest that a common ground across the five groups was that the existing legal position, in which marihuana use was decriminalised but access remained a criminal offence, was viewed as an untenable policy approach. Collectively, the interview data suggest that there was greater consensus across the positions in marihuana policy debates within Uruguay than even participants recognised. This finding would seem to conflict with much of the existing literature available to date, which characterises Uruguay's marihuana policy debate as highly contentious and conflict-ridden (Musto, 2018, Aguiar and Muñoz, 2007, Arocena and Aguiar, 2017, Ponte, 2013, Queirolo, 2020, Queirolo et al., 2018, Repetto, 2014). Indeed, as discussed in Section 2.4.5, most scholars appear somewhat surprised that those with civil liberty concerns eventually aligned with public security advocates because of their very different values, priorities and views on the policy solution, e.g. more or less state control (Forné, 2017, Musto, 2018, Rivera-Vélez, 2018, Aguiar and Muñoz, 2007, Arocena and Aguiar, 2017, Ponte, 2013, Valdomir, 2015).

While the results of this chapter demonstrate that different actor constellations supported different policies because they emphasised different concerns and priorities, there was also significant overlap across the positions. For individual liberties, anti-authoritarian and harm reduction groups, liberalising marihuana access was considered to be the most effective way to minimise the individual health consequences of criminalisation, as it would reduce drug user stigma and provide users with access to a quality-controlled product and valid drugs use education. For the individual liberties

and anti-authoritarian groups, liberalising the marihuana market was also considered to be a more effective way to eliminate barriers to access and reduce the legal consequences of enforcement for home cultivators and low-income marihuana users. For public security advocates, liberalising the marihuana market was seen as a way to reduce violence and drug-related crime, as it would allow the state to displace cocaine paste users towards marihuana, a substance whose use was generally seen as not being associated with criminality or delinquency. While this last result is in accordance with recent studies (Repetto, 2014, Queirolo, 2020, Queirolo et al., 2018), one interesting finding is that both harm reduction and public security advocates felt that liberalising access to marihuana was a more appropriate response to rising violence and drug-related crime, as the state could stimulate demand for the legal market by providing users with a more affordable and high-quality product than the illicit market.

Another interesting overlap across the various actor constellations concerns the shared views on the source of marihuana-related harms. The findings demonstrate that actors promoting individual liberties, anti-authoritarian and harm reduction priorities shared the belief that the consequences of consumption were more harmful than consumption itself, viewing most use-related harms as related to the illicit market and the legal consequences of drug enforcement. Consequently, these three actor constellations were aligned in their views that the policy goal of marihuana policy reform should be to reduce the harms and risks for those that decide to consume, whereas for public security advocates, reducing use-related harms of marihuana was not seen as a key priority compared to combating the illicit market and reducing drug-related violence. Indeed, efforts to restrict legal access to marihuana might undermine public security goals if they, for example, were to encourage users to seek marihuana through illegal channels where they would be exposed to more addictive substances such as cocaine paste.

Aside from population health advocates, the four other groups also did not seem particularly concerned that marihuana use may increase because of more liberal drug policies. However, for population health advocates, the focus of marihuana policy reform should be on discouraging use at the population level, based on the concern that use-related harms are a product of the substance itself and not the secondary effects of criminal laws. This finding is contrary to previous studies which have suggested that medical professionals and conservative politicians promoted drug abstinence and prohibitionist measures and therefore were relatively insignificant to this process

(Musto, 2018, Garcia, 2013). Yet, a more nuanced interpretation of the arguments and priorities of the population health constellation suggests that the primary concerns of medical professionals and politicians with health concerns were use-related harms associated with liberalising marihuana supply, but very few key actors were advocating maintenance of the status quo as a solution.

4.7.2 Preferred policy solutions and levels of state intervention

While there were some similarities across the different priorities and goals, there were also important differences. These differences reflect underlying tensions and divergent views on the role of the state, which in turn, seem to shape the varying ways in which each group perceived that access to marihuana should be made legally available. The findings show that individual liberty and anti-authoritarian advocates favoured an approach with either no or minimal state involvement in regulating private behaviour. While this study confirms that those promoting individual liberty positions advanced home cultivation as a solution to the perceived legal incoherence in Uruguay's drug law, there also seems to have been conflict within cannabis user groups and civil society organisations regarding their views on the most appropriate policy approach to liberalise marihuana supply. For instance, depenalising home cultivation was supported by individual liberty advocates as a more practical solution to addressing the criminal justice impacts of marihuana prohibition. Meanwhile, anti-authoritarian advocates felt that addressing the social consequences of oppressive state institutions required a more ambitious approach, thereby, favouring a strategy to provide widespread access to marihuana rather than simply removing criminal penalties for home cultivation.

The findings demonstrate that harm reduction and public security advocates favoured an approach with active state involvement in the regulation of marihuana production, distribution and sale. Although this research accords with previous literature that public security advocates supported state control over the market as a policy approach to combat organised crime (Garcia, 2013, Musto, 2018, Repetto, 2014, Queirolo, 2020, Queirolo et al., 2018, Ponte, 2013), the existing literature has not yet addressed the question of whether and in what ways health and harm reduction priorities were relevant to marihuana policy debates in Uruguay. The results show that in contrast to those with public security concerns, harm reduction advocates felt that liberalising state control over widespread access to marihuana was a more appropriate response to address the harms of illicit drug markets, which in this context was presented as

uncontrolled marihuana products and exposure to harsher illicit substances such as cocaine paste.

While previous accounts of Uruguay's marihuana policy debate have also suggested that harm reduction advocates strategically aligned with the Mujica Administration and the public security agenda in order to ensure that health and human rights concerns were also included in the regulation (Repetto, 2014, Queirolo, 2020, Queirolo et al., 2018), no study has yet unpacked and investigated the nature of these relationships. Though emphasising different concerns, the findings indicate that some representatives of the Drug Control Board and politicians within Frente Amplio were indeed in alignment with public security advocates, in the sense that they also felt that liberalising the marihuana market was necessary in order to combat organised crime. However, harm reduction advocates and some politicians did not share the belief that marihuana was a gateway drug towards harsher illicit substances like cocaine paste, which was a position strongly supported by those promoting policy reform for public security concerns. Instead, harm reduction advocates strongly believed that legalising marihuana could remove profit from organised criminal groups, which mutually supported the goals of public security advocates to prevent marihuana users from escalating to cocaine paste or becoming involved in criminal activities.

On the question of the relevance of population health positions, this chapter found that while population health advocates aligned around the shared goal to promote prevention at the population level, there was less consensus within this constellation regarding whether and how to reform marihuana policy. Instead, the population health position was more complex and uncertain, with medical professionals and the Ministry of Public Health (MSP) not opposing state control, but advocating for a precautionary approach; some national legislators opposing state control, but supporting the depenalisation of home cultivation; and a limited number of legislators and some rehabilitation centres endorsing the status quo. Regardless of such internal conflicts, it seems that all actors in the population health constellation were in alignment that marihuana policy reform should include education campaigns aimed at the general public and treatment services for marihuana users with problematic use behaviour.

These results are contrary to that of Musto (2018) and Garcia (2013) who found that medical professionals and conservative politicians organised around prohibitionist and punitive measures as a policy solution to marihuana control. However, this does not

appear to be the case. A possible explanation for this may be related to past policy scholars assuming that raising concerns about the reform or opposing particular aspects of marihuana regulation, in this case state control over the market, is synonymous with support for drug prohibition and abstinence. These findings therefore offer support to the hypothesis that debates around specific aspects of regulation (rather than polarised positions of support for or opposition to policy reform at a macro level) are a more appropriate level of analysis when studying the relationship between the different priorities and preferred policy outcomes relevant to marihuana policy debates.

4.7.3 Implications for marihuana policy constellations in Uruguay

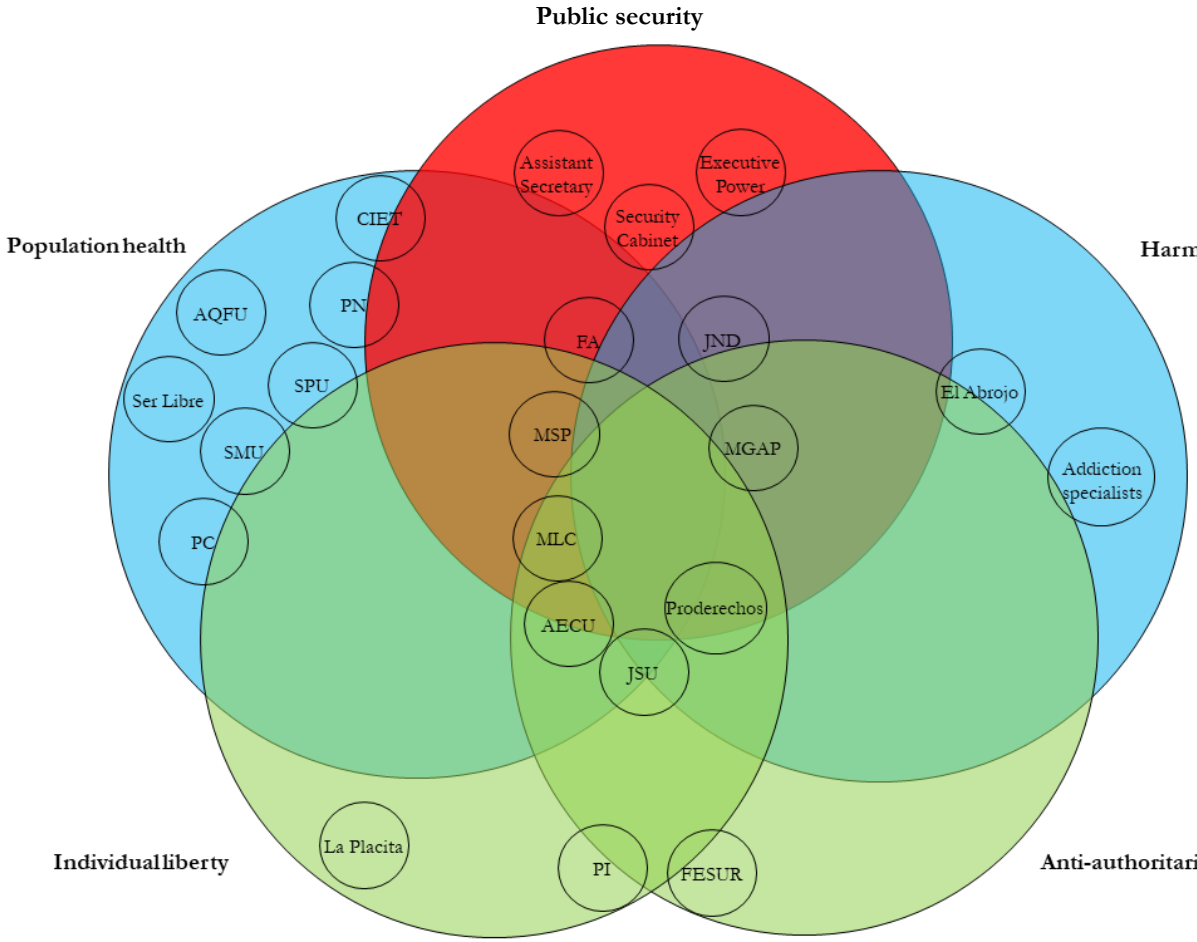
The Discussion now turns towards a reflection on the applicability of Stevens and Zampini's policy constellation framework to the Uruguayan context. **Figure 4.2** illustrates the marihuana policy constellation in Uruguay as it has operated in the debate around the need to develop policy alternatives to marihuana criminalisation between 2005 and 2012. The diversity of positions by way of diversity of actors is consistent with Uruguay's open-access pluralist, political system (Buquet and Pineiro, 2016, Forteza et al., 2003), which provides opportunities for a wide range of actors to make their concerns visible in the public sphere, including the executive authority, drug and law enforcement institutions, politicians, health professionals, home cultivation and users' rights groups and market actors. Consistent with Stevens and Zampini's depiction of UK drug policy constellations, actors in these constellations in Uruguay did not rely on a high level of coordinated activity over a long period of time, as participants often reported in the interviews that they did not align or coordinate their activities with other political actors with similar priorities or interests. Instead, the framework shows how actors within Uruguay's marihuana policy debate, though emphasising different priorities and concerns, came together through mutual recognition and support of each other's policy goals.

In attempting to create influence, actors outside of the dominant constellation, in this case individual liberties and anti-authoritarian advocates, have also sought to establish connections with decision-makers in influential positions in order to elevate their relative influence in drug policy debates. While there is no logical connection between actors advocating for liberty and those advocating for control (as measures taken to promote public security often limit the individual liberties of drug users (Stevens and Zampini, 2018)), the data suggest that these overlaps were strategically motivated.

Cannabis activist groups and home cultivators recognised that marihuana policy reform would be impossible without the support of the same conservative state institutions and politicians that for several years had been the primary source of the problem. At the same time, the political weight of the Executive Branch and, in particular, President Mujica's ability to control the content and direction of the government's agenda (Buquet, 2009, Forteza et al., 2003, Zucco, 2013), meant that aligning with the public security constellation would allow for anti-authoritarian advocates to reach their policy goal of liberalising widespread access to marihuana. Interview accounts indicate that several participants in the cannabis liberalisation movement wanted to liberalise marihuana sales, but felt that this would be impossible without the support of President Mujica.

Actors in the Uruguayan marihuana policy constellation also had to garner legitimacy and political support for their ideas from the general public and opposition parties (Buquet and Pineiro, 2016, Forteza et al., 2003). Although marihuana policy reform advanced to legislative debate in 2012, reform proponents faced considerable obstacles and constraints throughout the marihuana policy process (Draper and Sienra, 2017). Those at the centre of the diagram, particularly actors working inside the Mujica Administration and the Drug Control Board, needed the president's support to bring the issue to a place of legitimacy. However, they also needed the support of civil society in order to present alternative ways of thinking about the issue other than crime and addiction. Without a cohesive, strategic purpose, the broad consensus present across the policy constellation (that the existing legal framework was untenable) would be vulnerable to disruption from right-wing political parties in Uruguay, some of which formed part of the population health constellation, who could take advantage of the group's internal conflicts and undermine the goal for policy reform (Castiglioni, 2018).

Figure 4.1 Illustration of Uruguayan marihuana policy constellations



Adaptation of Stevens and Zampini (2018)

Acronyms: Uruguayan Association for Cannabis Studies (AECU); Independent Party (PI); Cannabis Liberation Movement (MLC); Young Socialists of Uruguay (JSU); Frente Amplio (FA); Drug Control Board (JND); Ministry of Livestock, Agriculture and Fisheries (MGAP); Ministry of Public Health (MSP); Uruguayan Psychiatric Society (SPU); Tobacco Epidemic Research Centre of Uruguay (CIET); Uruguayan Pharmacists Association (AQFU); National Party (PN); Colorado Party (PC)

In terms of whether the Stevens and Zampini policy constellation framework enhances our understanding of the diversity of actors, positions and perspectives within Uruguay's marihuana policy debate, the findings suggest that it does, but requires significant adaptation to the local context. The first limitation is that the public health position is less homogenous in Uruguay than Stevens and Zampini would imply. As the findings demonstrate, the main conflict between those with public health concerns centred on whether the objective of marihuana policy reform should be harm reduction or prevention, but population health advocates were not supporting prohibition as a policy solution. There were also varying concerns and perspectives on how to approach marihuana policy reform within seemingly aligned constellations, suggesting that these tensions might have been more temporary or strategic than they were ideological.

Relatedly, Stevens and Zampini's depiction of UK drug policy constellations as constituting a set of social actors that come together 'given their relative commitment to moral foundations on a spectrum between conservative and liberal positions' (Stevens and Zampini, 2018) does not reflect the range of positions or their interactions with one another within Uruguay's marihuana policy debate. This might be partly because in emphasising the importance of a moral spectrum of liberal to conservative positions, the policy constellation framework assumes that a relatively high degree of polarisation exists across the different actor constellations, at least in terms of how drug policy debates have been presented in the UK. Similar issues have also emerged in tobacco and e-cigarette policy debates, in which Smith argues that actor coalitions might be explained more appropriately 'as a convergence of overlapping principles and interests' (Smith, 2013), an observation that also seems apposite to the data that emerged from this study.

Although an international perspective might tend to view drug policy debates as a crude divide between advocates of legalisation and prohibitionists, marihuana policy debates in Uruguay might be more appropriately characterised as a case of 'strange bedfellows', in which actors with seemingly polarised positions share more common ground in their policy proposals than groups that are ideologically more closely aligned (Goode, 1998). Compared to the more conservative positions in the UK context, data from this study suggest that marihuana policy debates in Uruguay have been informed by a broad consensus that the existing legal position was recognised as untenable. An implication of this widespread consensus is that it seemingly allowed cannabis user rights groups and home cultivators, which for several years arguably had been the targets of drug

enforcement in Uruguay (Draper and Sienra, 2017, Musto, 2018, Garcia, 2013), to become more closely involved in drug policy debates and decisions.

Finally, the medico-penal framework does not seem to capture the dominant voices involved in marihuana policy debates in Uruguay. Although there were other relevant actors arguing for policy reform due to civil liberties and individual health concerns, most participants identified in this study argued that the most critical group was the public security constellation, which included actors that held powerful positions over the direction and content of drug policy debates and decision-making processes in Uruguay. In the UK context, the other relevant voice of the 'medico-penal' constellation is the Health Ministry. However, data from this study suggest that the Ministry of Public Health (MSP) did not take a formal position on marihuana legalisation and most participants felt that the Health Minister was largely absent from this debate. This finding is consistent with previous research that suggests public security advocates were the dominant actors involved in marihuana policy debates in Uruguay (Queirolo et al., 2018, Repetto, 2014), which has implications for the relative influence of public security concerns over the development of Uruguay's marihuana regulation covered in subsequent chapters.

These points are illustrative examples of some of the complexities involved in debates about marihuana policy reform that serve to highlight the limitations of approaches that have depicted marihuana policy debates as between two opposing coalitions: prohibitionists and legalisation advocates. **Figure 4.2** is a modified version of Stevens and Zampini's visual depiction of marihuana policy constellations in the Uruguayan context, but even this is a simplified representation of what is a far more complex and nuanced array of different beliefs, priorities and concerns relevant to marihuana policy debates. Therefore, while policy constellations provide a better means to understanding the complexities and contours of marihuana policy debates in Uruguay, it seems that this framework does not do enough to explain the contingent nature of the networks and actors involved.

4.8 Conclusion

In this chapter, Uruguay's marihuana policy debate was explored through the lens of policy constellations. It finds that a wide array of actors and priorities were involved in shaping the nature of marihuana policy debates, reflecting diverse perspectives of civil liberties, anti-authoritarianism, harm reduction, public security and population health.

In contrast to the international literature, this study provides a more nuanced view of the positions of different actors involved in marihuana policy debates in Uruguay. In this context, the great divide between legalisation advocates and prohibitionists appears to have been less politically salient. The more complex positioning of policy constellations in Uruguay provided opportunities for liberalisation advocates, in particular cannabis user rights groups and home cultivators, to become more directly involved in drug policy debates and decisions. The findings suggest that in marihuana policy debates particular attention should also be paid to the environmental conditions under which policy problems develop, which may shed light on how policy actors strategically build unlikely alliances with powerful individuals in order to amplify their relative influence in policy debates and decision-making processes (Stevens and Zampini, 2018, Goode, 1998). Finally, the findings indicate that the policy constellation framework offers a useful analytical lens to explore the underlying dynamics and broader contours of marihuana policy debates, but the framework required significant adaptation to the particular historical and political differences of Uruguayan society.

5 Challenges achieving horizontal coherence across health and public security in the formulation of marihuana regulation

The purpose of this chapter is twofold. First, it explores the extent to which the promotion of policy coherence across health issues, with particular reference to tobacco and alcohol, shaped the development of Uruguay's approach to marihuana regulation. Second, the chapter deals with the question of how other goals or objectives interact with the health goals of marihuana regulation: how these goals may be neutralised or even impaired by the impact of other policies, with particular reference to public security. In light of this, the chapter addresses the following research question: *To what extent was Uruguay's approach to marihuana regulation influenced by the promotion of policy coherence within health and across other policy spheres?* As outlined above, I follow the approach to studying policy coherence as described by Blouin (Blouin, 2007) to analyse how proponents of reform sought to align practices, policies and objectives within health and across other policy spheres in the formulation and design of Uruguay's marihuana regulation. By formulation and design, I am referring to what Berlan and colleagues describe as the generation of policy alternatives, deliberation and consultation processes and the advocacy of specific policy alternatives (Berlan et al., 2014). Note that this chapter does not deal with post-enactment activities that guide implementation such as the rulemaking process or the development of detailed regulations, which I address in Chapter 7.

In Chapter 1, it was shown that key officials involved in the development and implementation of marihuana regulation have framed Uruguay's approach as constituting part of a consistent strategy to regulate unhealthy commodities—namely tobacco and alcohol. However, it is not entirely clear whether and to what extent existing policy approaches from tobacco and alcohol regulation have been applied in the development of marihuana policy in practice. This chapter also builds on the literature review concerning the relevance of Uruguay's historic and contemporary approaches to tobacco and alcohol regulation and their implications for marihuana policy development. As outlined in Section 2.2, the review suggests that while several studies show some *prima facie* evidence of policy similarities between Uruguay's tobacco (Murkin, 2014, Arocena and Aguiar, 2017) and alcohol approaches (Garat, 2016, Arocena and Aguiar, 2017, Rivera-Vélez, 2018, Forné, 2017, Musto, 2018), there is very

little empirical research exploring the processes by which knowledge, practices and policy tools from either of these experiences informed the development of marihuana regulation.

Although marihuana legalisation debates tend to pay little attention to the history of control of clandestine gambling and sex work industries (MacCoun and Reuter, 2001), data from this study suggest that attention should also be paid to the ways in which Uruguay's experiences in regulating these other markets shaped understandings on how to develop marihuana regulation. Because Uruguay's experiences in regulating gambling and sex work were often mentioned in the interviews shortly after or alongside its history of a state monopoly over alcohol production, I deal with their relevance to understanding marihuana policy development briefly in the Results and in more depth in the Discussion section of this chapter. Based on my conclusions from the literature review, I hypothesise that the major legislative successes and breakthroughs in tobacco, contrasted with challenges in passing legislation in the alcohol space, are likely to have influence over the ways in which these different models of health governance were drawn on in marihuana policy debates. Secondly, I argue that Uruguay's history of state intervention in the alcohol market, as well as sex work and gambling, is also likely to have relevance to aspects of the debate, even if it is just in terms of demonstrating historical precedence.

The results outlined in this chapter are presented as follows. Section 5.1 discusses the debate on policy coherence between marihuana regulation and Uruguay's tobacco model, whereas Section 5.2 discusses that debate in relation to alcohol. In Section 5.3, I present data on the relevance of Uruguay's history of control over the gambling and sex work industries to shaping understandings of how to develop marihuana policy. 5.4 then presents the case of policy incoherence in the debate around public security and unhealthy commodity regulation policies in the context of the illicit marihuana market, with particular reference to ideational conflicts, taxation and price, and policies regulating the availability and accessibility of marihuana. In the Discussion (Section 5.5), I present a summary of the findings and discuss the extent to which Uruguay's approach to marihuana regulation was shaped by the promotion of policy coherence within health issues and across other policy spheres. The Discussion then situates this research in the relevant literature, discusses what the findings say about broader debates concerning policy coherence within health and across health and other policies and

offers insights on the potential implications of the findings for health governance in Uruguay.

Results

5.1 Policy coherence with tobacco as legal, available but not promoted

The development of the ideas and institutions underpinning Uruguay's approach to marihuana regulation began amidst significant changes to the tobacco model in the 2000s, when high-level officials of the Mujica Administration, along with representatives of the Drug Control Board, became interested in ideas relating regulation to harm reduction. In particular, high-level officials of the Mujica Administration felt that the tobacco model challenged the idea that prohibition, a longstanding strategy of the international drug control regime, was the most effective way to address rising drug consumption, particularly among young people. In the interviews, key actors of the Mujica Administration asserted that despite being the largest contributor to premature death in the world, tobacco remains legal and reluctantly tolerated because full prohibition is politically unviable. Importantly, the tobacco model was presented as indicating that Uruguay could effectively reduce marihuana use through regulation and education without prohibition.

High-level officials of the Mujica Administration therefore argued that the most appropriate way to prevent rising consumption was to regulate marihuana along similar lines to tobacco. This assumption is clearly observed in a statement made by former Assistant Secretary of the Mujica Administration Diego Cánepa at a December 2012 public hearing of the Uruguayan Parliament's Special Commission of Drugs and Addiction (where the marihuana regulation bill was debated between 2012 and 2013). Discussing the implications of Uruguay's experience in regulating tobacco for marihuana policy, the high-level official presented the tobacco model as illustrating that:

> *The experience from the last six years has demonstrated that when we Uruguayans generate conditions of strict regulation, we can denaturalise consumption and the negative consequences of addiction* (Cánepa, 2012a).

The promotion of policy coherence across marihuana and tobacco appears to have been presented as the official position of the Mujica Administration, though the extent to which this was viewed as a normative commitment is less clear. Instead, interview accounts suggest that key officials of the Mujica Administration, who participated on

the legal defence team for the lawsuit against Philip Morris International (see Section 2.2.2), were taking advantage of a 'window of opportunity' to promote the development of consistent regulation across marihuana and tobacco because Uruguay had recently become internationally recognised as a leader in tobacco control. When asked how they sought to regulate marihuana along similar lines to tobacco, one high-level official responded by stating in a 2018 interview: '*Remember that we were at that moment—President Mujica had an important change with the regulation of tobacco, including we were world famous and we were in the middle of an international arbitration against Philip Morris.'* (P6, regulator) This reference to Uruguay's international status as a leader in tobacco control can similarly be observed at a press conference in August 2013 following advancement of the marihuana regulation bill to legislative debate, in which former Assistant Secretary Diego Cánepa asserted:

> *We are going towards strict regulation with marihuana, tobacco and alcohol. I think that there is enormous consistency. The problem is not if marihuana is good or bad because cigarettes kill 3 or 4 thousand Uruguayans per year, and it has not occurred to anyone that we must prohibit tobacco use or that we must prosecute those that consume tobacco. What must be done is strict regulation and control. That is why there are great anti-smoking campaigns that have led us to international tribunals against tobacco companies, because Uruguay is a leader in the anti-tobacco campaign and we have a strictly regulated market; the solution is not prohibition, it is to strictly regulate the marihuana market* (Cánepa, 2013a).

To other key actors, particularly those associated with the Drug Control Board, the experience with tobacco was presented as demonstrating that through regulation, the state could address the unintended consequences associated with limited government intervention in the marihuana market, for instance problematic use and low-risk perceptions. One representative of the Drug Control Board argued that prior to implementation of Uruguay's 2005 tobacco control law, the tobacco market was similar to that of the illicit marihuana market in the sense that it was '*dominated almost exclusively by the laws of the market but by multinational corporations [rather than organised crime]*.' (P11, regulator) This view was echoed by another informant who argued that the primary issue with marihuana was not its legality but rather the public health consequences of a market that was not state regulated. Drawing parallels to tobacco policy in Uruguay prior to 2005, one harm reduction advocate stated in a 2018 interview:

> *The results of the tobacco policy are so clear. It was legal, not regulated and it was a disaster. Now, tobacco consumption has reduced but it was not because it was illegal. It's legal and regulated. The state regulated what was possible but not from the business perspective but rather from a public health perspective.* (P19, medical professional)

For some participants, policy coherence with the tobacco model meant that the state could more effectively prevent corporate control of the market with the overriding goal

of preventing problematic marihuana use. Applying the tobacco model in this context implied that there would be a public education campaign to increase risk perceptions among the general public and prevent youth consumption through state intervention rather than a free market approach. It was suggested that regulating marihuana along similar lines to tobacco illustrated that it was possible to legalise marihuana sales without increasing use significantly by placing strict limitations on the market conduct of marihuana producers. Commenting on the benefits of Uruguay's tobacco approach, one legislator noted that:

> *So, Uruguay had a tobacco policy, where it precisely established market regulation, where advertising was prohibited, for example. Where youth consumption was cut in half, from 34% to 17%, and where it managed to increase risk perceptions for tobacco use through public education campaigns. For example, we have very low risk perceptions related to marihuana because prohibition also generates myths in favour of consumption. Just as there are myths against it, there are also myths in favour and that is not good for health policy either. So, to regulate the market, this tobacco policy somehow generated the 'know how' that it was possible to regulate the drug market and have positive effects, limiting the actions of marihuana companies.* (P15, politician)

Given that the tobacco model respected the liberty to consume without promoting excessive consumption, representatives of the Drug Control Board and harm reduction advocates generally embraced its application to marihuana regulation. According to some harm reduction advocates, aspects of the tobacco model that were perceived as relevant for marihuana regulation included:

> *The good lessons from what was the knowledge of tobacco; like for example, the issue of no marketing, no branding, and a series of things. I think it is beneficial that a potentially risky product such as cannabis does not have merchandising of any kind throughout the entire supply chain.* (P29, civil society)

Accordingly, the tobacco model was presented as providing a blueprint for the development of a regulatory strategy for marihuana that could, as one interviewee suggested:

> *Reduce marketing as much as possible but for those that want to consume the substance can do so freely. What is restricted more than anything is marketing related to consumption. [In other words] prioritise information on the risks of consumption, but consumption is allowed.* (P38, regulator)

Although Uruguay's tobacco regulation discourages use at the population level, the way that some participants, namely harm reduction advocates, presented the approach in the interviews suggested that they felt use should be discouraged among youth but not the general population. Conceptualised this way, applying the tobacco model to marihuana regulation meant that the state would intervene to prohibit marketing that promoted

marihuana use or the creation of demand, but in general, use would be tolerated and not discouraged entirely.

Critics of this approach to marihuana regulation argued that the tobacco model was overly restrictive and stigmatised users. However, a small majority of marihuana consumer groups and drug reform advocates recognised the potential benefits of the tobacco model in terms of the public support it could provide to the proposed marihuana regulation bill. As one representative of Proderechos [a drug reform advocacy group] put it: '*tobacco regulation was widely accepted in Uruguay.*' (P12, civil society) Interview accounts show that marihuana consumer groups and drug reform advocates were taking advantage of the knowledge about the tobacco model among the general public in order to reduce uncertainty and increase popular support for marihuana regulation. As the following interviewee reflected, this strategy helped to address public anxieties regarding whether marihuana use would increase as a result of liberalising marihuana supply:

> *The tools given by regulation, to curb tobacco use without banning a single cigarette. But I mean, I honestly think it is one of the more convincing points that Uruguay has managed to use regulation in such an effective way to reduce tobacco use by 30%.* (P41, civil society)

The idea to regulate marihuana like tobacco was used in other ways aside from convincing the public that marihuana legalisation would not lead to a significant increase in consumption among young people. It was also used to counteract criticism that proponents publicly received from critical legislators from Uruguay's National and Colorado Parties regarding how liberalising the marihuana market was inconsistent with Uruguay's approach to tobacco control. Thus, the parallels with tobacco regulation were used to convince critics of the benefits of legalising and regulating marihuana to prevent excessive consumption at the population level. As a representative of Proderechos claimed in a 2018 interview:

> *One classic question that they asked us: 'but restrictions were increased for tobacco and alcohol and with this you say you are going to sell marihuana? So, this is contradictory.' So we said no, it is not contradictory. Tobacco demonstrates that you can make better policies and the best way to make it so that people don't smoke tobacco is not prohibiting it but rather it is developing campaigns, explaining, and regulating it. Making policies; that is how you achieve it [reduce consumption]. That was our response. But it was not our original goal. It was not like we looked for that decision but rather we had to explain the response and that was our explanation.* (P26, civil society)

The discursive function of the idea of regulating marihuana like tobacco is best illustrated through a 2012 campaign entitled 'Responsible Regulation', launched by a coalition of drug reform advocates in Uruguay. According to some of its architects, the

primary aim of the campaign was to demonstrate to the public that by applying the tobacco model to marihuana regulation, Uruguay could reduce consumption, although the message was vague in terms of the target population:

> *In Uruguay, tobacco has been successfully controlled and regulated by the government. Such regulation has led to a marked decline in consumption among young people. This demonstrates that we can successfully regulate a potentially harmful substance and reduce marihuana use through an existing regulatory model* (Regulación Responsable, 2013).

The ambiguity surrounding the idea that marihuana would be regulated like tobacco was particularly concerning for those interested in regulating unhealthy commodities through a population-based approach. In particular, medical professionals and tobacco control advocates were concerned by the potential impacts of legalising marihuana supply on tobacco denormalisation efforts, if it were to renormalise smoking behaviour, for example. As one medical doctor that specialises in tobacco cessation put it: '*The problem is the act of having a cigarette, taking it to your mouth and inhaling, really puts you at high risk of relapse in the context of tobacco use.*' (P5, medical professional) Though there was concern that legalising marihuana supply might send an inappropriate message to young people regarding the harms of marihuana use, the perception of some tobacco control advocates was that this would also likely impair Uruguay's health objectives to prevent tobacco consumption. Commenting on emerging evidence that suggested young people who consume both marihuana and tobacco had a higher risk of developing nicotine addiction, another medical professional and tobacco control advocate asserted:

> *We also do not know what the escalation of dual use is of someone who sometimes smokes marihuana and sometimes smokes tobacco or what that relationship is. Because if one does not quit, it is likely that they are smoking both and it is going to be harder to quit. They would have to abandon both at the same time.* (P1, medical professional)

Based on concerns of the potential impacts of legalising marihuana supply on smoking renormalisation, tobacco control advocates publicly called for an approach to marihuana regulation that was consistent with and mutually reinforced Uruguay's tobacco control objectives. At a 2013 public hearing of the Special Commission of Drugs and Addiction, Dr. Eduardo Bianco, founder and former President of the Tobacco Epidemic Research Centre of Uruguay (CIET), argued that a key lesson to take from the tobacco experience and approach was that by making marihuana socially undesirable, the state could more effectively prevent youth use compared to an approach that focused exclusively on youth prevention. For instance:

> *One of the things that seems important to me is that if we don't want marihuana to arrive to minors, we need to have coherence between what we have with tobacco and alcohol with this issue. It is illegal to smoke or drink alcohol for those under 18 years old, but the majority of*

> *young people do. The issue is how do we reduce that consumption? In this sense, what the tobacco experience has given us is what is called the 'passive market', which is what it is about. It's not illegal, consumption is legal, but the state is pursuing the greatest possible effort to discourage consumption. That is where we are going with tobacco and where we hope that the state is going with alcohol. According to data from the Drug Control Board that is the objective [of marihuana regulation]. In other words, personally we would like that there existed coherence between these policies* (Bianco, 2013).

A common view among tobacco control advocates was that the most appropriate way to prevent a rise in either marihuana or tobacco consumption was to align the health objectives of marihuana regulation to tobacco denormalisation goals. As indicated in the previous quote, this implied that like tobacco, marihuana would be legal and available, but the state would be '*actively*' (P4, lawyer) pursuing actions and programmes to discourage use at the population level. According to some tobacco control advocates, aspects of the tobacco model that were perceived as most relevant for marihuana regulation included a demand reduction strategy that sought to keep levels of use down through a comprehensive ban on marketing and advertising and education campaigns aimed at the general population and not exclusively youth. Importantly, marihuana regulation should respect and be included in Uruguay's smokefree law for tobacco, with the goal of denormalising use at the population level for both substances. Indeed, this was a central priority of several tobacco control advocates, who called for the health objectives of marihuana regulation to not only be consistent with tobacco control but to also support tobacco denormalisation goals:

> *That was the fear that we personally had at that time and what we hoped for, was to ensure that the government was going to develop adequate prevention and education campaigns to influence the population; that there was not going to be any kind of marketing. That it was not going to allow people to smoke in enclosed spaces and that it was going to respect the tobacco control regulation. Because one of the things that we had to face during the regulation of tobacco control was that people, including journalists, said: 'So you can't smoke tobacco but marihuana you can?' So, for us it seemed logical to homogenise the two policies: you can't consume in enclosed spaces any type of smoked product, which at the end was what we wanted to achieve.* (P5, medical professional)

> *I'm speaking of health governance and the coherence of these policies. If I have a tobacco control policy and what I want to do is denormalise consumption and on the other hand, I have a policy for cannabis regulation without an education campaign to deter consumption. I have normalisation of cannabis use while tobacco use is being denormalised. They are two public health objectives that are inconsistent. Policy coherence strengthens the health objectives and policy incoherence within health policies weakens the objectives…So, in response to the question, for me, marihuana policy would have to link itself or condition its approach to tobacco control.* (P4, lawyer)

Public statements by the Mujica Administration and representatives of the Drug Control Board suggest that the promotion of policy coherence across tobacco and

marihuana was an integral part of how Uruguay intended on pursuing marihuana regulation (Cánepa, 2013a, Cortés, 2013, Calzada, 2012b). However, concerns were raised by population health advocates about the ambiguity surrounding whether a goal was to reduce consumption at the population level. A potential reason for this ambiguity is that key officials of the Mujica Administration and several other proponents of marihuana policy reform were drawing on a specific type of tobacco model, but not necessarily Uruguay's approach to tobacco control, known as the 'Regulated Market Model' for tobacco supply (Borland, 2003). This is addressed in more detail in Chapter 7, Section 7.4, but for the purposes of this chapter, it is important to highlight that the focus of the 'Regulated Market Model' is to reduce incentives for the promotion of tobacco use and encourage the development of less harmful products (Borland, 2003). Conversely, the overall goal of Uruguay's tobacco regulation is to discourage tobacco use at the population level (Abascal et al., 2012), as reflected in the international standard for demand reduction under the WHO's Framework Convention on Tobacco Control (FCTC) (Callard and Collishaw, 2013).

This helps to explain some of the ambiguity surrounding whether a goal of marihuana regulation based on the tobacco model was to eliminate consumption entirely or whether regulation only aimed to reduce use-related harms for current users. Representatives of the Mujica Administration and Drug Control Board had little apparent interest in applying tobacco control measures to marihuana regulation that went beyond persuading individuals to consume in responsible ways–which suggests they were aligned more with the second aim. In contrast, tobacco control advocates were concerned about what they saw as a potential lack of consistency between marihuana regulation and tobacco control, in that the former seemed to be aimed at reducing harm among users while the latter aimed to reduce consumption at the population level. A lack of information regarding the potential implications of marihuana regulation for other policy areas served to exacerbate these concerns. Although deliberation and consultation on the more generalised aspects of the marihuana regulation bill were open to a wide range of political actors, as indicated from the documentary analysis and corroborated by interview participants, negotiation on the specific details of the bill had occurred behind closed doors. As one tobacco control advocate asserted in a 2018 interview:

> *Yes, there was concern on our part in getting information, to see what was going on, what it was about, the risks that it could have. For example, with respect to smokefree environments, if they were going to allow marihuana smoking in places where it is prohibited to smoke*

> *[tobacco], and a series of things. We were trying to get [information] so that we could minimise the risks of some of the actions that were being discussed in those initial moments.* (P5, medical professional)

Ultimately, attempts to promote policy coherence between marihuana regulation and Uruguay's tobacco model were reflective of the values and interests of the Mujica Administration and the Drug Control Board. In practice, this meant that the state would: (i) regulate where consumption would be permitted; (ii) restrict promotional activities; and (iii) require mandatory labelling of contents on packaging. These measures were regarded as preventing the promotion of excessive consumption, but without directly affecting the liberty of the individual user. Indeed, there was general resistance by proponents of marihuana regulation to the idea that marihuana should be regulated to the same degree or intensity as tobacco based on the claim that each substance requires a framework that is specific to its unique historical and legal context, consumption culture and relative risks and harms of use.

5.2 Policy coherence with alcohol as promoting responsible use

Throughout 2012 and 2013, key officials of the Mujica Administration also publicly claimed that Uruguay was developing an approach to marihuana regulation that constituted part of a consistent strategy to regulate marihuana and alcohol (Cortés, 2013, Calzada, 2012a, Cánepa, 2013a). However, it seems that key officials were attempting to pass comprehensive legislation to regulate marihuana and alcohol simultaneously, rather than drawing on the success of the tobacco control experience as a model for regulating marihuana. It was suggested that by promoting concurrent legislative efforts to develop consistent regulation over marihuana and alcohol, Uruguay could address the problems of problematic use, which key officials felt were often provoked by the lack of '*strict regulation*' over both markets (P6, regulator). The statement below from a 2013 press interview with Assistant Secretary Diego Cánepa clearly illustrates this assumption:

> *The strict regulatory policy that will be applied to alcohol is the same as marihuana. The only thing that changes is the point of entry: in the case of alcohol, it goes from liberalisation to restriction, while with cannabis, it comes from prohibition to arrive at strict regulation* (Cánepa, 2013b).

While the above quotation claims a deliberate effort was made to promote policy coherence across marihuana and alcohol regulation, it is not entirely clear how officials sought to align policy goals and instruments across the two health issues. In the interviews, participants were therefore requested to elaborate further on this claim by

explaining the ways in which they would regulate marihuana along similar lines to alcohol. In response, one key official of the Mujica Administration asserted that:

> *I think that something has been left out and mostly hidden behind the reason for why we did this, which is that I was a strong proponent of regulating alcohol use in Uruguay….it was my obsession and it was my greatest failure in government, my only huge failure. So, I was obsessed because the most harmful drug in Uruguay is alcohol and it's legal. The second most harmful drug is tobacco and it was legal. So, I did not understand why we did not discuss the third drug that yes, also produces harm [because] it is not a problem of access but rather a problem of addiction.* (P6, regulator)

When asked to elaborate further on the ways in which they envisioned that marihuana would be regulated along similar lines to alcohol, the high-level official continued to argue:

> *They [the public and opposition parties] criticised me a lot. They said that you made alcohol regulation a lot stronger and you liberalised marihuana. It is a contradiction and it is an error because we came from one extreme with alcohol where consumption was barely regulated and marihuana was prohibited. So, the idea was to bring both to a middle point and strongly regulate alcohol and strongly regulate marihuana.* (P6, regulator)

Before moving on to consider the implications of Uruguay's alcohol experience for marihuana regulation, it is important to recall that post-privatisation of the alcohol market demonstrates the challenges of passing comprehensive legislation to regulate the alcohol space in Uruguay. Section 2.2.1 described how the Mujica Administration attempted and ultimately failed to pass legislation introduced in 2013 to regulate the production, distribution and sale of alcoholic beverages (World Health Organisation, 2018). Interview accounts suggest that these challenges emerged long before the introduction of the legislative proposal to regulate marihuana in 2012, with difficulties in passing comprehensive legislation to regulate alcohol dating back to at least 2008. This presentation of key events is illustrated in the following quotations from two interviews with former representatives of the Drug Control Board:

> *Alcohol, we had two bills in 2008 and one in 2013 where we failed utterly. Alcohol, or better said alcoholic beverages, have a history at the global level, it has antecedents in the dry law [alcohol prohibition] of the United States from the 1930s that was a complete failure. Furthermore, alcohol, compared to tobacco and marihuana, the difference is that there is a legitimate social use, even a legitimate religious use.* (P13, regulator)

> *There is a lot of pressure and so nothing is done. The only thing that we did in the issue of alcohol. It is a substantial issue; is the issue of driving under the influence. The only thing. With alcohol there is no regulation, there is a history of trying to regulate.* (P16, regulator)

The above statements appear to suggest that while key officials of the Mujica Administration were attempting to pass concurrent legislation to comprehensively regulate marihuana and alcohol, these efforts were constrained by both a lack of

popular support and commercial opposition to greater regulation of the alcohol market. For example:

> *If we look at all there is to gain with strict and strong regulation. Tobacco, incredible all that was achieved and there is a history why. Alcohol, this president, this government also had initiated strong bills but none of them advanced. There is a multi-party commission. But if you notice, not much has changed in terms of a regulated alcohol market, why? Because there are very strong economic interests in society. The bars, common people, it [regulation] is very unpopular - very unpopular.* (P6, regulator)

When other participants were asked what the relevance was of the argument that marihuana was to be regulated like tobacco or alcohol, most were surprised by the reference to alcohol. Rather, as reflected by some harm reduction advocates in the interviews, the alcohol model provided *'important lessons of what not to do'* (P29, civil society) in the case of regulating the marihuana market in Uruguay. Interview accounts suggest that a key goal for some advocates of marihuana regulation was to avoid the development of a market like alcohol, in which private interests seek to maximise profit by promoting excessive consumption and minimal regulation. An addiction specialist went so far as to claim that there was broad consensus among proponents of reform regarding how '*it was clear that the [marihuana] market would not be dominated by the industry [like alcohol]. I did not have that concern.'* (P19, medical professional) Indeed, for most other proponents of marihuana policy reform, the alcohol experience demonstrated that without a tightly regulated market, there was a risk that this might encourage the development of a structurally powerful force that would seek to promote permissive cultural norms about marihuana use and increase consumption through marketing campaigns aimed at young people. As one harm reduction advocate stated in a 2018 interview:

> *The Uruguayan model is very statist indeed. It represents the other pole without reaching a monopoly but a monopoly of control, of the state's responsibility to control the substance, which was not done in a timely manner with alcohol. We do not want that market for the adult use of cannabis nor for alcohol, where the industry created the need to consume and was part of the problem.* (P19, medical professional)

A decade of changing alcohol use patterns in Uruguay was presented as a central example of the negative health impacts that industry consolidation and unregulated corporate control of the market could have for a legal marihuana industry. According to several representatives of the Drug Control Board, prior to privatisation of alcohol production, the alcohol market had been relatively small and predominantly controlled by the National Administration of Petroleum, Alcohol and Cement (ANCAP). After the state monopoly was dissolved, following liberalisation of the alcohol market in the

1990s, the market became saturated by multinational alcohol companies such as AB InBev and Diageo (Jernigan, 2009), which subsequently sought to shape consumer demand in ways that shifted the national market share from wine to predominately beer consumption. As one interviewee from the Drug Control Board put it:

> *Beer in Uruguay is consumed cold. The culture does not consume it warm or hot as it is in Central Europe but rather cold and between November and March [Uruguay's summer season]. And in winter, we consume wine. Well, over the last 10 years, a campaign aimed at young people changed consumption patterns and that produced a cultural change of important magnitudes in our society. I think that that was between 2000 and 2010. Also, between that period, there was a concentration of the beer industry in Uruguay, Argentina and Brazil, as there was worldwide, which was that InBev bought all of the smaller beer companies here [in Uruguay] that it was able to. For example, the other companies that there were, were bought by the National Beer Factory [an affiliate of AB InBev]. This has created a very strong concentration [of the market] and an important impact on society. So, they say that some private television channels here, 60% of their budget come from the beer companies.* (P11, regulator)

Some interviewees linked more recent changes in alcohol regulation to the history of the country's alcohol industry. As indicated above, alcohol production in Uruguay had been brought under state control in the 1930s and thereafter operated as a state monopoly for some decades. Alcohol production was subsequently liberalised (in the 1990s) and Uruguay transitioned to a private market – which was seen as having led to an increase in overall consumption. At the same time, the development of a powerful commercial industry made it more difficult for the Uruguayan government to pass regulation over the alcohol market to avoid harms associated with excessive consumption. Interview accounts suggest that key legislators and representatives of the Drug Control Board drew on these experiences to inform an approach to marihuana regulation that sought to avoid the development of a structurally powerful force that would seek to exert political influence over the policy process. The comment below by one key politician, who was involved in legislative efforts to regulate both marihuana and alcohol in 2013, clearly reflects this concern. According to this informant, the alcohol experience illustrated that without state control over market conduct, this would create structural barriers to passing marihuana regulation in the future, as the political pressure to promote minimal regulation would source from diverse sectors of the industry. For example:

> *I think that the principal thing is that authority remains under state control because we run a huge risk like what occurs with alcohol today where half of the population consumes alcohol daily in Uruguay. There are strong economic interests, from the workers to the companies that make it so that passing regulation is difficult. Because each time that someone wants to regulate the alcohol market, the beer companies, wine producers, whiskey importers jump up. Because it is an increasingly powerful market. I think that we had the opportunity [with*

> *marihuana] because the market is dominated, let's say, by drug traffickers, and we don't receive that pressure. And we are able to guide the industry in some way. Telling them what they have to plant, for example, and what they cannot do.* (P15, politician)

The idea that alcohol use and the alcohol industry were perceived as significant policy problems in Uruguay did pose some challenges for proponents of marihuana policy reform. Although wanting to avoid a commercialised marihuana market, there were some important aspects of the alcohol model that key actors found more appealing than tobacco since the alcohol model recognised the right to consume as long as consumption was within certain limits (MacCoun and Reuter, 2001). Underpinning this policy preference was a common belief among most participants that substance-related harm affects a minority of people who consume alcohol and marihuana in harmful or irresponsible ways, but when used in moderation, neither substance was seen as posing a significant threat to the health of individuals or society. This was in contrast to the understandings of the harms of tobacco that when used in moderation still posed significant health risks to the user. As a former representative of the Drug Control Board reflected in a 2018 interview:

> *There is another important aspect related to alcohol. Alcohol generates familial problems, huge problems, there is no way to attend to alcoholics. There are no consultation services for alcohol. But tobacco has a phenomenon that neither marihuana nor alcohol [have]... If you moderate your alcohol consumption, you don't have a problem. It's to say that there is a security threshold with alcohol that you don't have with tobacco. Only one cigarette harms you. But if I drink a little [there are no problems]. Of course, afterwards you have people that cannot quit.* (P13, regulator)

Consequently, the goal of the alcohol model in Uruguay has never been to eliminate use entirely but rather to promote responsible consumption for adults and discourage initiation in at-risk populations, e.g., children and pregnant women. These were the central aspects of the alcohol model that some proponents of policy reform wanted to bring to marihuana regulation, as they were seen as being consistent with the goal to *'guarantee the liberty to consume from the point of view of rights and restricting promotions on consumption that drive people to consume.'* (P11, regulator) According to some participants, promoting responsible use seemed like the most appropriate approach for the marihuana education campaign, as one psychiatrist explained in a 2018 interview, *'the campaign should have more or less the same characteristics of the alcohol campaign, it should deal with an education campaign about responsible use.'* (P21, medical professional) Such a focus of the marihuana education campaign was also in line with previous efforts that the Drug Control Board had taken in relation to health interventions for both alcohol and other

illicit substances, including marihuana. As a former representative of the Drug Control Board pointed out in a 2018 interview:

> *Marihuana consumers are not all Rastafarians, they are not all artisans. There are marihuana consumers that are engineers, doctors and they consume responsibly… [Responsible use was part of the strategy of the Drug Control Board], particularly to work on the alcohol issue. Because it seemed to us incompressible to prohibit alcohol.* (P11, regulator)

The shared goal of promoting responsible use in order to respect the liberty to consume within certain parameters led to policy coordination between the alcohol model and marihuana regulation in terms of who may purchase, possess or consume marihuana and what activities may not be associated with consumption. For example, there was broad support for a prohibition on sales to minors under 18, despite recognition that age restrictions rarely prevent youth access to either alcohol or tobacco.

A small number of harm reduction advocates, however, seemed to have had reservations about prohibiting access to those under 18 and felt that the age should be lowered to at least 16, as youth readily had access to marihuana in the illicit market. Interview accounts suggest that advocates rescinded this position in the public debate as there was strong political support for prohibiting sales to minors among the general public and prominent health authorities in Uruguay[8]. For example, the Uruguayan Medical Society (SMU) and the Uruguayan Psychiatric Society (SPU) strongly opposed permitting access to those under 18 on the basis that this would be inconsistent with existing tobacco and alcohol legislation. As a medical specialist and tobacco control advocate highlighted in a 2018 interview:

> *In that case we would have had to take it from the alcohol law because we are prohibiting the sale [to minors], although they consume [alcohol], everyone knows it and that is one of the challenges we face, but the restriction is in the law. The [alcohol] law prohibits sales to minors under 18 years old. So, are we going to allow cannabis sales to minors under 18? For us, it was not coherent. Tobacco cannot be sold to minors and access is not permitted to minors. So, there would be an incoherence from the get-go if we were to permit legal sale and access to minors. That was one of the things that we had taken a position on and personally what I defended at that moment.* (P5, medical professional)

In terms of what activities may be associated with consumption, 'responsible use' is taken to mean that, like alcohol, marihuana should not be permitted while driving or operating heavy machinery. This meant that the same zero-tolerance policy that was

[8]According to a wide majority of interview participants, these two groups along with the Ministry of Public Health (MSP) were perceived as significant barriers to promoting development of a more liberal approach to marihuana regulation.

required for alcohol would also be required for marihuana since the two substances were viewed by proponents of marihuana regulation as chemically similar compared to tobacco. This sort of logic is evident in the following quotation by a high-level official of the Mujica Administration:

> *It's the same for a person that is operating complex industrial equipment. Obviously, he cannot drink alcohol, he cannot smoke marihuana, but yes, he can smoke a cigarette because cigarettes do not have effects that alter the emotional or psychoactive state of a person. Marihuana yes just like alcohol. Also, alcohol produces changes to serotonin levels and THC generates changes in anandamide [a cannabinoid receptor that promotes feelings of happiness]. Obviously, there are activities that you cannot do if you are under the effects of marihuana or if you smoke marihuana.* (P6, regulator)

These regulations were deemed reasonable as they guaranteed the liberty to consume for adults while enforcing personal responsibility for consuming marihuana in ways that did not harm others. As a medical doctor involved in debating the marihuana regulation bill asserted in a 2018 interview:

> *I think that we cannot be working under the effects of alcohol. We cannot be working under the effects of marihuana. So, now if I use it in recreational form at home or with friends or wherever, well then there is no problem. But I cannot drive if I am under the influence of marihuana. It seems to me that you have a social responsibility to say well, I like to drink alcohol, one drink at home if I am not going to drive. But if I have a party here, I can have and smoke marihuana. What do I know? So, I could be in a club drinking a little pint and smoking marihuana. But that cannot be during working hours or while driving. Those types of regulations should exist.* (P37, medical professional)

Although proponents of reform did not explicitly state that they sought out to regulate marihuana along similar lines to alcohol, the policies that they pursued seem more closely aligned with aspects of Uruguay's alcohol regulation that focused on persuading individuals to consume responsibly. This seems reflective of the general perception among most proponents that the key drivers of marihuana and alcohol use problems were directly related to the consequences of an unregulated market rather than the substance itself. For example, it was generally perceived that unlike tobacco, both marihuana and alcohol could be used in moderation without causing harm to society or individual users. An implication of this assumption is that proponents of reform felt that similar to alcohol, the individual-level harms of marihuana use omitted the need for population-based policies aimed at altering levels of consumption. These understandings are suggestive of a shared belief that government intervention is only warranted in cases where it is necessary to protect others and vulnerable populations from the harms of individual behaviour. In practice, this meant that the state would: (i) regulate who could legally consume and access the substance; (ii) educate the public on

responsible use; and (iii) regulate the conditions under which use would be prohibited, e.g., zero-tolerance policy for driving and operating heavy machinery at workplaces.

5.3 Coherence with gambling and sex work policy to illustrate historical precedence

Although not a predominant feature of the public debate or interview data, a select few participants (mainly representatives of the Drug Control Board and some politicians) promoted the idea that marihuana regulation should be consistent with Uruguay's historic experience of regulating the gambling and sex work industries. In the interviews, representatives of the Drug Control Board argued that Uruguay's experiences in regulating these previously clandestine markets provided an important precedent for Uruguay to pursue a similar state interventionist approach to marihuana regulation. As a representative of the Drug Control Board claimed in a 2018 interview:

> *In the 1930s, when let's say that the United States was involved in the issue of alcohol prohibition. Uruguay regulated alcohol, right? It regulated alcohol, the state is the only producer of distilled alcohol starting in the 1930s. Uruguay regulated prostitution. Today in Uruguay, a prostitute [sex worker] has documentation that enables them to offer sexual services and they have medical control. Uruguay regulated gambling and that left its mark. A very strong state presence in all aspects of daily life.* (P11, regulator)

This was a consistent claim made by a select few participants from the Drug Control Board and some politicians. However, there was very little substantive detail demonstrating how marihuana regulation was seen as consistent with Uruguay's regulation of gambling or sex work in practice. Rather, it seems that this argument was used as a strategic framing device to demonstrate the benefits of state regulation versus prohibition and how marihuana policy reform would not have adverse health or safety consequences for society. For example, in a 2012 press interview, former Defence Secretary Huidobro discusses the benefits of regulating the sex work industry by arguing:

> *I remember the failure of Batlle when it was proposed to legalise sex work and brothels. It was said that there would be catastrophic consequences. In the end, regulating social vices was the best thing that could have ever happened, control them and make it so that they provide revenue and other issues to repair the harms that they cause* (Huidobro, 2012a).

Along similar lines, the experience with regulating gambling was presented by some key actors as demonstrating the benefits of marihuana regulation in terms of redirecting the costs of enforcing prohibitionist measures towards the general budget for health and education. For instance, one politician involved in promoting the development of marihuana regulation argued in a 2018 interview:

P15: Mafias don't exist because things or substances exist. But rather they exist because legislation determines that there are black markets.

RB: So, you think that the experiences of regulating sex work and gambling were important to how you determined that marihuana should be regulated? Could you explain that more?

P15: Of course. In Uruguay, gambling is regulated. For example, casinos are legal and also the state defines where they are located. In Brazil, gambling is not legal but there is still gambling and people play for money. However, in Uruguay those resources go towards the general budget for health and education. (P15, politician)

Overall, the relevance of the promotion of policy coherence with gambling and sex work policy in Uruguay seems to suggest that some policy actors strategically used this argument to promote a similar state interventionist approach to marihuana. In general, this understanding is suggestive of a normative assumption that state control is a more appropriate response to address the social and health consequences of illicit markets compared to prohibitionist measures. It also seems that some key actors felt that similar to regulating the clandestine gambling and sex work industries, marihuana was an issue that straddled both health and crime sectors, which had important implications for how policy actors perceived that policy coherence should occur in practice. In particular, policy coherence was taken to mean that the state would: (i) control the dynamics of the market and (ii) redirect income generated from marihuana sales towards the general budget for health and education, as these policies seek to control the growth of illicit markets while simultaneously addressing the potential social and health consequences of creating a legal market.

5.4 Policy coherence beyond health and the challenges in reconciling conflicts across health and public security agendas

One of the largest conflicts in this debate was around whether the proposed marihuana regulation was viewed as consistent with Uruguay's tobacco model. Although there may be some uncertainty as to whether a goal should be to reduce harm or eliminate use entirely, there does not seem to have been an expectation that the proposed marihuana regulation might affect the supply and demand of psychoactive substances in conflicting ways. Rather, tensions between public security and unhealthy commodity regulation policies provide an important example of an emerging source of policy incoherence in this field. At a conceptual level, there is no contradiction between public security and unhealthy commodity regulation as measures taken in support of the goal to combat organised crime do not seem likely to result in the stimulation of consumption of marihuana or other unhealthy commodities. However, it was the

specific strategies that comprised the public security policies that were seen by unhealthy commodity regulation advocates as incoherent with population health goals. The following section of the chapter explores tensions between public security and unhealthy commodity regulation within the context of the illicit marihuana market, with a focus on issues of ideational conflicts, taxation and price, and policies shaping accessibility and availability of marihuana.

5.4.1 Ideational conflicts: neoliberalism versus public health

Interview accounts identified fundamentally different values between public security proponents[9] and population health advocates, which seem to stand in the way of each other's objectives. For example, population health objectives seek to make unhealthy commodities less desirable and attractive through: (i) increased prices and (ii) restrictions on accessibility and availability. However, if this approach were applied to marihuana regulation, then it was seen by public security advocates as likely to undermine the state's capacity to capture the illicit market from organised crime by making that market more attractive to consumers. Although public security advocates were not firm believers in neoliberal ideology per se, they did believe that in a free market system, as is the case with the illicit drug market, if the state did not facilitate the flow of and access to marihuana, then it may lose potential clients to more competitive drug traffickers. As a politician from Uruguay's Socialist Party reflected in a 2018 interview:

> *It's all from the point of view of a liberal economy, which is something very questionable. But, from a strategic point of view, to be able to commit to developing this policy, I think that it was key. Because it is what permits you to have thousands of people signing up to get marihuana from pharmacies because they are going to find something of good quality and a reasonable price.* (P7, politician)

Therefore, in contrast to population health advocates, achieving the goals of public security required a strategy that made the legal market more attractive and desirable through three interrelated ways: (i) reduced prices; (ii) better-quality products; and (iii) increased accessibility and availability. For example, at a 2013 public hearing of the Senate Public Health Commission, where the bill was sent for legislative debate after it was passed by the lower house in August of that year, former Secretary-General of the

[9]As outlined in Chapter 4, public security proponents include key officials of the Mujica Administration and the Executive Branch's Security Cabinet.

Drug Control Board Julio Calzada asserted that the Mujica Administration's '*aspiration*' (Calzada, 2013) in terms of regulating marihuana was:

> *To broaden and expand all policies linked to increasing risk perceptions and eliminating the idea that certain generations have in relation to marihuana use being innocuous. To this end, the tools we propose are to prohibit marketing and compete with the black market through quality, price and the creation of a legal market. We understand that one can agree or disagree with the attitudes and behaviours of users regarding consumption, but they must be free to decide [emphasis added]* (Calzada, 2013).

Underpinning this position is a neoliberal assumption that the role of the state is to facilitate market competition, which contrasts sharply with population health objectives to strengthen state capacity for intervening in and regulating unhealthy commodity markets (Battams and Townsend, 2018). In legislative debate, population health advocates and legislators with public health concerns asserted that competing with the illicit market by encouraging users to switch to the legal market had implications for the state's capacity to engage in a serious effort to inform the public on the harms of marihuana use. For instance, at a July 2013 vote of the Special Commission on Drugs and Addiction, before the bill was sent to the Uruguayan Senate Public Health Commission, Representative Pablo Viñas from Uruguay's National Party argued that the marihuana regulation bill was incoherent with the public health objectives of Uruguay's tobacco model because it, '*facilitates access to the drug, there are no clear signs from the law that the drug is negative. There is talk of risk prevention and protection, but it is clearly not stated that it is a public health problem*' (Viñas, 2013). Instead, as articulated by population health advocates, the neoliberal approach underlying the public security strategy posed the serious risk of sending an inadequate message to the public that marihuana use was harmless, with the potential risk of increasing consumption among novel users. As a tobacco control advocate and medical professional contended in a 2018 interview:

> *The fundamental issue was to be careful as we said from the beginning that this does not facilitate and expand [cannabis] consumption. One thing is that individuals that were already consuming could access marihuana in a less risky way and less linked to crime like illicit trafficking, which at that moment could be via cannabis clubs or home cultivation, regulating them in some way. But, the other thing that we did not want, and that I think happened, was that it gave the message that marihuana was something without risks and that could normalise consumption. As something banal that would become more accessible and consumption would expand.* (P5, medical professional)

5.4.2 Taxation and price

Interview accounts suggest that public security advocates did not seem particularly concerned by the risk that marihuana use could increase as an outcome of policy change, as the overriding goal of combating the illicit market was viewed as more

important. This policy preference appears related to how public security advocates did not view marihuana use as the main problem of public insecurity and drug-related violence, but rather legalising the market became a solution to the problem of crack cocaine (see Section 4.5). This underlying premise seems to suggest a situation in which public security policy is removed from the practices and goals of unhealthy commodity regulation. Indeed, analysis of the parliamentary debate suggests that representatives of the Mujica Administration and the Drug Control Board were more concerned that raising the price of marihuana to levels significantly above those in the black market would counteract the goal to combat crime and reduce drug-related violence than the potential for low prices to increase consumption. For example, at a 2013 public hearing of the Senate Public Health Commission, former Secretary-General of the Drug Control Board Julio Calzada asserted that the '*Executive Branch is convinced that the best way to dismantle the drug trafficking business is to attack its economic base'* (Calzada, 2013), which meant that the state would compete not only in terms of quality and access, but also in terms of price.

In public debate, legislators with population health concerns questioned the public health rationale of the price policy of marihuana regulation, pointing towards an inconsistency across the interactions between unhealthy commodity regulation objectives and public security policies. As former Senator Alfonso Solari of Uruguay's Colorado Party argued in a 2013 meeting of the Senate Public Health Commission, presenting the price policy of marihuana regulation as inconsistent with the demand reduction strategy of Uruguay's tobacco approach:

> *I do not understand the logic of the bill; I understand the logic of markets and of violence, but that is not a health initiative. I look at it from a scientific point of view of public health. In the sense that if there are more cigarettes and they are cheaper, people are going to smoke more. The principal element of the anti-tobacco policy was to raise the price; that occurs all over the world. How does one explain this initiative?* (Solari, 2013).

However, the response by former Secretary-General Calzada suggests that he felt it was more important for the state to control the dynamics of the market rather than organised crime, thereby legitimating the pursuit of a competitive price policy with the illegal market. This underlying context further illustrates how public security policies are disconnected from the goals of unhealthy commodity regulation policy in Uruguay. For instance, at a 2013 public hearing of the Senate Public Health Commission, Calzada argued that the key problem of marihuana control was that the market was dominated by organised crime rather than the potential risk of rising consumption:

> *What happens today with availability is that organised crime manages it, enables it, raises and lowers the price and opens drug sales points, without us knowing effectively how many places exist that sell marihuana, because we do not have a mapping of drug sales points to control* (Calzada, 2013).

In the interviews, key actors with public security concerns from other government sectors also felt that the price of marihuana had to be competitive with the illicit market, at least in the initial period of establishing the legal supply system. According to one government actor with public security concerns, the objective of the price policy was to make the legal market more '*attractive because if it was more expensive, then we wouldn't be able to reach the objective of removing marihuana from the illegal market*' (P33, regulator). For some representatives of the Ministry of Livestock, Agriculture and Fisheries (MGAP), this meant that the price had to be similar to what was available in the illicit market while also allowing marihuana producers and retailers to profit from the sale of marihuana, as this would allow the state to reach its goal of removing the marihuana market from organised crime:

> *The product that was offered for consumption was a quality product with a guarantee of safety and health…But, we could not put the price much higher than what was obtained in the illegal market because we would not be able to meet one of the objectives of the law, which was to combat the illicit market through regulation…From that moment and returning to the price issue, we had to ensure that the producers could place the product in the market [still] earning a profit and that the pharmacies, which are the sales points, also receive their share of the profit.* (P38, regulator)

The public security objective gained prominence in the policy formulation stage, such that it led to a price policy for marihuana that conflicts with the objectives of unhealthy commodity regulation. As described above, one of the key interventions in the regulation of unhealthy commodity markets in Uruguay is to raise the price of harmful products in order to reduce demand. Although other government actors with public security concerns were willing to apply high prices to both tobacco and alcohol in order to reduce consumption at the population level, they were resistant to the idea that marihuana should be treated in the same way. Rather, they felt that if the proposed marihuana regulation bill were to follow that strategy, then it would discourage users from purchasing marihuana from the state because the price would exceed the cost of marihuana in the illicit market, thereby making that market more attractive. As a representative of the MGAP discussed in a 2018 interview:

> *The objective of the [price] policy was to provide a substance that people were consuming in an illegal way, transforming that consumption into something legal. So, with respect to tobacco and alcohol, which are substances that are consumed legally, it does not seem bad to me to make them less attractive through higher taxes.* (P38, regulator)

A potential reason for this limited consistency across public security and unhealthy commodity regulation goals was the lack of involvement by prominent health authorities in Uruguay to promote a price policy for marihuana that aligned with Uruguay's approach to regulating unhealthy commodities, particularly tobacco. While politicians from Uruguay's National and Colorado Parties raised concerns about the apparent contradictions between Uruguay's public security policies and unhealthy commodity regulation goals, it seems that prominent health authorities including the Ministry of Public Health (MSP) and experts working in unhealthy commodity regulation did not advocate for the price objective of marihuana regulation to be consistent with that of tobacco control. As one tobacco control advocate explained in a 2018 interview:

> *In general, the tax is important when you want to discourage consumption, as we are doing in tobacco control and want to do in the control of alcohol and sugary beverages: to increase the price as high as possible to decrease consumption. But then there was discussion that if we put the price too high, then the users are not going to buy marihuana from the state because clandestine marihuana will be cheaper. That is an issue that we did not get into that much. It was not the objective of our discussion [to determine] how much the price would be.* (P5, medical professional)

This situation may have been exacerbated by the tactical appropriation of public security arguments by harm reduction and civil liberty advocates. Interview accounts indicate that harm reduction practitioners and marihuana consumer groups strategically co-opted public security arguments and concerns to the effect of promoting a price policy for marihuana that was inconsistent with the goals of Uruguay's tobacco model. In a 2018 interview, one harm reduction advocate contested the idea of policy coherence between marihuana regulation and tobacco control, declaring that Uruguay should be:

> *Cautious with the tax issue. We cannot forget that this policy also has an objective to combat and steal the illegal market from criminal organisations, take from them the largest part of the market. And for that, we have to compete, not only with public security from a point of view of criminality and with public security related to the quality of the product that it is not contaminated and has pesticides, heavy metals, biological materials. But also, we have to compete in price.* (P19, medical professional)

5.4.3 Availability and accessibility

The liberalisation of the marihuana supply chain was seen by public security advocates and other individuals with public security concerns as a central strategy for increasing the quality and quantity of legal marihuana while combating the illicit market. Providing legal access to marihuana through multiple production channels was presented as an

integral part of that strategy. As articulated by public security advocates, if the state only legalised part of the market through home cultivation or cannabis clubs, then this would pose the risk of stimulating growth of the illicit market, as public demand for marihuana would not be satisfied. Therefore, public security advocates argued in the legislative debate that the state had to not only compete in price and quality, it also had to compete in terms of the availability and accessibility of supply. This market-based approach is clear in the following statement made by former Secretary-General of the Drug Control Board Julio Calzada at a 2013 public hearing of the Senate Public Health Commission:

> *What we do know is that there are 700 community pharmacies in Uruguay and so we will not have more than that. There may be a maximum. That is still to be defined politically, as to whether it can be 700. There has to be a minimum level of availability that allows us to effectively control the development of criminal markets, because we are going to compete in quality and price* (Calzada, 2013).

Although it seems that the formal position of the Mujica Administration and some representatives of the Drug Control Board was that marihuana regulation was consistent with Uruguay's tobacco model (Cánepa, 2013a, Calzada, 2012a), their interpretation of consistency seems to conflict with those interested in unhealthy commodity regulation policy. For population health advocates, facilitating access to marihuana raises tensions with the objectives of tobacco and alcohol control, as both seek to increase barriers to access in order to reduce consumption. Moreover, some population health advocates were concerned that increasing the legal supply of marihuana through multiple production channels posed the risk of exposing nonusers, particularly youth, to marihuana, as it would be available in their homes and throughout the community. Contesting the market-based approach underlying the public security strategy of Uruguay's marihuana regulation, a former senator from Uruguay's Colorado Party expressed concerns about the potential impacts that increased availability would have on population health, stating that:

> *Through competition, there will be more availability of cannabis in the community and thus it will be more accessible. Therefore, it will be easier for minors to access and use it, even if they are not allowed to purchase it. Tobacco sales to minors are not permitted but they use it anyway; they still smoke. The same thing happens with alcohol. Minors get alcohol because someone who is allowed to purchase it legally, then shares it or sells it to a minor.*
>
> > *I think that cannabis regulation is more an economic issue than a legal problem. To the extent that there is a market of this substance, even when its sale is regulated, there are higher possibilities that there will be more cannabis within the community and for that reason, it is much easier for minors to be able to access it. From a health point of view, higher consumption is negative not only for minors but also for those that are not so young, as the negative effects do not stop when one reaches 18 years of*

> *age. To the contrary, the harms of use continue through adolescence and youth until at least 23 or 24 years old.* (P17, politician)

5.5 Discussion

This chapter analysed the degree to which the formulation and design of Uruguay's marihuana regulation were shaped by the promotion of policy coherence within health and across other policy spheres. It highlighted the different ways in which ideas drawn from the regulation of tobacco and alcohol were used in developing marihuana regulation and how those different ideas reflect particular types of models and goals, although their exact meaning for marihuana regulation appears ambiguous. The chapter also demonstrated how unhealthy commodity regulation advocates had to interact with the overriding objective to combat the illicit market in order to address public security goals, thus presenting challenges for effective policy coordination within health policy. In the following section, I discuss the relevance of the findings for coherence across public health with particular reference to tobacco, alcohol and other health issues. This is followed by a discussion of the relevance of the findings for coherence across policy spheres with particular reference to public security and other issues that might interact with public health policy.

Before moving on, it is important to summarise and reflect on the degree to which concerns for policy coherence across health issues and public security policies appears to have shaped the overall outcome of Uruguay's marihuana regulation. At a broad level, Uruguay's state interventionist approach to marihuana regulation seems to have been influenced by its current approach to tobacco and historic legacy of state intervention in the alcohol market, and to an extent gambling and sex work, though the latter seems to have been more symbolic than substantive when it came to practical policy tools. Elements that seem like they are presented as coherent with the tobacco model include requiring that all enclosed public places are 100% smokefree and that all marketing, advertising and event sponsorship that promote excessive marihuana use are prohibited. The major components of Uruguay's tobacco policy that were not brought to marihuana regulation include those elements that seek to denormalise use at the population level for tobacco, including a comprehensive marketing and advertising prohibition that is not limited to activities that promote excessive use; mass media campaigns to inform the public on the harms of marihuana use and exposure to secondhand smoke; mandatory pictorial health warnings; high taxes to reduce demand;

and the practice of excluding the marihuana industry from all aspects of health policymaking.

As for alcohol, the policies that were presented as coherent with Uruguay's approach include a prohibition on sales to minors under 18 (though this could also be for tobacco); an education campaign that focuses on promoting responsible use and preventing use in at-risk populations, e.g., minors and pregnant women; and a zero-tolerance policy for workplace use and driving under the influence. Elements that were presented as not incorporated into marihuana regulation from Uruguay's alcohol experience include unregulated corporate control of the market; policies that would promote industry consolidation; and branding and promotional activities that would encourage excessive marihuana consumption. Finally, the policies and practices that were presented as driven by public security concerns include those elements that sought to create legal demand such as a competitive price policy with the illicit market and policies to increase accessibility and availability through multiple supply channels, i.e. home cultivation, cannabis clubs and commercial pharmacies.

Section 5.5.1 Coherence across health issues with reference to tobacco and alcohol

A central theme in the international health literature concerns the extent to which marihuana regulation should look like or draw on existing approaches to tobacco and alcohol control. A key example of this has been previously identified in research on marihuana legalisation debates in the United States, in which US-based drug reform groups like the Drug Policy Alliance and Marijuana Policy Project have pursued an advocacy campaign slogan to 'Regulate Marijuana like Alcohol' (Caulkins, 2012, Blake and Finlaw, 2014), so far with success in at least 15 of the states that had legalised recreational marihuana as of 2020 (Barry and Glantz, 2018). This is important to highlight as ideas matter not only in terms of framing debates but also in shaping policy pathways (Schmidt, 2008, Carstensen and Schmidt, 2016). For example, previous research has found that the idea and indeed campaign to 'Regulate Marijuana like Alcohol' in the United States shaped a specific type of trajectory for marihuana policies that more closely resemble state alcohol control systems compared to other regulatory approaches like tobacco (Barry and Glantz, 2018, Hall, 2017, Subritzky et al., 2018).

Interestingly, in Uruguay it was a somewhat different case as policymakers and reform advocates pursued a message that marihuana regulation should be modelled on its

exemplar tobacco approach and experience. Although a comparison of the strategies and outcomes of these different messaging campaigns on the development of marihuana regulation is outside the scope of this chapter, the sense is that these ideas are presenting particular models of regulation, but their exact meaning is ambiguous and unclear. For instance, as Obradovic (2019) observes in a comparative study between Uruguay, Colorado and Washington State: 'One strong hypothesis emerging from our investigation is that the Uruguay model shares a number of features with the regulation of tobacco, while the US approach emulates the practices reported in alcohol policy and marketing' (Obradovic, 2019). Although this research offers some empirical evidence to support this hypothesis, the findings also demonstrate that the promotion of policy coherence within health governance was relatively limited and far more selective than Obradovic and other public health scholars would suggest (Pardo, 2014, Murkin, 2014). Instead, if there is an element of policy coherence, then this is likely to be found on the weaker end of the coordination spectrum.

A possible explanation for this finding might be that Uruguay was the first country in the world to legalise and regulate a national distribution system for recreational marihuana for legal residents 18 and above. As such, the findings indicate that the tobacco and alcohol models were important symbolically to the development and ultimate passage of Uruguay's marihuana regulation. The overall impression is that key proponents were attempting to create an industry that did not exist, at least not legally, by drawing on select elements of the tobacco and alcohol experiences and approaches that they either wanted to promote or avoid in a marihuana regulation context. Although this might appear distinctive at a surface level, marihuana policy debates in Uruguay were taking place within a context in which public health was dominated by the existential threat of Philip Morris, as discussed in Chapter 2. Within that context, public health and policy concerns regarding the role of the commercial sector in the promotion of 'ill health' seem to have influenced the promotion of policy coherence across health issues that was somewhat future-oriented in its thinking about how best to regulate the production, distribution and sale of marihuana. This helps to explain the development of Uruguay's hybrid logic to policy coherence with tobacco and alcohol, in which key actors seemed to pay attention to the ideas and lessons that were perceived as most consistent with the implicit goal of legitimating marihuana use, without creating an upstream driver or structural force that would promote excessive consumption and minimal regulation. This subsection now turns towards a discussion

of the implications of the findings for policy coherence across tobacco and marihuana policies before moving on to discuss their implications for alcohol, gambling and sex work.

Tobacco

In Uruguay and probably most jurisdictions throughout the world, the tobacco model seems to represent a distinctive model of health governance that is atypical in most other areas of public health policy (Collin, 2012, Collin and Hill, 2015, Hawkins et al., 2016). It takes a distinctively state interventionist approach to regulating the behaviour of certain corporate actors and the health harms of tobacco use through measures that seek to constrain market growth and prevent corporate interference in health policymaking (Collin, 2012). Previous research has suggested that Uruguay's approach to marihuana regulation was informed by the valuable lessons from regulating the tobacco industry, based on the observation that it included several features that could protect against unregulated corporate control of the market (Pardo, 2017, Murkin, 2014). Although the findings from this chapter provide some empirical evidence to support these claims, reasons for why coherence with the tobacco model was promoted as a policy solution to marihuana regulation are slightly more complex. Moreover, the practical application of policy coherence between the tobacco model and marihuana regulation has been selective, which seems reflective of the distinctive nature of Uruguay's approach to tobacco control within public health policy.

The findings demonstrate that the pursuit of policy coherence with tobacco was also a symbolic feature in this debate rather than a central priority. Policymakers perceived the model as politically appealing because it could reduce uncertainty and marihuana activists saw it as a way to minimise public anxiety regarding whether marihuana regulation would stimulate consumption among young people. Indeed, the data show that the only policy actors that advocated for policy coherence as a way to promote synergies within health policy were tobacco control advocates, and even for this group, such promotion was relatively limited. For example, tobacco control advocates seemed most concerned with coherence across smokefree policies, education campaigns to deter use and prohibiting youth access but did not advocate for coherence across taxation or supply control policies, in general. This could be because the tobacco approach, as well as unhealthy commodity regulation policies as a whole, have largely been focused on the demand side aspects of regulation (Lencucha and Thow, 2019),

thus creating obstacles for effective policy coherence across the two spheres (Peters, 2018).

Although scholars argue that Uruguay learned from its successful tobacco control experience (Murkin, 2014, Pardo, 2017), the findings from this chapter suggest that some important aspects of the tobacco model were discarded. Some of these policies have already been mentioned, e.g., taxation, education campaigns to denormalise and discourage use at the population level and health warning labels that seek to encourage quit attempts. Reflecting previous research on the challenges of coherence across tobacco and other unhealthy commodities (Collin and Hill, 2015), participants found that Uruguay's tobacco approach was pursued by a distinctive model of health governance that was seen by many as not directly translatable to a marihuana regulation context. Underpinning this argument was the logic of 'tobacco exceptionalism' or the assumption that the unique policy responses for tobacco are warranted given the exceptional nature of the harm that tobacco and the tobacco industry cause for individuals and society (Hawkins et al., 2016, Collin, 2012). The analysis demonstrates that a cohesive policy approach across marihuana and tobacco was also hindered by the lack of evidence on the global health impacts of marihuana use compared to tobacco as well as the absence of a comparable marihuana industry.

These findings seem somewhat consistent with previous public health research regarding the extent to which public health practitioners support the extension of practices and norms of tobacco control to other health issues like alcohol and unhealthy diets, though with some important nuances. This research suggests that the policy problems of marihuana and tobacco were viewed as distinctive in Uruguay, which shaped the ways in which coherence within health issues, or lack thereof, was pursued across the two policy spheres. Policy actors perceived that the health issues of marihuana were driven by the illicit market rather than multinational corporations like the tobacco industry, indicating why the more specific principles of tobacco control (Collin et al., 2017), including preventing partnership and minimising industry engagement in the policy process were overlooked. For example, the requirement under the WHO Framework Convention on Tobacco Control (FCTC) that parties protect national health policymaking from corporate interference did not seem to have been considered in the development of Uruguay's marihuana regulation. Although several key participants were concerned by the growth of a large industry like tobacco and alcohol, thereby promoting state control over the market to potentially reduce that risk,

the data do not suggest interest in the potential application of the distinctive practices of tobacco control on how to manage interactions between public health and the marihuana industry. This seems related to how lessons from the tobacco model were used to imply different meanings and understandings of the tobacco control experience and approach. Underlying some of these differences are disagreements and varying perspectives, which turn out to have important implications when it comes to thinking about implementation and rollout (although outside of the scope of this chapter, it is important to briefly illustrate some of these differences).

There are important implications for public health and policy coherence within health governance regarding efforts in Uruguay to regulate a marihuana industry that does not legally exist based on the tobacco model. Data from this study suggest that some of the policies and practices that were presented as coherent with Uruguay's tobacco approach during policy formulation have been implemented in ways that could raise tensions with tobacco control objectives. Perhaps the clearest example of emerging tensions between marihuana and tobacco policy is the Cannabis Expo, an annual event sponsored by the marihuana industry that has taken place in Uruguay since passage of the law in 2013 (Expo Cannabis Uruguay, 2019). Note that the Drug Control Board, Ministry of Livestock, Agriculture and Fisheries (MGAP) and the IRCCA also participate in the event, but are not event sponsors. The emergence of cannabis branded products like yerba mate tea (a popular traditional tea in Uruguay) infused with Cannabinol[10] (CBD) (ECOWaste, 2018) and speciality grow shops that sell auxiliary products, equipment and supplies for marihuana use and production could also raise tensions with tobacco denormalisation goals, if these were to renormalise smoking behaviour, for example.

These examples are intended to illustrate that policy coherence is not an absolute or fixed term (Hommels et al., 2013), but rather appears to have very different meanings depending on from whose vantage point (Carbone, 2008) marihuana and tobacco policy were perceived as consistent with one another. Such conflicts seem reflective of the differences in meaning of 'coherencia' in Spanish, which appears to be synonymous with the English word for 'consistency' (Chevallier-Govers, 2013), whereas in English and broader health governance debates, coherence tends to be conceptualised as the more ambitious view to achieving policies that mutually reinforce one another's

[10]CBD is a chemical compound of the marihuana plant that has medicinal properties (Booth, 2004).

objectives and goals. Similarly, the findings suggest that different interpretations of policy coherence are reflective of key proponents of marihuana regulation interpreting this as the 'absence of contradiction', supporting distinctive approaches to marihuana and tobacco as different products. Conversely, unhealthy commodity regulation advocates, particularly those working in tobacco control, seem to interpret policy coherence as the more ambitious 'idea of mutual reinforcement of policies' (Chevallier-Govers, 2013), thereby supporting an approach to marihuana regulation that was consistent with but arguably reinforced tobacco denormalisation goals. Consequently, these different interpretations help to explain, in part, why some proponents of marihuana regulation, particularly high-level officials of the Mujica Administration, perceived that state control over the marihuana market was consistent with Uruguay's tobacco model, whereas tobacco control advocates and other key actors with population health concerns perceived it as contradictory.

These findings raise some interesting parallels between renormalisation debates in marihuana and tobacco policy in Uruguay and similar debates occurring in the electronic cigarette (e-cigarette) policy space in Uruguay and globally. As is the case with e-cigarette policy debates more broadly (Patterson et al., 2016, Cox et al., 2016), tobacco control advocates in Uruguay were concerned by the direct harms of marihuana use because of the similarities across delivery systems, e.g., combustion and the secondhand effects of marihuana smoke for nonusers. But perhaps more importantly, like e-cigarette policy debates (Patterson et al., 2016, Cox et al., 2016, Grana, 2013), tobacco control advocates were concerned that legalising marihuana may renormalise smoking behaviour and encourage tobacco use, particularly among young people. Underlying these debates is the assumption that tobacco control should be viewed as a higher priority than other health issues. As such, policy coherence in this context appears to have been presented, albeit not always explicitly, as a way to protect tobacco denormalisation goals, with the view to directing that marihuana policy in Uruguay should itself become consistent with tobacco-free objectives.

A key difference, however, is that in Uruguay, there was broad support for including marihuana in the same smokefree restrictions for tobacco, either because of public health concerns or popular support for the measure among the general public. Conversely, in e-cigarette policy debates, this remains a central source of tension because of disagreements regarding whether e-cigarettes can be promoted as effective cessation devices (Patterson et al., 2016, Cox et al., 2016). Furthermore, these findings

raise research and policy implications in other contexts in terms of how the intersection between marihuana and e-cigarette policies may create further tensions between proponents of marihuana regulation and tobacco control advocates in Uruguay. More recently, the Drug Control Board and the IRCCA have been promoting the use of vaporisers for marihuana consumption, including on marihuana packaging (Saavedra, 2019), thereby presenting another potential area of tension between marihuana regulation and tobacco control efforts in Uruguay.

Alcohol

Perhaps one of the more interesting findings from this chapter was that several participants were surprised by the notion of promoting policy coherence across marihuana and alcohol. This seems reflective of how the alcohol model has been presented in Uruguay as demonstrating the risks of granting marihuana production companies broad scope to expand the market and influence the policy environment in ways that promote minimal regulation at the expense of public health. As the findings demonstrate, conceptualising the alcohol model in this way shaped the types of ideas and policies that were available for policy coordination with marihuana in Uruguay. Consistent with the global literature on marihuana regulation (Pacula et al., 2014, Levine and Reinarman, 1991, Haden and Emerson, 2014, Caulkins et al., 2015, Room, 2014b), proponents found that negative lessons from the alcohol experience and approach, for example, unregulated corporate control of the market and widespread marketing campaigns that promote excessive consumption, were important aspects that should be avoided in a marihuana regulation context in Uruguay.

The findings suggest that some key officials and politicians felt that state control over the market would prevent against the development of an economically powerful marihuana industry that would seek to expand use and exert its political influence over the policy process. These findings seem somewhat consistent with the wider public health literature concerning how state control over parts of the marihuana supply chain may limit the scope of private interests to expand the market and influence the policy process based on a similar experience with state regulated alcohol supply systems (Room, 2014b, Haden and Emerson, 2014, Rolles and Murkin, 2016). In this chapter, it was similarly found that some politicians and representatives of the Drug Control Board were drawing on their personal experiences and challenges in regulating the alcohol space, which likely explains why they appear somewhat future-oriented in their

thinking about how to approach marihuana regulation. In particular, the alcohol experience appears to have shaped their views on the importance of regulatory focus being on market structure in order to limit the economic and political power of the emergent industry and prevent unregulated corporate control of the marihuana market.

Previous research has argued that marihuana and alcohol policy in Uruguay have followed divergent trajectories on account of the different ways in which these issues have been framed in the public media (Coitiño et al., 2017). Yet, there were some important aspects of Uruguay's alcohol regulation that several key proponents found more appealing than the tobacco approach in the context of developing marihuana regulation. It is likely that policy actors felt constrained to publicly support policy coherence with the alcohol model given that in Uruguay alcohol use, but more specifically the alcohol industry, are perceived to be significant public health problems. However, the findings from this research demonstrate that key actors were more open to promoting policy coherence with the alcohol model than tobacco because there was a shared belief among policy actors on the nature of the policy problems facing alcohol and marihuana and how to more effectively address such problems through joint action (Cedujo and Michel, 2017, Peters, 2018 673). Indeed, harm reduction strategies for alcohol and marihuana had previously been promoted by the Drug Control Board as more effective public health interventions for reducing the harms related to problematic substance use as opposed to reducing consumption at the population level (Drug Control Board, 2016). These similarities in policy aims seem to be underpinned by policy values from the alcohol model that key actors wanted to incorporate into Uruguay's marihuana regulation, such as 'tolerance', 'individual freedom' and 'personal responsibility', which are not widely featured in health policy debates for tobacco (Kirst et al., 2016).

Gambling and sex work

Although there has been an explicit promotion of policy coherence, at least within the public health community, across health issues with particular reference to marihuana, tobacco and alcohol (Rehm and Fischer, 2015, Kirst et al., 2016, Spithoff et al., 2015, Barry and Glantz, 2016, Haden and Emerson, 2014), some key actors in Uruguay had a broader understanding of how policy coherence across other previously clandestine markets might be applied in a marihuana regulation context. Although briefly mentioned in the literature on Uruguay's marihuana legislation (Garat, 2016, Musto,

2018), to the best of my knowledge, this is the first study to explore the extent to which the promotion of policy coherence across gambling and sex work policy influenced the development of Uruguay's approach to marihuana regulation. The findings demonstrate that the promotion of policy coherence across gambling and sex work policy in a marihuana regulation context is perhaps more ambiguous than tobacco and alcohol. These results do not imply that the history of control of gambling and sex work in Uruguay was insignificant, however. Instead, they would seem to suggest that key actors in Uruguay perceived that the similarities across gambling, sex work and marihuana related to how these issues were seen as straddling both health and crime sectors, which has important implications for how policy coherence across health issues was applied in practice.

For example, like gambling and sex work policy, the health objectives and policies of Uruguay's marihuana regulation appear to have been linked with and arguably subordinated to crime prevention goals. In turn, this has encouraged policy coherence across aspects of regulation that seek to establish and legitimate the legal market while controlling the social and health consequences of increased supply in a legal context. These findings appear consistent with previous research that suggests there are important lessons and attributes of the history of control of gambling and sex work that seem somewhat relevant to contemporary marihuana policy debates (MacCoun and Reuter, 2001). For example, MacCoun and Reuter (2001) argue that a shared concern across debates to legalise gambling, sex work and drugs is the existence of a substantial illicit market with which the legal market has to compete. Similar arguments have also been raised regarding alcohol legalisation debates in the US, which according to Room, created tensions for public health advocates to argue for market restrictions like high taxes that might make the legal market less attractive (Room, 2014b). As the findings illustrate, similar issues and tensions have also occurred within marihuana policy debates in Uruguay, which are discussed in more detail in the next section.

In terms of the implications for effective policy coherence across health issues, the findings suggest that synergies between the individual-level based interventions for tobacco, alcohol and even gambling policy in Uruguay are more likely to be realised over population-based measures that focus on targeting the 'upstream' drivers of ill-health such as economic and environmental conditions (Collin and Hill, 2015). This was indeed the case given that policy actors from the Mujica Administration and the Drug Control Board favoured policies that focused on targeting problematic use behaviour,

but largely rejected interventions that sought to shape healthy product environments in ways that would reduce consumption at the population level. Several policy actors thought that the goal of smokefree environments for tobacco was to protect non-smokers from exposure to secondhand smoke, rather than as a tool to denormalise smoking behaviour. This will likely have important implications for effective policy coherence across health issues in the future as the population health approach to tobacco does not seem to share the same goals of the individual-level focus of either marihuana, alcohol or gambling policy, thus placing additional constraints on developing a coherent approach to regulating unhealthy commodities in Uruguay.

Section 5.5.2 Coherence across policy spheres with reference to public security

The results of this chapter present novel findings about marihuana regulation debates in Uruguay that have not been captured in previous literature related to coherence across policy spheres. For example, claims made by high-level officials of the Mujica Administration that Uruguay's marihuana regulation is consistent with its existing tobacco model (Cánepa, 2013a, Romani, 2015b) were and arguably continue to be central sources of tension, particularly between those working in drug enforcement and unhealthy commodity regulation. At the 3rd annual meeting of Uruguay's Tobacco and Health Conference in August 2019, a panel on the relationship between tobacco and marihuana policies serves to illustrate these coherence issues and tensions. The goal to compete with the illicit marihuana market by working alongside the marihuana industry (Anido, 2019) has raised particular tensions with the distinctive practices and norms within tobacco control policy, which seek to avoid commercial sector engagement in the policy process (Bianco, 2019). The findings outlined here suggest that there appears to be some willingness to restrain corporate engagement of the alcohol industry in health policymaking among policymakers and other key actors in Uruguay. Yet, the analysis demonstrates that proponents of marihuana regulation and regulators of the marihuana market view collaboration and partnership with the marihuana industry as a key tool in crime governance. These tensions across practices and norms regarding commercial sector engagement within Uruguay's marihuana regulation and tobacco control policy will therefore likely create additional barriers for effective policy coherence across the two policy spheres.

The policy coherence literature suggests that conflicts across different policy spheres and agendas are a result of entrenched interests and power asymmetries (Battams and

Townsend, 2018). While this was similarly the case with marihuana policy, the findings demonstrate that it partially explains why incoherence across public security and unhealthy commodity regulation transpired. Conflicts across the two spheres appear to have evolved as a result of the neoliberal paradigm under which formulation of marihuana regulation occurred (Lencucha and Thow, 2019). Indeed, proponents of reform were not firm believers in neoliberal ideology per se and the interview data would suggest quite the opposite. This is illustrated via the stated preferences among most participants for a state interventionist approach to market regulation over several policy issues besides marihuana, including unhealthy commodity regulation as well sex work and gambling policies. However, their views on marihuana use seem to be consistent with neoliberal ideas of individual freedom and personal responsibility (Battams and Townsend, 2018, Schram, 2018), which facilitated coordination across the market-based system through which they worked. For example, public security and harm reduction advocates were aligned in their views that if the state did not compete with the illicit market in the form of low prices, better quality products and increased accessibility, then it would lose clients to more competitive drug traffickers. Consequently, as the underlying influence of the public security policy, the neoliberal paradigm shaped the types of objectives and policy tools available for marihuana regulation in a legal regulatory context.

The findings demonstrate that the neoliberal paradigm was translated into the public security agenda by way of a general reluctance to pursue population-based health interventions because of their perceived effect on demand for marihuana. In this case, public security was given greater policy importance than health protection goals with the idea that enforcing the rule of law leads to enhanced public safety and reduced levels of drug-related violence. This situation seems to suggest that public security policies are disconnected from policies and practices regulating unhealthy commodities like tobacco and alcohol within Uruguay. The clearest examples of this concerns how key officials of the Mujica Administration and representatives of the Drug Control Board generally favoured high taxes and increased restrictions on access and availability of tobacco and alcohol to reduce consumption at the population level. However, for marihuana, this policy intervention was viewed as inconsistent with crime prevention goals as high prices and reduced access could stimulate demand for the illicit market. Although important for combating crime, price reductions and market liberalisation can contribute to an incoherence with unhealthy commodity regulation if it were to lead to

an increase in marihuana use or use of other unhealthy commodities, rather than just providing access to existing users. Similar to conflicts between health and trade agendas (Lin, 2013, Mamudu et al., 2015, Russell et al., 2015, Lencucha, 2010), addressing inconsistencies between public security and population health priorities may prove to be irreconcilable, particularly if public security advocates continue to view the role of the state as the facilitator of market access rather than the promoter of healthy product environments (Schram, 2018, Lencucha and Thow, 2019).

Other issues: agriculture and finance

Although coherence across other policy issues was not predominantly featured in marihuana regulation debates in Uruguay, there are important implications for the neoliberal ideas underpinning the public security agenda for other policy spheres. Even though the implicit goal of marihuana regulation seems to be avoiding the development of a commercial market, the objective to make the legal market more desirable and available seems to be consistent with the goals and priorities of other sectors beyond health relevant to marihuana regulation. Such neoliberal ideas seem to create synergies with agriculture, pharmaceutical production, taxation and finance sectors whose interests are to, among other things, promote economic development through reduced tariffs and market expansion. Given that marihuana has largely been absent from policy coherence debates across health and other sectors, public health advocates should be cautioned by the interactions that have been created across these other policy spheres that have a bearing on health policy. As is the case with conflicts between trade and health (Room, 2014a, Shaffer et al., 2005, Schram, 2018), these synergies could present further challenges for policy coherence across health issues if population health advocates have to compete with the overriding priorities of promoting public security goals alongside finance and economic development objectives.

5.5.3 Additional explanations: lack of evidence and coherent public health voice

Finally, another reason that policy incoherence between health and public security occurred could be explained by shortages of information on how the objectives or goals of one domain might impact another (Nilsson et al., 2012, Ashoff, 2005). Fifty years of drug prohibition has significantly limited the capacity of researchers to study the effects of changes to policy environments, social norms or market interventions on the supply and demand for marihuana. Indeed, there is little empirical research to suggest that the same types of interventions from the tobacco or alcohol experiences would have the

same effects on the supply and demand for marihuana. However, lack of evidence only explains part of the reason why conflicts across public security and unhealthy commodity regulation policy occurred. Consistent with research on issues reconciling trade and health agendas (Battams and Townsend, 2018), it is equally likely that lack of participation by knowledgeable specialists (Siitonsen, 2016), e.g., health ministers and unhealthy commodity regulation experts, to lobby for interventions like high prices could also explain why public security policies took precedence over population health in marihuana policy debates in Uruguay.

5.6 Conclusion

The analysis of the relevance of the promotion of policy coherence within health and across other policy spheres to the development of Uruguay's marihuana regulation demonstrates that key policy actors sought to legitimate marihuana use and sales without creating a structural force or commercial driver that would promote excessive consumption. Overall, the findings show that key policy actors adopted a hybrid logic to policy coherence with tobacco and alcohol by selecting and drawing on the ideas, policies and practices that they felt would best achieve the implicit goal of making marihuana legal, available but not promoted. The findings also reveal that policy coherence across health issues was confronted by challenges in passing legislation in the alcohol policy space and by public security priorities to combat the illicit market. Ultimately, the findings show that addressing inconsistencies between public security and unhealthy commodity regulation priorities may prove to be irreconcilable, particularly if public security advocates continue to view the role of the state as being responsible for facilitating market access rather than shaping healthy product environments.

6 Constraints on national policy space from international drugs and finance in the development of Uruguay's regulated marihuana market

Uruguay's marihuana regulation law has been widely regarded as landmark among the drug reform community, and in health and social policy debates internationally. Often, perceptions of Uruguay's watershed marihuana legislation are based on the view that the law was advanced despite contravening the country's obligations under the international drug control conventions (Álvarez et al., 2017, Arrarás and Bello-Pardo, 2014, Musto, 2018, Graham, 2015), which limit the production and sale of marihuana exclusively to medical and scientific purposes (United Nations, 1961). Yet, few scholars have reflected on the potential implications of conflicts between Uruguay's marihuana policy and the objectives of the international drug conventions for the development of a legal market. As illustrated in Section 2.3.3, a series of recent studies have suggested that because Uruguay defended its marihuana law as a health and human rights issue (Arrarás and Bello-Pardo, 2014, Álvarez et al., 2017, Walsh and Jelsma, 2019), this explains *how the government was able to reform marihuana policy despite constraints of the international drug conventions* (particularly the pressure from the International Narcotics Control Board or the INCB).

Others have linked the INCB's lack of impact on the development of marihuana regulation in Uruguay to the lack of direct US involvement in Uruguay's policy deliberations (von Hoffmann, 2016, Graham, 2015). (While the US is often seen as a key proponent of the INCB, its own internal policy experiments with marihuana have been portrayed as complicating its position as the global defender of drug prohibition (von Hoffmann, 2016, Youngers, 2014, Álvarez et al., 2017)). However, no study has critically assessed precisely *how Uruguay's international obligations and external pressures might have shaped and constrained the space available to implement marihuana regulation*, specifically as this relates to the way marihuana has been classified at the international level. Importantly, this narrative largely overlooks the ways in which Uruguay's marihuana law intersects with other sources of pressure and external constraint including the US Patriot Act, the Financial Action Task Force's (FATF) International Standards on Combating Money Laundering and the World Bank's (WB) Financial Inclusion Initiative.

This chapter aims to address this gap by exploring whether and to what extent the policies and processes of international actors shaped and constrained Uruguay's ability to develop a legal marihuana market through the lens of policy space. Policy space is a concept that primarily has been used within global health to assess the impacts of trade policy, particularly related to the restrictions this can impose on the sovereignty of developing nations to make their own policy decisions (Mayer, 2009). For the purposes of this chapter, I adopt the definition provided by Koivusalo (2009) who defines policy space as the 'freedom, scope and mechanisms that governments have to choose, design and implement public policies to fulfil their aims', which can limit regulatory scope and national autonomy of governments to develop policies relevant to local conditions (Lencucha, 2010). Conflicts between international trade and health agreements have been well documented in other policy spheres like public health with specific reference to tobacco control (Collin, 2012), the promotion of healthy diets (Thow and McGrady, 2014) and access to medicines (Koivusalo et al., 2009). Yet, there is need for a better understanding of how binding drug conventions and other international finance commitments and practices might shape and constrain the availability of Uruguay's marihuana policy space.

Indeed, efforts to increase legal access to marihuana as a measure to combat illicit drug trafficking have a recognised potential for conflict with anti-money laundering and finance practices. The 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances recognises 'the links between illicit traffic and other related organised criminal activities which undermine the legitimate economies and threaten the stability, security and sovereignty of States' (United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988). During the last 20 years, there has been significant development in the international control mechanisms aimed at combating illicit drug trafficking by intensifying the involvement of international financial institutions like the World Bank (WB) and the International Monetary Fund (IMF) in anti-money laundering activities (Scott, 2006).

As discussed in Section 2.3.3, this international control of drugs and money laundering has restricted access to financial services for marihuana-related businesses in Colorado and Washington State, despite the newfound legality of marihuana in their respective state-level regimes (Conti-Brown, 2018, Hill, 2015, Subritzky et al., 2015). Previously, scholars have considered the problem of marihuana banking as inherent to the US' federalised political system, as marihuana's illegal status at the national level in the US

raises tensions between federal authority and state autonomy (Hill, 2015, Conti-Brown, 2018, Subritzky et al., 2015). However, this issue seems relevant to Uruguay, as international anti-money laundering controls might limit the state's ability to implement marihuana regulation, particularly if US and non-US financial institutions refuse to process marihuana-related transactions through the formal financial system because of marihuana's illegal status at the international level. In addition to the constraints imposed by the state's obligations under the UN drug conventions, I therefore hypothesise that this international control of drugs and money laundering is likely to shape and constrain the availability of policy space for Uruguay to develop a legal marihuana market.

This chapter begins by examining the synergies and tensions between the legalisation of recreational marihuana with Uruguay's international obligations under the UN drug conventions as well as international health and human rights commitments. It then explores the challenges posed for Uruguay's marihuana regulation by the limited consistency between its objectives and wider anti-money laundering and finance agendas, focusing particularly on tensions with the standards and risk management practices of the international banking sector. The final section of the results provides two examples of challenges with implementation with respect to licensing marihuana producers and commercial sales through pharmacies to illustrate tangible, on the ground, significance of international tensions and coherence issues. The Discussion section reflects on what the findings say about the relevance of international constraints on Uruguay's policy space and the overarching research question of: *How did the UN drug conventions and other relevant international pressures shape and constrain the policy space available for Uruguay to implement marihuana regulation?*

Overall, I argue that while the international drug conventions did not prevent Uruguay from pursuing marihuana regulation, the priorities of the Conventions have been embedded in the norms and practices of other relevant international anti-money laundering and finance institutions in such a way that this constrained the space available for Uruguay to develop a legal marihuana market. As a descriptive guide to what follows, **Table 6.1** provides a mapping tool to illustrate the most relevant external pressures and obligations—based on the perceptions of interview participants— to Uruguay's marihuana policy process, organised by international treaties, international norms and practices and extra-territorial impacts of national legislation in other jurisdictions.

Table 6.1 International commitments and external pressures relevant to marihuana policy space

Types of agreements	**Illicit drugs**	**Finance**	**Health**	**Human rights**
Treaties and conventions	UN Single Convention on Narcotic Drugs		WHO Framework Convention on Tobacco Control	UN Charter
	UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances			American Convention on Human Rights
Norms and practices		FATF's 40 standards		
		WB Financial Inclusion Initiative		
Extra-territorial impacts of national legislation	US Controlled Substances Act	US Patriot Act		

[1]**Acronyms**: United Nations (UN); World Health Organisation (WHO); Financial Action Task Force (FATF); World Bank (WB); United States (US)

Results

6.1 International treaties and conventions

This section of the chapter seeks to examine tensions between the legalisation of recreational marihuana with Uruguay's international obligations under the UN drug conventions, specifically the UN 1961 Single Convention on Narcotic Drugs (defined herein as the Single Convention) and the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (i.e. the Trafficking Convention)[11]. To clarify, the task for Section 6.1.1 is to outline the international mechanisms governing the control of marihuana and provide context to the subsequent sections of the chapter. It then explores how Uruguay attempted to defend national policy space by arguing that marihuana regulation was pursued in accordance with the state's international health and human rights obligations. Relevant international frameworks include the WHO's Framework Convention on Tobacco Control (FCTC) and Global Strategy against the Abusive Use of Alcohol, the UN Charter and the American Convention on Human Rights.

6.1.1 Tensions with Uruguay's obligations under the UN drug conventions

The legal regulation of a marihuana market for non-medical purposes raises important tensions with Uruguay's obligations under the UN drug conventions because of the implicit goal to increase marihuana supply. The stated aims of the 1961 Single Convention are to combat drug abuse and deter drug traffickers through international mechanisms that seek to eliminate marihuana use, as Article 49 states, *'as soon as possible but in any case within twenty-five years from the coming into force of this Convention'* (United Nations, 1961). Under Article 4[12] (on legislative and administrative measures regarding General Obligations), achieving these aims requires that Parties take necessary measures

[11]Although the 1971 Convention on Psychotropic Substances is also part of the international drug control regime, its primary purpose is the international control of psychoactive drugs like methamphetamine and barbiturates. As such, it will not be dealt with in this chapter, given its limited reference to interactions and tensions with Uruguay's marihuana regulation.

[12]Having legal markets in alcohol and tobacco (as well as caffeinated beverages) might be expected to raise tensions with a country's obligations under Article 4 of the UN drug conventions (United Nations, 1961). However, alcohol and tobacco were explicitly excluded from the provisions of the 1961 Single Convention on Narcotic Drugs allegedly for political reasons (Room, 2015). A 1971 commentary on the Convention on Psychotropic Substances states that neither alcohol nor tobacco 'warrant' the 'kind of controls for which the Vienna Convention provides, and which if applied would not make any useful impact on the [alcohol] or tobacco problem' (United Nations, 1971).

'…to limit exclusively to medical and scientific purposes the production, manufacture, export, import, distribution of, trade in, use and possession of drugs' (United Nations, 1961). Secondly, Article 36 regarding Penal provisions states that each Party '*shall adopt such measures as will ensure that cultivation, production, manufacture…distribution, purchase, sale…of drugs contrary to the provisions of this Convention…shall be punishable offences when committed intentionally*' (United Nations, 1961). Consequently, efforts to increase the legal supply of marihuana, and remove civil penalties for its production, distribution and sale, are inconsistent with Uruguay's obligations under the 1961 Single Convention.

Marihuana's inclusion in the UN Single Convention's list of internationally controlled substances has also been significant. For instance, the 1961 Single Convention classifies recreational marihuana as a Schedule IV substance, which is the most restrictive classification of illicit substances within the international drug control regime, obliging Parties to prohibit its production, distribution, sale, possession and use (United Nations, 1961). Marihuana is also listed as a Schedule I substance, which contains the same controls as a Schedule IV, except that it provides a health and welfare exemption, limited to particular uses of marihuana and under certain conditions. The extent to which this health and welfare exemption provides scope for Uruguay to develop marihuana regulation has therefore been one source of tension between key officials and authorities of the UN, particularly the INCB. While key actors in Uruguay argued that the legal regulation of the domestic marihuana market was not in violation of Uruguay's treaty obligations because marihuana was regulated under the health and welfare exemption (Porto, 2014), qualifying for the exemption has generally been interpreted by the INCB as including '*amounts which may be necessary for medical and scientific research only*' (United Nations, 1961), thereby excluding recreational use (Yans, 2013). Indeed, the INCB has directly criticised Uruguay for failure to comply with these specific provisions of the 1961 Single Convention, as stated in Article 2 (on drugs in Schedule I regarding Substances under Control), asserting in a 2013 press release:

> *Uruguay is breaking the International Conventions on Drug Control with the Cannabis Legislation approved by its Congress. The International Narcotics Control Board (INCB) regrets that the legislation to legalize production, sale and consumption of cannabis for non-medical purposes approved yesterday in Uruguay contravenes the 1961 Single Convention on Narcotic Drugs, to which Uruguay is a party* (Yans, 2013).

Another potential contradiction between Uruguay's marihuana regulation and the UN drug conventions can be observed in the provisions of the 1988 UN Trafficking Convention. The Trafficking Convention furthers the aims of the 1961 Single

Convention by requiring that Parties criminalise certain drug-related offences with significant cross-border effects and international implications. For instance, Article 3.1 (on illicit activities related to Offences and Penalties) states that Parties must establish as a criminal offence the production, distribution and sale of recreational marihuana, including its delivery, transport, dispatch in transit, importation and exportation (United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988). Under the same article, the Trafficking Convention also mandates that Parties criminalise the possession, purchase or cultivation of marihuana for personal consumption under domestic law '*subject to its constitutional principles and the basic concepts of its legal system*' (United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988).

There have been issues and competing interpretations between Uruguayan officials and the INCB regarding whether this constitutional exemption affords Uruguay the space to develop a legal marihuana market. This is apparent, for instance, in the arguments advanced by key officials in Uruguay that marihuana regulation was not in breach of Uruguay's treaty obligations, given that marihuana use and possession have been legal since 1974 under domestic law, and have referred specifically to the constitutional exemption in the 1988 Trafficking Convention as a legitimate source of protection (Porto, 2014). For instance, at a 2014 meeting with representatives of the INCB, Vice Minister of Foreign Affairs Luis Porto contended that:

> *It should be reiterated that international organisations, to which Uruguay is a party, did not question in all these years Uruguay's policy regarding the non-criminalisation of cannabis use. We reiterate: in Uruguay, drug use has not been penalised since 1974. With the approval of Law 19.172 dated December 20, 2013, it seeks to establish a regulatory framework that allows for the regulation of the cannabis market, in order to help reduce potential risks and harms in those who use marihuana for recreational and/or medicinal purposes. By having to stock up in the illegal market, users are denigrated and involved in criminal activities and high-risk practices, and are exposed to toxicologically riskier drugs, such as cocaine paste* (Porto, 2014).

Conversely, the arguments raised by the INCB seem to suggest that the constitutional exemption only pertains to offences related to the possession, purchase and cultivation for personal use (Walsh and Jelsma, 2019), but apparently, the INCB does not agree that this exemption applies to the production, distribution and sale of recreational marihuana (Yans, 2013). Accordingly, these competing interpretations serve to highlight tensions raised by legalising a regulated marihuana market and the question of whether removing criminal penalties for such drug-related offences would violate Uruguay's treaty obligations under the 1988 Trafficking Convention.

The legal regulation of a recreational marihuana market also illustrates tensions with the money laundering controls on Offences and Sanctions in the 1988 Trafficking Convention. The UN Office on Drugs and Crime (UNODC) defines money laundering as a process of concealing the origin of funds derived from criminal activities and making them appear to have come from a legitimate source (United Nations Office on Drugs and Crime, 2020). Critical to the international control of money laundering is the requirement that Parties criminalise activities that would facilitate, contribute to and sustain the financing of illicit drug trafficking (United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988). For example, Article 3.1 states that the organisation, management or financing, conversion, concealment or disguise of property derived from the production, distribution and sale of recreational marihuana shall be established as a criminal offence under domestic law (United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988).

Moreover, Article 3.1 obliges Parties to establish as a criminal offence the '*acquisition, possession or use of property knowing, at the time of receipt, that such property was derived from an offence or offences*' related to the production, distribution and sale of marihuana (United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988). This provision also applies to the aiding, abetting and facilitation of money laundering offences. As Uruguay's marihuana policy applies to an illicit substance of the UN drug conventions, which is governed by binding international trafficking agreements, the use of funds derived from a recreational marihuana market in other countries or in the global financial system might therefore be seen as inconsistent with Uruguay's obligations under the 1988 Trafficking Convention.

6.1.2 Uruguayan officials' attempts to protect policy space in the interest of public health and human rights

As discussed in Chapter 2, it had been widely expected that passage of Uruguay's marihuana legislation would be jeopardised by its obligations under the UN drug conventions given such aforementioned conflicts and tensions (Álvarez et al., 2017, Arrarás and Bello-Pardo, 2014, Musto, 2018, Collins, 2018, Graham, 2015). Throughout 2012 and 2013, the INCB, and in particular then-president Raymond Yans, on several occasions attempted to intervene and stop Uruguayan efforts to introduce a regulated marihuana market. According to a 2013 annual report of the INCB, Uruguayan officials resisted its involvement, having refused to *'receive an INCB mission before the draft law was*

submitted to Parliament for deliberation' (INCB Secretariat, 2013). The response by press release from former INCB President Yans warned Uruguay that:

> *Cannabis is controlled due to its dependence-producing potential…the current development in Uruguay, if pursued, would have serious repercussions for public health, particularly for youth, and would be in violation of the United Nations international drug control treaties* (International Narcotic Control Board, 2013).

In response, key officials publicly defended national policy space on the basis that Uruguay's marihuana regulation was meeting the original health objectives of the UN drug conventions. Shortly after the law's passage in 2013, Foreign Affairs Vice Minister Luis Porto travelled to Vienna to justify Uruguay's approach to marihuana regulation in front of the INCB. According to official transcripts of a February 2014 meeting, Porto contended that Uruguay's marihuana law complied with the '*spirit*' (Porto, 2014) of the UN drug conventions, but the government was pursuing a different approach to marihuana regulation in order to meet Uruguay's national public security and health policy objectives more effectively. As described in Chapter 5, Uruguay's marihuana regulation seeks to combat the illicit drug market and protect users from the harms of the illicit market by facilitating access to marihuana for legal residents 18 and above. As Vice Minister Porto asserted at the 2014 meeting with the INCB:

> *The objective and purpose of the Conventions on Narcotic Drugs -especially that of 1988- must be to combat illicit drug trafficking and, in particular, to combat the harmful effects of drug trafficking. It is within this framework that the recently enacted law must be understood. As President José Mujica has said at the second summit of the CELAC [Community of Latin American and Caribbean States]: 'We do not have any magic recipe, what we are trying to experiment with is a pathway that seeks to steal the market from drug traffickers'* (Porto, 2014).

This interplay between vertical and horizontal dimensions of coherence was, therefore, seen by key officials in Uruguay as justifying the government's approach to marihuana regulation. As indicated in the above quotation, key officials claimed that regulating marihuana was necessary because it would allow the state to not only achieve the objectives of the UN drug conventions, i.e. combat the illicit market, but also to pursue other legitimate government aims such as health protection, which arguably had not been realised under the conservative approach of the global drug regime. For example, at a 2015 meeting of the UNGASS, former Secretary-General of the Drug Control Board Milton Romani justified Uruguay's marihuana regulation, asserting:

> *Uruguay has made the sovereign decision based on its constitutional principles and legal system, and consistency to move forward with a vision of market regulation. In good faith, we are meeting our objectives to protect the health and wellbeing of Uruguayans, preserving their rights and combating the illicit market, protecting users from contact with said market and protecting public security* (Romani, 2015a).

6.1.3 WHO Framework Convention on Tobacco Control and Global Strategy against the Harmful Use of Alcohol

As suggested previously, Uruguay's participation in the WHO Framework Convention on Tobacco Control (FCTC), and to a limited extent, apparent commitments to the Global Strategy against the Harmful Use of Alcohol, have been significant to the international defence of policy space to pursue the government's health approach to marihuana regulation. In the introduction to this thesis, it was shown that former Secretary-General of the Drug Control Board Milton Romani publicly claimed that Uruguay's approach to marihuana regulation represents a '*move towards a different strategy focused on the regulation of the tobacco, cannabis and alcohol markets*' (Romani, 2015b). In international forums at the United Nations (UN), Romani also sought to protect Uruguay's policy space to pursue marihuana regulation by arguing that the law aimed to establish a consistent regulatory strategy across marihuana, tobacco and alcohol, asserting that a similar approach was needed at the international level between the UN drug conventions, the WHO's FCTC and the Global Strategy against the Harmful Use of Alcohol. For instance, at the 58th annual meeting of the United Nation's Commission on Narcotic Drugs, he argued:

> *There is a need for integrated action with the WHO to include reducing the harmful use of alcohol and regulating the tobacco market. The WHO's Global Strategy against the Abusive Use of Alcohol and the Framework Convention on Tobacco Control, though with their own logic and protocols, cannot be absent from drug policies* (Romani, 2015a).

This quote might suggest that the FCTC and the Global Strategy for Alcohol were seen as significant because key actors perceived Uruguay's marihuana legislation as consistent with or potentially reinforcing its commitments to international tobacco and alcohol control efforts. This does not seem to be the case, however. Instead, scope for sovereign national tobacco legislation under the FCTC was interpreted by several Uruguayan actors as providing justification for similar sovereignty in marihuana legislation. Apart from Romani (quoted above), no other participant mentioned WHO's Global Strategy for Alcohol in this respect. For example, when asked what their perceptions of the FCTC were, one former representative of Uruguay's Drug Control Board explained in a 2018 interview:

> *The signatories have to comply with it. Well, it does not seem bad to me. On the contrary, it seems to me that the frameworks, the framework conventions are widely discussed—the frameworks of multinational organisations…Then, each country does as it wants, right? Uruguay is a signatory to the FCTC and it seems okay to me, because it is not a prohibitionist agreement, which is different from drug policy. It is an agreement that establishes guidelines, but that does not impose policies or penalties. Moreover, the countries of that*

> *framework develop their own policies. In Uruguay, the [tobacco] policies that have been developed are different from those that have been developed in other places.* (P11, regulator)

The FCTC is legally binding for signatories to implement under the provisions of the Vienna Convention on the Law of Treaties, as are the UN drug conventions (United Nations, 1969). Therefore, Parties to the FCTC are legally obligated to adopt national legislation that aligns with the minimum requirements of the FCTC and its guidelines (Liberman, 2014), though such legal obligation to implement coexists with absence of any enforcement mechanism.

Arguably more significant than the general obligations arising from participating in the FCTC has been Uruguay's specific experience of a clear threat to national policy space. As described in Section 2.2.2, in 2016 Uruguay won a lengthy trade dispute against Philip Morris International (PMI) for implementation of its comprehensive tobacco control law (Voon, 2017). In particular, Uruguay's statement of defence in the context of the international trade dispute with PMI argued that the adopted tobacco control measures were legitimate because they were linked to the state's public health objectives. The significance of the international trade dispute with Philip Morris is that it appears to have shaped the ways in which key actors justified Uruguay's approach to marihuana regulation in the context of tensions with the UN drug conventions and other sources of external constraint. As outlined below, some key officials that participated in diplomatic visits to the UN in 2014 (Walsh and Ramsey, 2018, Porto, 2014), who were also involved in defending Uruguay's tobacco control law at the World Bank's ICSID (Crosbie et al., 2017), justified Uruguay's decision for developing a regulated marihuana market on account that the measures were adopted in 'good faith' (Romani, 2015a) and were logically connected to the state's national health objectives. Responding to the public condemnation that Uruguay received from the INCB throughout 2012 and 2013, Foreign Affairs Vice Minister Porto contended that:

> *It is in this spirit [that drug trafficking is more harmful than drugs themselves] that the law to regulate the cannabis market is promoted, with the purpose of minimising risks and reducing harms of use, promoting information to the population, education and prevention as well as treatment, rehabilitation and social reintegration of drug users (Art 1). The state will be in charge of the regulation of said law (Art. 2). The initiative aims to be a tool that dismantles the economic support of the illegal drug trade. In short, Uruguay understands that it is through the initiation of more effective policies in this area that progress must be made, considering the agreements signed on human rights* (Porto, 2014).

Although not explicitly mentioned by all participants, it seems that invoking that experience, particularly Uruguay's statement of defence in the international arbitration,

was used to protect Uruguay's national policy space for establishing a regulated marihuana market with the purpose of achieving national health objectives more effectively. As a former high-level official of the Mujica Administration asserted in a 2018 interview:

> *Now, we had problems with the INCB, with the International Narcotics Control Board. However, the argument, in general, was that we understood that we were complying with the spirit of the convention because it was another mechanism of legislative control in the end. That convention was so broad that there were even countries that stopped participating in the Convention to give the death penalty for using marihuana. To us, it was a violation of human rights; however, we did not impose our position on other countries. Therefore, we understood that other countries did not have the possibility to impose that decision on us which was sovereign and was a decision of the country, to improve access to public health of our citizens concerning their addictions.* (P6, regulator)

6.1.4 UN Charter's Human Rights obligations and American Convention on Human Rights

High-level officials of the Mujica Administration have sought to base their defence of marihuana regulation on Uruguay's obligations in relation to protecting the health of its population, as enshrined in the UN charter, and national commitments with respect to human rights. The UN Charter was established in 1948 with the view of setting fundamental norms and principles of international human rights law that are accepted and recognised among the international community (Shelton, 2008). Uruguay has also attempted to protect policy space by arguing that marihuana regulation was consistent with the state's regional commitments with respect to protecting the rights of its population within the 1969 American Convention on Human Rights. However, as the following subsection illustrates, interview and documentary data do not seem to clarify how key officials viewed Uruguay's marihuana legislation as compatible with its obligations under such international human rights conventions.

The first line of argument offered by high-level officials of the Mujica Administration was that Uruguay's obligations under international human rights law cannot be seen as subordinate to its wider drug commitments. Rather, such international human rights obligations needed to be considered as a higher priority, particularly in cases where there were conflicts with the UN drug conventions. As a key actor from the Drug Control Board stressed in a 2018 interview:

> *A state's sovereign right to decisions even on drug issues. For Uruguay, it was a principle that proposes that human rights instruments and conventions, in cases of conflict with [the UN drug] conventions, human rights shall prevail.* (P13, regulator)

Furthermore, some high-level officials argued that Uruguay was legally obligated to prioritise human rights over drug control, based on the view that international human rights law encompassed fundamental, overriding principles that neither Member States nor UN bodies may disregard (Shelton, 2008). As former Vice Minister Porto argued in a 2014 statement to the INCB:

> *It is appropriate to consider the obligations that under other Conventions, our State - as well as the other Parties - have assumed, and in particular, those that refer to the protection of human rights, since they are norms of jus cogens*[13] *and our state cannot fail to comply with them* (Porto, 2014).

The argument that Uruguay's obligations under international human rights commitments should take precedence over the objectives of the UN drug conventions was invoked consistently and frequently, as indicated from the interview data and corroborated by the documentary analysis. While frequently invoked on a general basis, there was very limited reference to any specific protections or scope to the claim regarding Uruguay's obligations under international human rights law, as expressed in the UN Charter and the American Convention on Human Rights. This could be because the interviews did not probe or follow-up on such claims of consistency between marihuana legalisation and Uruguay's obligations under international human rights law. Nevertheless, key participants were also vague as to which specific treaty was being invoked. As a high-level official of the Mujica Administration contended in a 2018 interview:

> *There are other Conventions of the United Nations at the same range in public health and human rights that obligates us to protect the ill in the case of their addiction. We said, 'Well, gentlemen, there is a contradiction here.' We are not contravening the Convention because we are complying with other conventions. That was basically the international argument.* (P6, regulator)

The non-specific legitimacy claim to human rights appears to have been used as a broader framing device to protect Uruguay's national policy space in the context of competing interpretations of the state's obligations under the UN drug conventions. As Vice Minister Porto declared in 2014 to the INCB:

> *It should be noted that given two possible interpretations of the provisions contained in the Conventions, it is appropriate to opt for that which better protects the human rights in question, as established in Article 29 of the American Convention on Human Rights* (Porto, 2014).

[13]Referring to a peremptory norm, from which no derogation is permitted (United Nations, 1969).

With the exception of the American Convention on Human Rights, however, no other human rights convention was specifically invoked in public debate nor in the interview data. Importantly, Article 29 (on Restrictions regarding Interpretation) of the American Convention deals strictly with Uruguay's legal obligations under the Convention, its domestic law and other international conventions to which Uruguay is a party. However, it is not entirely clear the sort of legal protections that such international human rights instruments might provide to Uruguay's national policy space. For example:

> *No provision of this Convention shall be interpreted as: (a) permitting any State Party, group, or person to suppress the enjoyment or exercise of the rights and freedoms recognized in this Convention or to restrict them to a greater extent than is provided for herein; (b) restricting the enjoyment or exercise of any right or freedom recognized by virtue of the laws of any State Party or by virtue of another convention to which one of the said states is a party* (Inter-American Commission on Human Rights, 1969).

The strategic use of a non-specific legitimacy claim to Uruguay's human rights obligations was further corroborated by various other interviewees. Indeed, several key actors recognised the benefits of invoking arguments regarding how Uruguay's marihuana legislation strictly adheres to international human rights law in terms of providing a legal rationale for Uruguay to opt out of some of its obligations under the UN drug conventions. In particular, some former representatives of the Drug Control Board communicated during the interviews that they strategically devised arguments that would leave Uruguay '*better positioned as an exception*' (P20, lawyer) to the UN drug conventions. As a former representative of the Drug Control Board and lawyer who helped construct Uruguay's international defence strategy argued in a 2018 interview:

> *We worked on how to integrate a discourse that will somehow leave us better positioned as exceptions to the Convention. Then, we carried out an analysis, a Pro Bono study naturally, on how it was possible to make [Uruguay's marihuana legislation] compatible and the role that human rights conventions played as the focus when considering an integral drug policy.* (P20, lawyer)

Interview data suggest that several key actors in Uruguay were concerned by the fact that regulating marihuana *'strongly clashed with the Conventions of Vienna and Uruguay is very respectful of its international participation.'* (P6, regulator) This indicates why several key actors maintained that Uruguay's wider human rights obligations under international law should take precedence over the requirements of the international drug control treaties. But, the question of how marihuana regulation was seen as compatible remains unclear. As a former representative of the Drug Control Board suggested in a 2014 interview:

> *Personally, I like to align myself behind the legal position, in which the agreements have been inundated with rights and with a harm reduction and health perspective that are worth more, equal to or more than the treaties that we also subscribe ourselves to, the three [drug] Conventions.* (P18, regulator)

6.1.5 Lack of police enforcement mechanisms and rhetorical power of the INCB

Although it might be expected that Uruguayan officials would be constrained by the formal legal structure of the UN Drug Control Conventions, and clearly key actors were concerned by the international dimensions of regulating marihuana, there are a few reasons why this might not be the case. Several key actors felt that the INCB was prevented from invoking sanctions against Uruguay because of Uruguay's defence that it had the right to adopt marihuana regulation in accordance with its obligations under international health and human rights treaties[14]. As a former representative of the Drug Control Board reflected in a 2018 interview:

> *The INCB somehow did not put Uruguay in violation. Something that both Bolivia [which has an exemption for traditional and medicinal uses of the coca leaf] and Uruguay have a small exception by saying that this is a public health and human rights issue*. (P20, lawyer)

It is worth noting that Bolivia's exemption for the coca plant required that the country withdraw from the 1961 UN Convention and re-accede with a special reservation, which is a declaration by a state to exclude or alter the legal effect of certain provisions of a treaty (United Nations Office on Drugs and Crime, 2013). Conversely, Uruguay has not withdrawn from the UN drug conventions since it became a signatory in October 1975, nor does it currently have a reservation for its marihuana legislation.

This illustrates the importance of the second point related to why Uruguayan officials might not be constrained by the formal legal structure of the UN Drug Conventions. Ultimately, the significance of Uruguay's international drug treaty obligations is circumscribed by the absence of a substantial threat of punitive sanctions because of the INCB's lack of formal police power. Although statements from former INCB President Raymond Yans urged Uruguay to '*ensure that the country remains fully compliant with international law which limits the use of narcotic drugs, including cannabis, exclusively to medical*

[14]The formal authority of the INCB can be found in the amendments to Article 14, paragraph 1, subparagraph (d) of the UN Single Convention on Narcotic Drugs. It states that the INCB is legally authorised to act on cases in which a government's non-compliance with the UN drug conventions endangers the international community or the UN drug treaties' aims. However, in the UN commentary to such amendments (found on p. 32 of commentary 5), it clarifies that although the INCB has the legal authority to recommend to Parties of the UN drug conventions that they 'stop the import of drugs, the export of drugs, or both, from or to the country or territory concerned' (United Nations, 1972), its de facto ability to carry out this power is limited to extremely grave situations and dependent upon the actions of other Parties to the Conventions.

and scientific purposes' (INCB Secretariat, 2013), it fails to mention any concrete consequences for Uruguay's non-cooperation or breach of the Single Convention. For example, after the law was passed in December 2013, former INCB President Yans publicly condemned Uruguay's actions, stating he was:

> *Surprised that a legislative body that has endorsed an international law and agreements, and a Government [sic] that is an active partner in international cooperation and in the maintenance of the international rule of law, knowingly decided to break the universally agreed and internationally endorsed legal provisions of the treaty* (Yans, 2013).

Generally, in matters of global drug governance, the INCB relies on informal pressure to encourage what it considers to be treaty adherence, but the effectiveness of this pressure is largely contingent on the Board's de facto ability to invoke its formal powers (International Drug Policy Consortium, 2008). The formal authority of the INCB has generally been interpreted as encompassing a legal right to propose confidential consultations with governments that fail to comply with the UN drug treaties, including those not party to the Conventions. Within this context, the Board may call on any government to adopt 'remedial measures' (United Nations, 1972) or to examine the issue in question, with the view to adopting additional measures that would ensure treaty compliance. However, the Board's enforcement mechanisms have not been interpreted as involving the imposition of punitive sanctions on member states that violate such international treaties. Although the INCB's formal authority includes recommending that Parties to the UN drug conventions cease drug trade relations with states that fail to comply with the requirements of the international drug treaties, its de facto ability to carry out this authority is limited to '*extremely grave situations*' (United Nations, 1972). Note that the INCB's prosecutorial power to recommend trade sanctions on allegedly non-compliant states has never been applied in the history of the UN drug conventions (International Drug Policy Consortium, 2008).

Contrary to expectations, the binding nature of the international drug treaties has not been perceived as the most significant constraint on Uruguay's marihuana policy space. This does not imply that the international drug conventions were insignificant, however. The fact that the international drug conventions have defined what constitutes an illicit substance at the international level has implications for the priorities and goals of international anti-money laundering and finance institutions, which were seen as significant sources of constraint on Uruguay's ability to implement marihuana regulation. As the next sections illustrate, the arguably greater significance on national policy space of non-binding anti-money laundering standards and finance

practices lies in their tangible risks of economic sanctions for failure to comply with the general requirements of such international norms, which has created tensions between Uruguay and relevant private sector actors within other countries.

6.2 International norms and practices around prevention of money laundering

Although the UN drug conventions are the only international drug control treaties, they are one part of a wider multilateral crime control regime. The key requirements and provisions set out in the 1988 UN Trafficking Convention have also been embedded within extraterritorial national legislation in the US, regional anti-money laundering standards and international financial inclusion practices, all of which appear to pose challenges to the implementation of Uruguay's marihuana legislation. This is notably the case with respect to the extraterritorial scope of the US Patriot Act (defined as the practice of one country enforcing its domestic laws inside another jurisdiction without prior authorisation (Arnold and Salisbury, 2019)). Indeed, the US Patriot Act has been previously defined as having significance to the international financial control of foreign banks and financial institutions outside of US territory (Alexander, 2002, Preston, 2002). For example, the Act contains provisions that expand its extraterritorial scope over financial institutions, including foreign banks that maintain correspondent bank accounts with US financial institutions, through tangible threats of economic sanctions for providing financial services to criminal organisations (Preston, 2002).

US efforts to strengthen its extraterritorial reach to prevent illicit drug trafficking have influenced the Financial Action Task Force (FATF) to adopt stricter standards and controls for its members (Alexander, 2002). The FATF is an independent intergovernmental body of the Organisation for Economic Cooperation and Development (OECD), which was first established in 1989 by the G7 Heads of State to guide implementation of the anti-money laundering provisions of the 1988 UN Trafficking Convention. These include, for example, the goals of criminalising the act of money laundering, defining what activities that would involve and increasing multilateral cooperation and mutual legal assistance in money laundering investigations and prosecutions (Financial Action Task Force, 1990). These principles form part of the FATF's Forty Recommendations, which were first established in 1990 with the purpose of globalising a '*comprehensive and consistent framework of measures which countries should implement in order to combat money laundering and terrorist financing*' (Financial Action Task Force, 2019b).

The FATF has three different types of membership status: members (jurisdictions that represent most major financial centres), associate members (FATF-style regional organisations representing most low and middle-income countries) and observer organisations (intergovernmental organisations such as the World Bank (WB) and financial groups) (Financial Action Task Force, 2019a). Uruguay is part of the associate member organisation, the Financial Action Task Force of Latin America (GAFILAT), which was created in 2000 with the goal of coordinating a regional strategy to prevent and combat money laundering through enhanced cooperation among member countries (Financial Action Task Force of Latin America, 2019). As a FATF-style regional organisation, the GAFILAT acts as an intermediary body between its participants and the FATF, ensuring that its members (including Uruguay) strictly adhere to the FATF's Forty Recommendations as the recognised international standard. Regardless of membership type, all members are urged to endorse the FATF standards, including financial institutions who are expected to undertake extensive measures to identify and mitigate the risk of money laundering among both current and prospective clients. (See Section 6.2.3 for a discussion on the relevance of the FATF's de facto pressure in encouraging compliance with international anti-money laundering standards).

Finally, the FATF has worked closely with the World Bank (WB) to the effect of integrating its anti-money laundering standards with the WB's financial inclusion practices through the adoption of a risk-based approach to customer due diligence, which seeks to prevent funds derived from illegal activities from entering the formal financial system. Financial inclusion means that individuals and businesses have access to a wide range of financial services and products that address the diverse needs of underserved populations and businesses (World Bank, 2020a). Acknowledging that US extraterritorial national legislation, regional anti-money laundering standards and international financial inclusion practices are closely interlinked (Alexander, 2002), this section explores the relevance of their interactions with Uruguay's marihuana legislation as separate, yet interdependent strands, and the implications of such tensions for Uruguay's ability to develop a legally regulated marihuana market.

6.2.1 US Patriot Act

Several key actors did not anticipate that the US Patriot Act would impact Uruguay's national policy space, though they did expect some constraint or difficulties given

observations of emerging challenges with marihuana banking in the US states. As discussed in more detail in Section 7.5 (pp. 279-282), key actors in Uruguay visited the United States to gather information and exchange knowledge on the political, legal and institutional context under which marihuana regulation operates. While visiting marihuana production sites in Colorado, for example, representatives of the Drug Control Board observed several marihuana companies and retailers were largely operating off a cash-based system. Although marihuana is currently legal in some US states, it remains illegal under US federal drug laws, and therefore, major US financial institutions like Citibank and Bank of America have refused to offer financial services to companies directly or indirectly involved with the US marihuana industry due to alleged concerns of violating US federal money laundering statutes (Conti-Brown, 2018). This situation has left the US marihuana industry in states where production and sales are legal without access to banking services, resulting in several companies and retailers operating predominately through cash-intensive economies (Hill, 2015). As a representative of the Drug Control Board explained in a 2018 interview:

> *Well, what happened was that there were problems with international banks, with credit unions and such. Yes, when we visited Colorado for the first time, I remember that one of the places where they grew marihuana, which was a shed with an enormous roof, nearly [the size] of an entire block. They had farm sheds [as big as] this room filled with money and each one moved. They would go to pay, they would leave with a security transport service that was locked, and with two motorcycles… they would go to places and pay in cash. They would go to buy soil. They would pay [in cash]. The entire economy was in cash.* (P11, regulator)

The representative from the Drug Control Board continues to explain the significance of the US Patriot Act in the context of Uruguay's marihuana regulation in the following excerpt:

> *The problem with the banks is the 2001 Patriot Act, which makes it so that you have to ensure that the funds do not come from clandestine gambling, human trafficking, arms trafficking, drug trafficking. However, we never thought that this would be considered drug trafficking.'* (P11, regulator)

Yet, regardless of Uruguay's marihuana legislation, the core tension with the US Patriot Act resides in the manufacture, importation, sale, or distribution of a controlled substance, including marihuana, which remain illegal under the US federal Controlled Substances Act (1970). This is significant because the US Patriot Act prohibits US banks from processing and transferring the proceeds of activities breaching the law (such as illicit drug trafficking) in non-US jurisdictions across a US border, even if such funds were derived legally. As indicated above, this issue is not a Uruguay-specific restriction; the US Controlled Substances Act and several US anti-money laundering

statutes, including the US Patriot Act, also pose real difficulties for US banks in terms of how they engage with the emergent marihuana industry.

While the majority of banks operating in Uruguay are also registered in the country, US banking regulations are relevant because several non-US banks simultaneously maintain correspondent banking relationships with US financial institutions. Maintaining a correspondent banking relationship with the US enables non-US banks operating in Uruguay to provide international transaction services to their clients abroad (Alexander, 2002). This is significant because non-US banks that operate in Uruguay including Canadian-based Scotiabank (Scotiabank, 2020a) and Brazilian-owned Itaú (Itaú, 2020a) maintain correspondent banking relationships with Bank of America and Citibank, whereas Spanish-owned Banco Santander has more than 700 US-based subsidiaries (a bank that is majority owned by a larger company) (Santander Group, 2013).

According to Section 319 of the US Patriot Act, financial institutions subject to Forfeiture of Funds include non-US banks with an interbank account in the United States with a covered financial institution. An interbank account typically involves a smaller bank entering into an agreement with a larger correspondent bank to process payments on its behalf or facilitate transactions for its clients (Alexander, 2002). The relevance of Section 319 is that any funds deposited into a foreign bank with an interbank account in the US are interpreted, under US federal law, as having been deposited in the United States, and therefore, subject to US federal criminal and civil forfeiture rules. This mechanism grants US authorities the power to seize assets indirectly from non-US banks with an interbank account in the US by seizing the funds directly from the US correspondent bank.

Although non-US banks that operate in Uruguay could technically opt out of the US' regulatory controls and service the accounts of marihuana-related businesses in accordance of Uruguay's financial laws, this would require that they terminate any correspondent banking relationship or bank account with a US financial institution (Alexander, 2002). This alternative is difficult, however, as according to Preston (2002), terminating an interbank account in the US is similar to dissolving commercial relations with the United States. This is significant because non-US banks that operate in Uruguay also carry out operations in Latin America and throughout the world (Scotiabank, 2020b, Itaú, 2020b) and therefore, require access to the US interbank

payment system in order to process international transfers and transactions for their clients (Alexander, 2002).

The relevance of the extraterritorial scope of the US Patriot Act is also demonstrated partially by the requirement that non-US banks must have access to an interbank account through a US bank in order to participate in the foreign exchange market (Alexander, 2002). Evidently, Section 319 of the US Patriot Act provides foreign banks that operate in Uruguay with very limited options: either ensure that their clients' funds are not derived from illegal activities like marihuana trafficking, accept the risk of asset forfeiture of correspondent accounts or sever financial ties with US-based banks (Preston, 2002). Consequently, the tangible risks of financial loss and loss of access to the US interbank payment system are significant.

Links between Uruguayan and US banks indicate that the US Patriot Act has relevance to financial transactions in Uruguay, even though the country has its own state-owned and operated banks: Central Bank of Uruguay and the Bank of the Republic of Uruguay. Indeed, policymakers and those in the financial services industry strongly felt that Uruguay's reliance on the US financial system meant that US banks could not have legal dealings with Uruguayan banks that service marihuana-related businesses. The issues identified above have been particularly salient for Uruguayan banks since Uruguay is one of the most highly dollarized economies in the Latin American region (Bucacos et al., 2019). According to a 2016 report by the IMF, approximately 80% of Uruguay's domestic currency is denominated in US dollars (Catão and Terrones, 2016). Other estimates suggest that in 2017, dollar-denominated bank deposits were as high as 75 per cent of the total deposits, whereas dollar-denominated loans represented slightly more than half of total banking credits (International Monetary Fund, 2019). This relationship of financial dependence is clear in the following interview account by a high-level official of the Vázquez Administration, who describes how Uruguay's reliance on the US financial system significantly limited policymakers' options in terms providing financial services to marihuana-related businesses:

> *Uruguay works in US dollars, which means that the economy is quite dollarized. Besides all of the countries in the region work in dollars. When Uruguay uses dollars, we buy it from the US through the correspondent banks. Several banks. At the same time, these international transactions, as a country we also use the North American banking system and the dollar. So, Uruguay cannot escape this. Because we are a dependent country in this regard, like most in the region. Uruguay does not have the dimension or capacity to have a strong national local bank that could support cannabis-related projects, which the US does have. The US has strong credit unions, local banks, cooperatives that can finance this.* (P28, regulator)

6.2.2 Cole Memorandum

Uruguay's dependence on the US interbank payment system created significant challenges for the country's efforts to create a legal marihuana market. As outlined above, while key officials in Uruguay did not anticipate that the US Patriot Act would constrain their ability to implement marihuana regulation, it seems that they did expect some challenges related to processing marihuana-related transactions through the formal financial system. Key officials have attempted to work around the anticipated issues of processing marihuana sales through the formal financial system by making Uruguay's marihuana legislation consistent with US federal guidance to Colorado, Washington State and the US banking sector. Observation of the difficulties that Colorado's marihuana industry faced in accessing the US banking system appears to have served as a powerful warning to key officials in Uruguay that if they did not closely align the anti-money laundering controls of marihuana regulation with US federal guidance, then US banks would also not work with marihuana-related businesses in Uruguay. As a former representative of the Drug Control Board asserted in a 2018 interview:

> *No one anticipated the issue that we were going to have with the banks. Because in the legislation and particularly in the regulation, with much pleasure we established clear limitations that there were so that the companies could apply for a license. Above all, with the view that this was not going to launder drug money, by linking a legal structure to another legal structure.* (P11, regulator)

Of particular relevance has been the 2013 federal guidance to US state regulators issued by the Obama Administration and the US Department of Justice. In what is commonly referred to as the 'Cole Memorandum', the 2013 federal guidance was a non-binding set of guidelines reflecting eight federal priorities that US states and private sector institutions should follow in order to avoid federal prosecution for violating US federal drug laws in these states (Cole, 2014). In 2014, the Financial Crimes Enforcement Network (FinCEN), a joint program of the US Department of Justice and Department of Treasury, issued corresponding guidance regarding enforcement of US federal anti-money laundering statutes. The stated intention of the 2014 FinCEN guidance was to provide clarification for '*how [US] financial institutions can provide services to marijuana-related businesses consistent*' with their anti-money laundering obligations and in alignment with the US Department of Justice's Cole Memorandum concerning guidance on marihuana-related enforcement priorities (Department of Treasury and Financial Crimes Enforcement Network, 2014).

At first, the 2014 US federal guidance to financial institutions might seem irrelevant, given that it did not apply to Uruguay nor to Uruguayan banks. But, some key officials and representatives of the Drug Control Board strongly believed that aligning Uruguay's marihuana regulation with the anti-money laundering controls reflected in the Cole Memorandum and subsequent 2014 FinCEN federal guidance to US financial institutions would provide Uruguay greater policy space to implement aspects of marihuana supply requiring access to the US interbank payment system. It was suggested that adapting Uruguay's marihuana regulation to the preferences of the US government would provide additional flexibility to US financial institutions, which, in turn, could process marihuana-related transactions in Uruguay, despite conflict with US federal drug and finance laws. It was the view of one high-level official of the Vázquez Administration that:

> *There was a much more flexible policy in the US with Obama, through the Department of State and Department of Justice that dictated protocols that would allow this to operate with certain requirements, while federal law remained in force…It was prohibited for the financial system to work with any company that was linked directly or indirectly to cannabis for a number of things but with cannabis, if certain steps were followed, there was flexibility. Concretely, the origin and final destination of funds, a prohibition on consumption for minors. Those types of things. Uruguay used that Cole Memorandum and another norm that although US federal drug laws were in force, there was a policy of not prosecuting businesses or the financial system when certain requirements were met.* (P28, regulator)

In sum, several key officials pointed towards Uruguay's dependence on the US financial system and small size of its economy as significant constraints on the space available to Uruguay to implement aspects of marihuana supply requiring access to the US interbank payment system. Yet, the fact that similar challenges with marihuana banking have also occurred in Colorado and Washington State (Hill, 2015, Conti-Brown, 2018) suggests that this is a broader issue with the emergent marihuana industry and emergent practices across jurisdictions.

6.2.3 Regional anti-money laundering standards

Aspects of the US Patriot Act directed at combating international money laundering cannot be fully appreciated without a discussion of the efforts of the Financial Action Task Force (FATF), in concert with its regional arm, the Financial Action Task Force of Latin America (GAFILAT), in setting the standards for identifying and mitigating the risk of money laundering activities in Latin America. Indeed, the US Patriot Act mandates that foreign regulators must comply with the FATF's international standards, which according to Alexander has 'raised the profile of the FATF in setting the

international norms that influence states in adopting restrictions' for the control of money laundering (Alexander, 2002). The US Patriot Act (2001) also states that foreign banks with a US interbank account, which the US deems as a primary money laundering concern, must comply with the FATF's international anti-money laundering principles and procedures or risk termination of any business relationship with US banks. Importantly, at the time that Uruguay was developing its marihuana regulation, it had been identified by the US State Department as a jurisdiction of primary money laundering concern (Bureau of International Narcotics and Law Enforcement Affairs, 2016).

It should be noted that the FATF's Forty Recommendations are not legally binding and the FATF does not possess legal authority to enforce their compliance (Hülsse, 2008). Nevertheless, as Shaffer (2013) argues, 'many states consider them to be de facto binding if they are to remain in good standing before the organization.' This de facto pressure to comply with the FATF's standards might seem even more relevant to low and middle-income countries given the apparent power imbalance of the FATF's membership (Hülsse, 2008). As indicated above, full members of the FATF include several high-income countries that represent most major financial centres, including the regional hegemon, the United States (Helleiner, 1999). Conversely, associate members, or the various FATF-style regional organisations, represent most low and middle-income countries, which are economically dependent on full member countries of the FATF (Hülsse, 2008). According to Hülsse (2008), this asymmetrical relationship between members and associate members likely explains why low and middle-income countries tend to 'comply [with the FATF standards] even in the absence of explicit threats and coercive measures', as there might be repercussions for failing to do so in other policy areas or relations. Consequently, this hierarchical relationship has been seen as increasing the FATF's de facto ability to directly pressure non-compliant states to adopt and implement national policies that closely align with its Forty Recommendations (Alexander, 2002, Sharman, 2008, Mugarura, 2016, Machado, 2013).

Interview accounts indicate that this has also been the case in Uruguay. Since 2004, there has been significant regional pressure for Uruguay to comply with the FATF's Forty Recommendations to avoid increased monitoring of its national economy or being placed on the FATF's 'Non-cooperative Countries and Territories' (NCCT) 'blacklist' (Financial Action Task Force of Latin America, 2020). The NCCT blacklist is a list of countries that the FATF considers as uncooperative in terms of adopting

internationally recognised money laundering standards or that it perceives as supporting money laundering activities (Sharman, 2008). Indeed, several interviewees indicated that the threat of sanctions by the FATF had influenced Uruguay to pursue policies in line with its standards and objectives. As a former representative of the Drug Control Board stated in a 2018 interview, *'[we] had promoted an anti-money laundering law because, in 2005, Uruguay was designated worldwide as a country that laundered money. It was about to be blacklisted.'* (P13, regulator) Although it was formally abandoned by the FATF in 2006 (Hülsse, 2008), this reference to the NCCT 'blacklist' highlights the extent of the FATF's leverage, since it allows financial institutions that invest in dependent economies like Uruguay to impose economic sanctions or remove financial investment entirely for failure to comply with the FATF's international standards (Mugarura, 2016).

Interviewees pointed towards policies focused on marihuana producers and retailers, and on broader financial systems, as evidence that Uruguay has sought to respond to the risk that a legal marihuana market might create opportunities for money laundering. Uruguay's commitments to regional and international anti-money laundering standards might therefore be seen as having constrained policy space for national drug policy, as these standards impose a significant fiducial duty on any Uruguayan bank looking to serve marihuana producers and suppliers. Under the FATF's international standards, correspondent banks are responsible for detecting and reporting suspicious monetary activities of their (potential) clients. This includes assessing and detecting any money laundering risks of their respondent banking relationships (a direct client of a correspondent bank) (Financial Action Task Force, 2019b).

For example, Recommendation 10 (on customer due diligence regarding Preventative Measures) states that '*Financial Institutions should be required to undertake customer due diligence (CDD) measures when: (i) establishing business relationships [and when] there is a suspicion of money laundering or financing of terrorism'* (Financial Action Task Force, 2019b). Moreover, correspondent banks are expected to apply enhanced customer due diligence measures for all cross-border banking relationships, including transactions that involve non-resident customers; cash-intensive businesses; and complex or unusual patterns that have no '*apparent economic or lawful purpose*' (Financial Action Task Force, 2019b). Lest there be any doubt, the production, distribution and sale of marihuana is listed on the FATF's designated categories of criminal activities that pose a significant money laundering threat to the financial system. These provisions appear to require that Uruguayan and foreign financial institutions apply enhanced customer due diligence

measures and adequately assess a potential client's money laundering risk for any account linked directly or indirectly to the production, distribution and sale of marihuana in Uruguay.

6.2.4 International financial inclusion practices

In the context of international finance practices and marihuana regulation, particular attention needs to be drawn to financial inclusion. The World Bank's Financial Inclusion Initiative, for example, includes a commitment to advancing financial access and inclusion through the implementation of national policies that aim to fully digitise financial services (World Bank, 2020a). While the World Bank allows member countries like Uruguay to specify which sectors and under what conditions they digitalise their services (World Bank, 2020b), the commitment towards financial inclusion envisions that all companies will eventually conduct business, including payment of salaries and wages, through a formal financial institution or electronic monetary system (World Bank, 2020a). It should be noted that there is no apparent contradiction between marihuana regulation and financial inclusion practices, as measures taken in support of the goal to promote economic development do not seem likely to limit Uruguay's policy space to develop a legal marihuana market. However, it was that marihuana's illegal status at the international level had created tensions between Uruguayan banks and marihuana producers and retailers, which was as seen as a significant constraint on Uruguay's ability to develop its marihuana supply system. The comment below by a representative of the Board of Directors of the Institute for the Regulation and Control of Cannabis (IRRCA) illustrates this conflict between marihuana regulation and financial inclusion practices:

> *Cannabis falls within the characteristics of psychoactive substances of the World Health Organisation that are not legally traded between countries. That led to difficulties sometimes, even for the producers because they could not have money in their banks, for example.* (P33, regulator)

Foreign banks that operate in Uruguay have contested policy options that provide financial services to the marihuana industry by arguing that they were inconsistent with existing international standards (Gaudán, 2017, teleSur, 2018), as required by FATF's rules. According to a 2017 media statement by a representative of the Spanish-owned bank Santander, the decision to terminate a banking relationship involving Uruguayan pharmacies linked to the sale of marihuana was for the reason that: '*as a global bank with clients in various countries, we have to observe the various norms in force in those places*' (teleSur, 2018). Indeed, measures taken to promote financial inclusion of marihuana producers

and retailers in Uruguay would expose foreign banks to the risk of money laundering, as processing funds derived from marihuana sales have generally been interpreted as an illegal activity in most other jurisdictions. Since major financial institutions tend to operate in multiple countries outside of Uruguay, the offer of financial services cannot be assumed to fall outside the scope of their FATF commitments (Financial Action Task Force, 2017).

The World Bank's financial inclusion recommendations contain text providing flexibility to Uruguay in terms of allowing banks to adopt a risk-based approach to customer due diligence. Such flexibility, however, needs to be considered in the context of the FATF's requirements that such regulations be otherwise consistent with its international standards, which limit the ways in which a risk-based approach can be adopted. Under the FATF Recommendations, financial institutions that are subject to anti-money laundering obligations are expected to implement enhanced customer due diligence measures when there is a suspicion of money laundering, particularly if they are to remain in good standing before the FATF (Shaffer, 2013) as well as protect their correspondent banking relationships in other countries. Reports suggest that rather than attempt to meet the FATF's stringent requirements for applying a risk-based approach to customer due diligence, some financial institutions in Uruguay have apparently refused to provide financial services to marihuana producers and retailers due to their perceived high-risk profile. According to a 2020 Mutual Evaluation Report on Uruguay by the Financial Action Task Force of Latin America:

> *With regard to risks, some banking institutions interviewed referred to the fact that there are certain entities which, on the basis of their risk assessment and tolerance, do not initiate commercial relations because of their inherent high-risk status, such as cannabis producing companies and the pharmacies that sell it* (Financial Action Task Force of Latin America, 2020).

Financial institutions have broad scope over determining their internal risk management practices and procedures, with fewer political oversights that allow for national policy space. In particular, finance rules in these international standards and practices place the 'burden of proof' on Uruguayan regulators, in terms of demonstrating national compliance with the FATF's standards. Arguably, the more significant constraint on policy space is that financial institutions in Uruguay bear the burden of evidence, in terms of demonstrating the limited and justified need for applying simplified customer due diligence measures and evidence that exempting marihuana companies, either fully or partially, is proven to be a low risk for money laundering. This has reduced scope for

Uruguay to encourage that financial institutions apply a risk-based approach to customer due diligence, as choosing to adopt simplified measures or terminate banking relationships entirely are ultimately business decisions.

To summarise, the extraterritorial scope of the US Patriot Act was identified as the most significant constraint on national policy space, which created obstacles for Uruguay to implement aspects of marihuana regulation requiring access to the US interbank payment system. Yet, the US Patriot Act is not alone in imposing constraints on policy space, as regional anti-money laundering standards and international financial inclusion practices also exert powerful influence. As the next sections illustrate, the supply of financial services is subject to rather stringent requirements that Uruguayan banks apply enhanced customer due diligence measures to marihuana-related businesses, which create a considerable administrative burden and financial cost for financial institutions looking to service these accounts. Perhaps, the more significant constraint on policy space is the fact that international finance norms allow US and other foreign banks outside of the US to remove financial services from Uruguayan banks who fail to comply with the general requirements of such finance practices.

6.3 Implications of coherence issues and tensions for implementation

The following section of the chapter seeks to demonstrate the national significance of international tensions and coherence issues identified in this analysis. It focuses primarily on tensions between Uruguay's marihuana legislation and the US Patriot Act, regional anti-money laundering standards and international financial inclusion practices, with particular reference to issues with licensing marihuana producers and implementing commercial sales through pharmacies. Data from this study indicate that such tensions were the primary drivers of the constraints on Uruguay's policy space to fully implement aspects of marihuana regulation that require access to the formal financial system.

As outlined in Section 1.4, key officials of the Mujica Administration announced that implementation of marihuana sales would begin shortly after the law's passage in 2013 (Arrarás and Bello-Pardo, 2014). However, commercial sales through pharmacies did not begin until four years later, following a complex and challenging pre-implementation phase (Kamin, 2017, Graham, 2015). The role of international financial systems has been a central feature in explaining such delays with implementation of

Uruguay's marihuana supply system. As the preceding section explains, not only do anti-money laundering standards create a significant fiduciary and administrative burden for any company linked directly or indirectly to the sale of marihuana. But the risk management practices of international finance have also severely limited access to lending and banking services for state-licensed marihuana producers in Uruguay, who, in turn, have faced significant obstacles in producing a sufficient supply to meet public demand. In addition, international norms aimed at preventing money laundering, including the US Patriot Act, provide banks with immense power to close any account that fails to comply with the FATF international standards. This mechanism of constraint on Uruguayan banks has led to several pharmacy owners refusing to sell marihuana due to concerns of losing access to financial services that otherwise would be required to carry out essential business activities.

6.3.1 Licensing producers

Interview accounts suggest that challenges with licensing marihuana producers were related to Uruguay's obligations under regional anti-money laundering standards regarding enhanced customer due diligence measures. After a twenty-month bidding process, the Institute for the Regulation and Control of Cannabis (IRCCA) announced that out of twenty-two applicants, two companies would be awarded the national production licenses in October 2015. Representatives of the IRCCA argued that they had planned to award six out of the twenty-two companies that had applied to the state licensing bid with a national production license. However, it was the administrative burdens and financial costs associated with applying for a production license that were seen as significant constraints on Uruguay's ability to license a sufficient number of marihuana producers that could produce enough marihuana to adequately stock the pharmacies involved in selling marihuana to the public. According to a representative of the Ministry of Livestock, Agriculture and Fisheries (MGAP) in a 2018 interview:

> *The producers were selected with technical rigour, but still, those who presented the best projects, in our opinion, found themselves with a number of difficulties that neither the state nor the private companies knew how to resolve. Both parties were interested in this functioning as soon as possible, but with a series of challenges.* (P38, regulator)

Interview accounts suggest that these challenges were not limited to the lack of marihuana producers in general, but also to the lack of experienced marihuana production companies specifically. According to some key actors, the two companies that were awarded the production licenses were not the most qualified out of the entire set of applicants, as neither of the '*companies had a 'know-how' nor do they have a background*

as cannabis producers.' (P27, civil society) The perception of some key actors was that lack of knowledge on part of the two state-licensed marihuana producers was a key factor in delaying implementation of the marihuana supply system. As a representative of the MGAP suggested in a 2018 interview:

> *Everything that was delayed was not due to the assumption that it was [because of] the Vázquez Administration, but rather for a number of difficulties that cost us a lot to overcome. For example, lack of knowledge on aspects of production, in part, by those that won the production licenses.* (P38, regulator)

Applicants were required to submit exhaustive financial records to the National Secretariat against Money-Laundering and the Financing of Terrorism (SENACLAFT), the Uruguayan agency charged with overseeing implementation of national policies and strategies against money laundering. Enhanced customer due diligence measures for individual applicants involved: requiring identification of the applicant and any other beneficial owners as well as submission of certified financial records to illustrate that the funds had been acquired through legal means (SENACLAFT, 2018). As a representative of the IRCCA argued in a 2018 interview, several of the applicants were not in the *'best conditions'* (P18, regulator) to advance to the SENACLAFT's evaluation stage, as the agency would not initiate the anti-money laundering analysis unless the appropriate documentation had been submitted (SENACLAFT, 2018). As the following extract from an interview with a civil society actor illustrates, delays in implementation were perceived to have been related to the challenges of proving the legality of a marihuana company's finances:

> *We knew that there were months in which the application was delayed because the companies did not meet all of the requirements that they had to have. Both for the Coordinating Commission against Money Laundering and the National Secretariat against Money Laundering and Financing of Terrorism: the SENACLAFT. They were the two offices that developed a guide on what the companies had to present for the application and all of the financial information that they had to present to ensure the legality [of the funds] and that that money did not come from drug trafficking.* (P8, civil society)

In addition, the enhanced customer due diligence measures for foreign firms, some of which had background knowledge on producing marihuana in other contexts (Parks, 2015), were even more extensive. According to 2018 guidance to potential applicants, the SENACLAFT states that each company must provide certified and notarised documentation of all shareholders up until the beneficiary owner; information on the asset value contributed by each partner, shareholder or entity with supporting documentation (e.g., company financial statements for the last 3 years); and detailed information on the company's shares in the stock exchange (SENACLAFT, 2018).

Foreign marihuana firms from non-Spanish-speaking countries were also required to have their documents verified, translated and notarised prior to inspection, which was seen as expending time and cost. Given the small size of Uruguay's market, media reports suggest that foreign marihuana firms did not perceive that there would be significant returns on investment (El Pais, 2015b, El Pais, 2015a), particularly given that the state was planning on selling marihuana for USD $1.30 per gram (Pestano, 2017). There was also no guarantee of receiving a license if the appropriate documentation had been submitted to the SENACLAFT. Remarking on the actions of foreign marihuana firms, some key actors felt that the excessive financial costs of applying for a production license with the IRCCA also influenced some of the more experienced producers to abandon the process entirely:

> *It was a paradox. Because the proposals that had more 'know-how', they came from outside the country. They came from other countries like Canada and the USA, from California, Israel. However, to present all that documentation, get it notarised, translated and sent here. That's why we even extended the deadline to present proposals [for the international companies]. However, for the companies, it was an expense issue and some did not finish the process.* (P18, regulator)

While several participants argued that supply shortages could be addressed by licensing more marihuana producers, the SENACLAFT has not sought to fast-track the process or apply simplified customer due diligence measures, as lesser requirements implied that financial institutions might refuse to work with marihuana producers in Uruguay as a perceived high-risk for money laundering. Hence, the issue was not whether marihuana companies could feasibly receive a marihuana production license, as two companies were awarded licenses in 2015. Rather, the central source of tension was whether marihuana firms perceived that the financial benefits of producing marihuana in Uruguay exceeded the time and cost expenses (including lost business) of applying for a production license.

6.3.2 Licensing pharmacies

Although licensing marihuana producers would prove difficult, the most significant obstacle for implementation emerged in relation to commercial sales through pharmacies. Interview accounts suggest that Uruguay faced considerable difficulties in recruiting a sufficient number of pharmacies to participate in the legal supply system due to concerns that selling marihuana posed a substantial financial risk to their businesses (Londoño, 2017, teleSur, 2018). In August 2017, less than a month after commercial sales through pharmacies began, Santander and Scotiabank threatened

some of their Uruguayan clients that unless they stopped selling marihuana through pharmacies, they would be required to close their bank accounts due to conflict with international norms of other countries in which they operate (Gaudán, 2017). As the owner of a major pharmacy in Uruguay explained in a 2018 interview:

> *Twelve days of selling marihuana, I went to Santander Bank to process a transaction and they told me I had five days. They were going to close my bank account. A unilateral action that the bank has with me or that I have with the bank, it seems.* (P25, commercial sector)

Shortly after, major US banks Citibank and Bank of America warned their Uruguayan respondent banks that they would also cease commercial relations with any Uruguayan bank that provided financial services to pharmacies linked to the sale of marihuana (Londoño, 2017). Concerned with the potential risk of losing access to US financial services, Uruguayan banks promptly warned pharmacy owners that if they continued to sell marihuana, they would have to terminate their banking relationships immediately (Londoño, 2017, teleSur, 2018). As a representative of the Uruguayan Association for Cannabis Studies (AECU) argued in a 2018 interview, criticising the immense power imbalance between Uruguayan banks and their foreign counterparts in the United States:

> *When we were drafting the bill, we knew that this was going to happen…we didn´t consider that it would be so quick and so serious. We thought that this would happen when the medical marihuana companies or those that were producing hemp started to export their products that we would have problems with credit card transactions. Up until this point, we were speculating. We did not think that within a country that our local banks, more than anything, we did not think that the US Treasury Department, Citibank or Bank of America were going to scare Uruguayan banks to the point that they would not even process transactions for hemp, which is legal in about a dozen other places in the world.* (P27, civil society)

Interview data suggest that a significant constraint on Uruguay's ability to implement commercial sales through pharmacies was the power asymmetry between Uruguayan banks and US financial institutions. The perception of some key actors regarding the actions of Uruguayan banks was that their options were very limited, meaning that Uruguayan banks had little choice but to close the accounts of pharmacies linked to the sale of marihuana due to Uruguay's dependence on the US economy. Moreover, some key officials argued that Uruguay was constrained regarding the types of interventions that the government could adopt to combat illicit drug trafficking because of the marked economic imbalance between Uruguay and other larger economies like the United States and Canada. As a high-level official of the Vázquez Administration contended in a 2018 interview:

> *It is a contradiction. Because if we have this policy to combat drug traffickers, the financing of terrorism and money laundering, what better to fight against that than using the system. The*

> *transparency of the financial system. On the other hand, if they push us towards cash, they are forcing us to be at the mercy of these practices. It is a contradiction. Furthermore, the United States is doing it as such [selling marihuana through formal financial system]. Canada is going to do it this way as well. But, clearly, Uruguay is a very small country.* (P28, regulator)

This power imbalance was not limited solely to economic factors, but also included structural constraints related to Uruguay's reliance on how the US government might decide to enforce US federal drug laws. In addition, the ambiguity surrounding how the US federal government might interpret the US Department of Justice's Cole Memorandum and associated federal guidance to financial institutions also created significant uncertainty for Uruguayan officials. Remarking on the actions of US banks, the perception of some key officials in Uruguay was that because of such ambiguity and political uncertainty, US financial institutions were unwilling to expose themselves to the legal and financial risks of violating US federal drug and finance law, particularly for a small economy like Uruguay. As one high-level official of the Vázquez Administration argued in a 2018 interview:

> *When Trump got into office, he had some regulatory expressions but afterwards, he did not authorise them. Furthermore, he is imprisoned by the much more rigid tendency of the Republican Party. So, the Departments of State and Justice were a bit paralysed and the international financial system, the correspondents, did not want to take the risks. And much less will they take the risk for a market like Uruguay's. Because one thing is all the money that can come from the United States.* (P28, regulator)

Several participants linked these asymmetries in power to the challenges that Uruguay faced in terms of reconciling conflicts between Uruguay's public security objectives and the US' wider drug and finance agendas. On a 2017 diplomatic visit to the United States, high-level officials of the Vázquez Administration and the President of the Uruguayan Central Bank went to speak with representatives of the US Department of State, Department of Justice and the Treasury Department. Media reports suggest that the stated intention of the visit to the United States was to request that the US federal government provide an exemption to US financial institutions that would enable them to process marihuana-related transactions in Uruguay (Montevideo Portal, 2017). The visit to the US, as one key informant claimed, was to present '*Uruguay as a serious country with this issue that at least would facilitate the possibility of us developing our policy. So, they don't block us a lot.'* (P28, regulator) However, as the interviewee continued to explain, senior officials in the US '*recognised the seriousness of the Uruguayan law, but they couldn't do anything. It was not on the agenda.'* (P28, regulator)

While key actors strongly felt that such asymmetries in power significantly constrained national policy space, it is also evident that marihuana legalisation has not been sufficiently reconciled with Uruguay's other international commitments, particularly financial inclusion. Some key actors from Uruguay's business sector identified certain counterproductive policy interventions with respect to commercial sales through pharmacies. For example, pharmacy owners argued that Uruguay's marihuana regulation was coexisting with the state's commitment to financial inclusion, with limited consideration of marihuana's illegal status at the international level. As indicated above, financial institutions face significant economic risks for providing financial services to an industry that is considered illegal in most other jurisdictions in the world. This interplay between international and domestic dimensions of coherence in Uruguay's marihuana policy process was therefore seen by some pharmacy owners in Uruguay as contributing significantly to the challenges they had faced in terms of selling marihuana through the formal financial system. According to one pharmacy owner who suggested in a 2018 interview:

> *So now from here I am going to where the Uruguayan government, let's say contradicted itself. They push forward the marihuana sales law, of recreational cannabis through pharmacies. International law does not permit banks to receive money from the sale of marihuana, although it is legal. Then, on the other hand, you ask for financial inclusion [of businesses] in the country. You ask for it, you demand it. It is a law; if you don't [digitise your services], you receive a fine. On the other hand, you sell something that cannot be deposited into the banks.* (P25, commercial sector)

This interplay between the US Patriot Act, regional anti-money laundering standards and domestic financial inclusion legislation significantly constrained Uruguay's options. Interview accounts suggest that high-level officials and representatives of the IRCCA thought that a viable work around of the US Patriot Act was for pharmacies to operate using a cash-only system or national money transfer companies to avoid the proceeds from marihuana sales being detected by the formal financial system. However, pharmacy owners were reticent about this alternative because of economic and practical concerns, arguing that they needed access to banking services to operate given the mandatory financial inclusion requirement. Evidently, some pharmacy owners interested in selling marihuana, particularly from the larger establishments, had since converted to the digitised platform, and therefore, could not operate through a cash-based system. This is reflected by statements from some key actors who argued that without access to financial services, pharmacy owners would not be able to receive credit card payments from clients nor pay their employees and suppliers in cash.

Consequently, the smaller pharmacies, some of which were owned by the pharmacists themselves, were more likely to accept this option, as they did not face the same challenges as the larger establishments. For example:

> *You go and you complain to IRCCA and you say, 'Look, I cannot sell marihuana anymore.' Then, they say, 'Well, sell it using cash.' They say, 'we will let you sell marihuana or recreational cannabis, we will let you sell it, but sell it using cash. Everything in cash.' However, did you not request that everything go through banks? That I pay salaries using the banks, that I have debit cards that they deposit for you in the banks. I mean, if you requested that everything go through banks, how do I sell this using cash? How do I pay my employees? How do I pay the suppliers?*
>
> *So, they contradict themselves. The 12 remaining pharmacies, as they are so small, the owner and his wife attend to them or they have only one employee. Those that remain use only cash. They manage it through a card that is called 'My Money' from Redpagos [a national money transfer company in Uruguay].* (P25, commercial sector)

Although key officials were concerned by the constraints imposed by the US Patriot Act in terms of their ability to fully implement marihuana regulation, the extent to which such conflicts have directly affected implementation of commercial sales through pharmacies remains unclear. Instead, Uruguay's challenges to implement commercial sales through pharmacies were reflective of US banks' interpretation of how they perceived that the US government might respond to a violation of US federal drug and finance laws. Yet, at the time of writing, an official response from the US Department of Justice towards US banks linked with Uruguayan banks had not been formally issued. There also has not been a statement issued by the US State Department threatening Uruguayan banks or international banks that operate in Uruguay with economic sanctions for violating the US Patriot Act. Consequently, the most significant constraint on national policy space was the threat from US banks concerning termination of their correspondent banking relationships with Uruguayan banks that continued to offer financial services to marihuana-related businesses, including pharmacies and marihuana producers.

Some key actors perceived that the threats from US banks were more symbolic than they were substantive. This interpretation of events was shaped by the view that after initial warnings from US banks, the number of pharmacies selling marihuana in the legal market did not seem to change drastically and marihuana sales have continued despite tensions with US federal drug and finance laws. However, it is not entirely clear whether these pharmacy owners have continued to operate using cash-based systems or whether Uruguayan and non-US banks have instead decided to process such transactions, despite the potential risks that this may pose in terms of their financial

relationships with US banks. As a representative of the Ministry of Livestock, Agriculture and Fisheries (MGAP) argued in a 2018 interview:

> *The pressure from the banks was not so much. They started enrolling some pharmacies that later got out of the system. However, they started offering to work with others. They were not asked if they worked with banks or not. It was a private issue. I do not know how they solved the problem. My personal opinion, and it is totally personal, is that somehow the banks are pretending not to see it and their parent companies have also relaxed that directive. A message was given at the time, and after that message, nothing else happened. I don't know how the pharmacies that are currently selling marihuana are managing it, but there is roughly the same amount of pharmacies that we had when this problem started. Yes, many backed out, but new ones [also] came.* (P38, regulator)

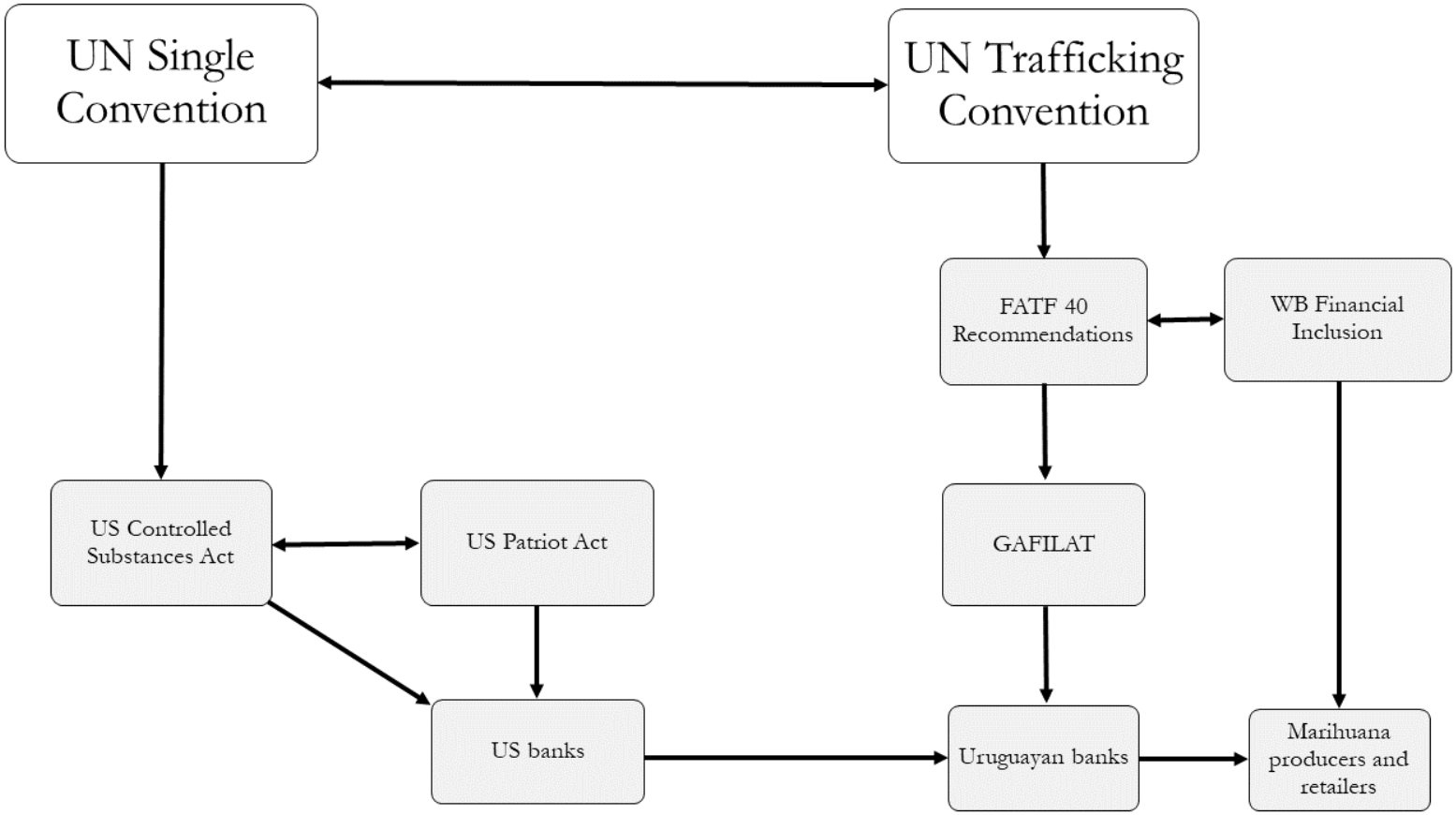
Even so, other interview accounts suggest that US banks' warnings to their Uruguayan respondent banks were significant and likely discouraged other pharmacies from selling marihuana due to the financial challenges other establishments had faced. While US banks had an immediate impact on implementation of commercial sales, it is also important to highlight that there had been significant concern among pharmacy owners regarding the uncertainty surrounding how their banking relationships might be affected by participating in the legal sale of marihuana. Indeed, as articulated by some business owners, the remaining pharmacies that are selling marihuana have not been operating through the formal financial system, but rather were using alternative methods like cash or national money transfer companies. Overall, this suggests that threats from US banks to their Uruguayan counterparts were significant constraints on Uruguay's ability to implement aspects of marihuana supply requiring access to the formal financial system, particularly the US interbank payment system.

6.4 Discussion

This chapter set out with the purpose of assessing the relevance of Uruguay's obligations under the UN drug conventions and other relevant sources of external pressure in shaping and constraining the space available to develop a legal marihuana market, including the US Patriot Act, the FATF's International Standards on Combating Money Laundering and the World Bank's Financial Inclusion Initiative. Although it had been widely expected that the UN drug treaties would present the greatest challenges to the development of a legal marihuana market (Walsh and Jelsma, 2019, Graham, 2015, von Hoffmann, 2016, Arrarás and Bello-Pardo, 2014, Musto, 2018), a key finding and major advance on existing literature is that Uruguay's drug treaty obligations have constrained national policy space less than the norms and practices of international finance, at least partly because they lack clear enforcement

mechanisms. This does not imply that the UN drug conventions were insignificant, however. As shown in **Figure 6.1**, rather their significance was more indirect via their impact in shaping the priorities and goals of the US government, FATF and the World Bank, as well as the risk management practices of the international banking sector. Overall, the data suggest that while the UN drug treaties and other external pressures did not preclude Uruguay from pursuing or adopting marihuana policy reform, international finance norms and practices have exerted powerful influence in ways that have constrained Uruguay's ability to fully implement a legal marihuana market.

Figure 6.1 International pressures relevant to understanding constraints on Uruguay's marihuana policy space



Acronyms: United Nations (UN); Financial Action Task Force (FATF); World Bank (WB); United States (US)

The findings also highlight how Uruguay's wider commitments to health and human rights conventions were used to protect national policy space in the context of tensions with the UN drug conventions and other sources of external constraint. These results somewhat corroborate the findings of a great deal of previous work that suggests key officials invoked Uruguay's obligations under international health and human rights treaties as a way to justify the government's approach to marihuana regulation (Walsh and Jelsma, 2019, Arrarás and Bello-Pardo, 2014, Álvarez et al., 2017, Musto, 2018). In contrast to earlier findings, however, no evidence was found to support the specific arguments via which Uruguay's marihuana regulation was presented as being compatible with its obligations under international health and human rights treaties. While this research did not specifically prompt interview participants to further elaborate on claims of consistency with international human rights conventions, future research could address this limitation by exploring the relevance of Uruguay's obligations under international human rights law to the protection of national policy space to complement these initial findings.

There are, however, other possible explanations for these results. One explanation may be that Uruguayan officials invoked the government's obligations to international human rights law as a strategic framing device to position itself as an exemption to the UN drug conventions. This finding would seem to support research on wider drug governance debates and the challenges of reconciling human rights obligations within the context of the international drug control treaties. For example, Lines et. al argue that progress on developing a human rights approach to drug control is impaired by the 'lack of a shared set of standards clarifying human rights obligations in the context of drugs', suggesting that such claims have been used as rhetorical justifications for policy reform within wider drug governance debates, but without tangible support behind them (Lines et al., 2017). This inconsistency may also be due to key officials invoking Uruguay's commitments to the WHO Framework Convention on Tobacco Control and international human rights law as a way to reinforce Uruguay's sovereign right to regulate for the purposes of achieving national health objectives. Relatedly, another possible explanation is that key actors were drawing on Uruguay's specific experience of a clear threat to policy space arising from the trade dispute with Philip Morris International to attempt to protect Uruguay's autonomy to develop its own rules and regulations.

The broad implication of this research is that Uruguay's marihuana regulation has not been sufficiently reconciled with wider drug, anti-money laundering and finance agendas, which otherwise consider the production, distribution and sale of recreational marihuana as a form of illicit drug trafficking, and therefore, a high-risk for money laundering for banks that process marihuana-related transactions. From a health policy perspective, the limited consistency between Uruguay's marihuana regulation and the objectives of the UN drug conventions might be expected to carry the greatest weight in terms of constraining policy space. However, broader trends in the normative practices of the FATF and the World Bank have exerted powerful influence, which resulted in unanticipated impacts on Uruguay's ability to develop a legal marihuana market. Although the World Bank's financial inclusion practices provide limited scope for banks to apply a risk-based approach to customer due diligence, this must be considered in the context of the FATF's requirements that a bank's money laundering controls closely align with its international standards (Mugarura, 2016), which require that banks undertake enhanced measures when there is a suspicion of money laundering. The FATF's standards are particularly significant in this context, as they seemingly allow financial institutions that invest in dependent economies like Uruguay to remove financial investment for failure to comply with the FATF's international standards, including inadequate safeguards to prevent funds derived from the production, distribution and sale of recreational marihuana from entering the formal financial system. The findings show that this has created particular challenges for Uruguay, not only in terms of licensing a sufficient number of experienced marihuana producers, but also for ensuring that marihuana-related businesses had access to lending and banking services. In practice, the constraints imposed by international finance norms have restricted the capacity of marihuana companies to produce a sufficient supply to meet public demand and have generally discouraged pharmacies from participating in the legal sale of marihuana to the public.

With respect to the question of the relevance of international finance norms and practices, the findings suggest that the most significant constraint on Uruguay's policy space was the US Patriot Act. From an international politics and coherence perspective, this type of interaction should be the least problematic given that Uruguay is not obligated to comply with the requirements of the US Patriot Act, unlike its obligations under the UN drug conventions. Yet, in important ways, the extraterritorial scope of the US Patriot Act has served as somewhat of a regional anti-money laundering policy.

In effect, the US Patriot Act acts as an informal enforcement mechanism for the money laundering controls of the 1988 UN trafficking convention, reflecting the significant threat of economic sanctions for banks (whether Uruguayan or foreign banks outside of the US) that fail to comply with the FATF's international anti-money laundering standards. Although these findings are novel to current understandings of Uruguay's marihuana policy process, they reflect prior research regarding the impact of US extraterritoriality on the finance sector's business practices and strategies (Alexander, 2002, Preston, 2002, Arnold and Salisbury, 2019, Amariles and Winkler, 2018). As Amariles and Winkler contend (2018), the significance of US extraterritoriality to the business practices of non-American banks is that compliance with the US' regulatory controls has been seen as more efficient than resolving the issue through US courts. With respect to the effects on policy space, the findings reveal that Uruguay was constrained by the fact that Uruguayan banks and international banks that operate in Uruguay are heavily reliant on the US interbank payment system, which created significant challenges for Uruguayan officials to implement aspects of marihuana supply requiring use of the formal financial system, particularly regarding business transactions denominated in US dollars.

There are some interesting parallels and contrasts between Uruguay's experience with the international trade dispute with Philip Morris International (PMI) and the experience with US financial institutions threatening to terminate their business relationships with Uruguayan banks linked to the sale of marihuana. Underlying some of the assumptions regarding the significance of the trade dispute with PMI among key officials in Uruguay is the view that the International Tribunal's overall conclusions regarding Uruguay's autonomy to develop public health measures would be applicable to other areas of tension outside of bilateral investment agreements. Though Uruguay has a sovereign right to adopt measures that protect public health over commercial interests, in practice, Uruguay's autonomy to develop and, more particularly, implement innovative policy has been constrained by the US Patriot Act, which does not afford states the space to adopt policies inconsistent with its objectives and procedures, regardless of whether they are pursued in the interest of public health. Accordingly, health policymakers and advocates should be aware of the potential for finance norms and practices to constrain the development of national health policy innovation and the challenges that this implies for developing a legal marihuana market in other contexts.

Exploring the relevance of coherence issues and tensions through the lens of policy space adds an additional dimension to current understandings of Uruguay's experience that previous studies have disregarded. As indicated in Section 2.3.3, previous research suggests that Uruguay was not constrained by its obligations under the UN drug conventions (Álvarez et al., 2017, Graham, 2015, Musto, 2018, Arrarás and Bello-Pardo, 2014, von Hoffmann, 2016). Conversely, this study shows that Uruguay's ability to exercise national policy space was indeed constrained by the UN drug conventions, but indirectly because of how the Conventions have defined marihuana as an illicit substance and its impact on the policies and practices of the United States, the FATF, the World Bank and the international banking sector. To my knowledge, this is the first study to demonstrate the relevance of finance norms and practices, including the extraterritorial impacts of the US Patriot Act, on Uruguay's policy space to develop a legal marihuana market. It is also the first study to demonstrate that the most relevant constraint on policy space was not the INCB or the US government, but rather US banks' interpretations of US federal drug and finance laws and the implications of those interpretations for their relationships with Uruguayan banks.

The fact that Uruguay's marihuana regulation has not been sufficiently reconciled with international drug and finance priorities is particularly relevant to questions of coherence across policy spheres, with specific reference to finance, health and public security. The constraints to policy space described above are also likely to reduce scope for Uruguay to achieve its national health and public security goals relative to marihuana regulation. Although international commitments to control money laundering are non-binding, non-compliance carries tangible risks of economic sanctions for banks that fail to comply with them, which likely will continue to restrict access to financial services for the marihuana industry. This is significant to questions of coherence across policy spheres within Uruguay because the health and public security goals of marihuana regulation largely depend on one another; that is, providing users with access to a quality-controlled product was developed as a strategy to protect the health of users as well as combat the illicit drug market.

The practical challenges of achieving Uruguay's health and public security goals of marihuana regulation are illustrated via the ways in which international finance practices restrict access to banking services for marihuana-related businesses, resulting in a general lack of experienced marihuana producers and consequently supply shortages. International finance norms have also reduced access to marihuana due to the financial

risks that Uruguayan pharmacies face in selling an illegal substance in most other contexts through the formal financial system, which likely has discouraged additional pharmacy owners from participating in the legal supply system. Accordingly, Uruguay's national health and public security goals of marihuana regulation have been simultaneously constrained by the state's commitments to anti-money laundering and financial inclusion objectives.

While finance norms have limited Uruguay's ability to produce and sell marihuana through the formal financial system, there is scope for Uruguay to achieve national health and public security objectives via other policy options, for example, cash-based marihuana retailers, home cultivation or cannabis clubs. Nevertheless, as long as Uruguay's marihuana regulation remains inconsistent with the norms and practices of international finance, and indirectly the UN drug conventions, reconciling tensions between the market-based policies of marihuana regulation and Uruguay's national finance priorities will likely prove challenging.

Overall, these results imply that the UN drug conventions were very significant due to the way that marihuana has been defined at the international level, and the implications of this for the priorities and goals of the United States, the FATF and the World Bank, as well as the international finance sector. In terms of what the findings say about policy space, it seems that issues of national sovereignty and legal authority in relation to the UN drug conventions have been less directly significant compared to power asymmetries and autonomy issues in relation to the norms and practices of international finance. Indeed, as indicated above, challenges to Uruguay's marihuana regulation at the United Nations did not escalate to formal trade sanctions. Rather, international finance practices have shifted decision-making power on risk management away from local regulators, which limited Uruguay's autonomy to implement a legal marihuana market, particularly aspects of marihuana supply that require access to the formal financial system. It is evident that Uruguayan banks are inextricably linked to US banks, which in important ways has restricted their ability to provide financial services to marihuana-related businesses in Uruguay. However, it also seems that constraints on policy space were related to the broad scope that financial institutions have over determining their internal risk management practices and procedures. Regardless of Uruguay's marihuana regulation, a bank's choice to engage with marihuana-related businesses, like any other commercial product, ultimately is a business decision, and the reputational and financial costs associated with servicing marihuana-related businesses have generally discouraged

banks from investing in this emergent industry (Hill, 2015, Conti-Brown, 2018, Crabb, 2019).

6.5 Conclusion

The analysis on the relevance of Uruguay's obligations under the UN drug conventions and other sources of external constraint suggests that the international drug treaties had less impact on policy space than regional anti-money laundering standards, international financial inclusion practices and most importantly the US Patriot Act. This does not imply that the UN drug conventions were insignificant, however. Rather, the significance of the UN drug conventions was more indirect by way of their influence on the priorities and goals of other relevant international actors, including the US government, FATF and the World Bank, as well as the international banking sector. Overall, the findings show that this pressure appears to have been influential in constraining national policy space, not in terms of passing or developing marihuana regulation, but rather in terms of how informal finance norms and practices limited Uruguay's ability to fully implement marihuana regulation.

The significance of this limited consistency between Uruguay's marihuana regulation and wider drug and finance agendas is that funds derived from the marihuana market, though technically legal in Uruguay, have generally been interpreted as a high-risk for money laundering by banks that otherwise would be responsible for processing marihuana-related transactions. Accordingly, Uruguay's marihuana regulation has not been sufficiently reconciled with wider drug, anti-money laundering and finance agendas, which consider the production, distribution and sale of marihuana as a form of illicit drug trafficking. Ultimately, informal constraints associated with the international and regional control of money laundering and financial inclusion practices limited the capacity for Uruguay to implement aspects of marihuana regulation that required access to the formal financial system, particularly the US interbank payment system.

7 An innovative model? Exploring how Uruguay designed its marihuana supply system through hybridisation

As far as domestic presentation and wider international perspective, Uruguay has been portrayed as a trailblazer for its distinctive approach to marihuana regulation, notably for being the first state in the world to legalise the production, distribution and sale of recreational marihuana (Pardo, 2014, Arocena and Aguiar, 2017, Kilmer and Pacula, 2017, Queirolo, 2020, Garat, 2016, Ramsey, 2016, Garcia, 2013, Hudak et al., 2018, Graham, 2015, Faubion, 2013, Snapp, 2015, Rivera-Vélez, 2018, Lissidini and Pousadela, 2018). Recently, discussions have focused in particular on how Uruguay's approach to marihuana regulation is internationally innovative when compared to other marihuana policy experiments (Cerda and Kilmer, 2017, Musto, 2018, Rolles and Murkin, 2016, Kilmer and Pacula, 2017). The general argument is that, unlike the for-profit approach dominating policy debates in some US states (Pardo, 2014, Cerda and Kilmer, 2017, von Hoffmann, 2018, Sanjurjo, 2013, Murkin, 2014), Uruguay's domestic context was considerably more receptive to the development of a relatively restrictive marihuana supply system that was tightly controlled by the state (Cerda and Kilmer, 2017, Musto, 2018, Murkin, 2014, Rolles and Murkin, 2016, von Hoffmann, 2018, Queirolo, 2020, Pardo, 2014, Sanjurjo, 2013, Fijnaut and Ruyver, 2015, Rodman, 2020).

This has led some scholars to argue that Uruguay's approach resembles a type of cautious, 'middle-ground' alternative to either complete prohibition or a commercialised system (Cerda and Kilmer, 2017, Pardo, 2014, von Hoffmann, 2018). For instance, Uruguay's marihuana policy incorporates notable features like a ban on marketing (Rolles and Murkin, 2016, Musto, 2018, Pardo, 2017), a user registry (Room, 2014b) and distribution through pharmacies (Musto, 2018) (I describe these and other elements of Uruguay's marihuana supply regulation in more detail in Section 7.1). Although described as typical for the Uruguayan culture (Musto, 2018, Rolles and Murkin, 2016, Murkin, 2014), these aspects have also been labelled as likely to be 'excessively anti-business' (Murkin, 2014) and overly paternalistic (Musto, 2018, Spithoff et al., 2015), raising questions around the applicability of Uruguay's marihuana regulation to other contexts (Valdomir, 2015). Consequently, a number of drug policy analysts have suggested that Uruguay's marihuana regulation is qualitatively distinctive from existing international policy experiments on account of particular legal and political features of

Uruguayan society (Musto, 2018, Rolles and Murkin, 2016, Pardo, 2014, Rivera-Vélez, 2018).

Actually, the picture that has since emerged is somewhat different. Regarding the adaptability of Uruguay's state interventionist culture to the transformation process, the limited research available to date shows various signs of policy imitation and transnational transfer from existing policy experiments in other jurisdictions. Recent studies have highlighted, in particular, the apparent similarities between Uruguay's marihuana regulation with early 20th century US alcohol control systems due to its 'tight control provisions' (Room, 2014b, Room, 2018). Some commentators have gone so far as to claim that policymakers in Uruguay specifically designed the state's approach to marihuana regulation 'along similar lines' (Rolles and Murkin, 2016) to Borland's 'Regulated Market Model' for tobacco supply (Borland, 2003) considering the existence of a 'responsible' government agency that controls key elements of the cannabis market with respect to price and advertising (Rolles and Murkin, 2016, McDaniel et al., 2016). Researchers have also found a patchwork of influence from Colorado over specific policy instruments, such as a six plant limit for domestic cultivation, issuing of licenses for producers and implementation of a track and trace system to control distribution (Musto, 2018, Pardo, 2014), as well as similarities with cannabis social clubs from Spain (Musto, 2018, Decorte et al., 2017, Pardo, 2014, Arocena and Aguiar, 2017, Babor et al., 2018).

This chapter sets out to explore the complex interplay between global influences and domestic factors on the development of Uruguay's marihuana regulation through the lens of hybridisation. Hybridisation is understood in a variety of ways, but for the purposes of this chapter, it refers to the combination of elements from policies found in two or more political contexts to develop an approach best suited to local conditions (Dolowitz and Marsh, 1996). Previous policy transfer studies have suggested that the direct transfer or imitation of one international model to another context is rarely feasible or desirable (Boyer et al., 1998). Accordingly, as noted by criminal justice scholars Jones and Newburn (2007), it is important to investigate not only the content of new policies but also the 'various processes by which such transfer comes about (or is constrained)' (Jones and Newburn, 2007). In the development of Uruguay's approach to marihuana regulation, it is therefore hypothesised that at least some form of adaptation and hybridisation is likely to occur (Boyer et al., 1998), as policymakers attempt to make international experiments and precedents compatible with global

pressures, domestic institutions (Ferner et al., 2004) or a combination of the two (Jones and Newburn, 2007).

Other accounts that engage with policy transfer have sought to explain the broader question of *why* Uruguay regulated marihuana (Musto, 2018), whereas this study seeks to explore the complex nuances and dynamics involved in *how* some very specific features of Uruguay's domestic legislation were developed. The chapter first examines the relevance of the complex interplay of international experiments and precedents, with domestic politics and structure, in relation to the key defining feature of Uruguay's marihuana legislation: state regulation versus a commercial model. It then explains how this complex relationship of international lessons and ideas with the local context works out in defining some very specific, distinctive features of Uruguay's approach to state regulation of marihuana supply.

This chapter is divided into five sections. In 7.1, I provide a descriptive account of the key features of Uruguay's approach to state regulated marihuana supply under analysis. In 7.2, I consider how the policy transfer literature, particularly the concept of hybridisation, might further understanding of the complex and dynamic process of how Uruguay developed its approach to marihuana regulation. I outline a useful framework for considering the dual pressures that policymakers face in finding a balance between adoption of international precedents and adaptation to the specificities of domestic politics and structures (Dolowitz and Marsh, 1996). The empirical findings are then presented in 7.3, organised around the different elements of Uruguay's marihuana supply regulation, starting with the broader contours of the system and ending with the more micro-level details. The discussion section of the chapter then reflects on what the findings say about Uruguay's domestic legislation with reference to the overarching research question of: *To what extent can international pressures explain Uruguay's distinctive model of state regulation of marihuana supply?*

As a descriptive guide to what follows, **Table 7.1** provides a mapping tool of the international actors, as these are defined by Dolowitz and Marsh (Dolowitz and Marsh, 1996), which according to interview participants seemed most relevant to the development of some key features of Uruguay's marihuana regulation, organised by supranational institutions, other countries, states (at the subnational level) and non-state actors.

Table 7.1 International regulation innovations relevant to aspects of Uruguay's marihuana supply model											
	Key actor(s)										
Key features	**IGOs**	**Country**					**State**			**Non-state actors**	
	INCB	AR	BR	ES	NL	US	CO	WA	CA	NGOs	Experts
State regulation	✓	✓	✓			✓	✓	✓	✓	✓	✓
Institutional capacities		✓	✓				✓	✓	✓	✓	
Two-tier licensing system	✓					✓		✓		✓	
Sales through pharmacies	✓			✓		✓	✓		✓		
Traceability system		✓	✓			✓	✓				
National user registry	✓	✓	✓		✓	✓					
45 maximum club membership				✓					✓		✓
40-gram monthly limit							✓	✓	✓		✓

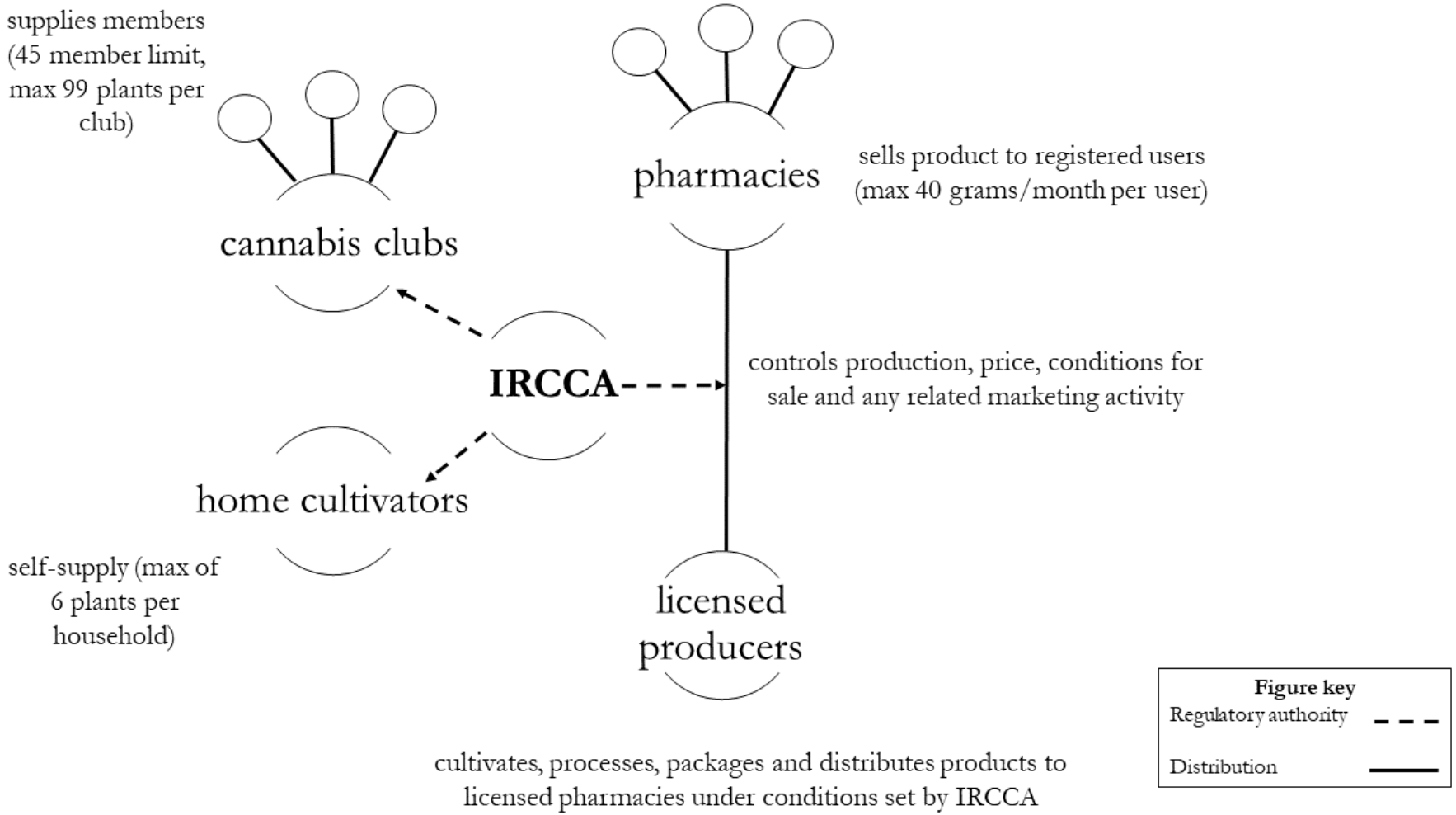
Acronyms: INCB: International Narcotics Control Board; AR: Argentina; BR: Brazil; ES: Spain; NL: Netherlands; US: United States; CO: Colorado; WA: Washington State; CA: California; NGOs: non-governmental organisations

7.1 Outlining key features of Uruguay's state regulation of marihuana supply

This chapter traces the nature and extent of influence of existing international policy experiments and precedents in Uruguay's marihuana policy process. Before doing so, I will first identify the core principles of the model that are under analysis. As described in Section 1.3, Uruguay's approach to marihuana regulation appears to be roughly based on a state regulated supply model. **Figure 7.1** presents an overview of the model's key defining features with respect to regulatory and market structure, institutional capacities of the regulatory board, as well as restrictions on supply. At the centre of the diagram is the Institute for the Regulation and Control of Cannabis (IRCCA), the non-state public regulatory body that oversees the production, distribution and sale of recreational cannabis for qualified residents 18 and above (see qualification requirements below). Within its institutional capacities, the IRCCA licenses private producers, developing and implementing policies that regulate the quality and types of products available, i.e. potency limits, production, packaging restrictions and any related marketing activity, as well as controls over access and sales. Importantly, it does not distribute the product directly to licensed retailers or the public.

Instead, the law sets up a two-tier supply system, in which licensed producers are responsible for cultivating, processing, packaging and distributing products to licensed pharmacies and the IRCCA regulates the market conduct of marihuana producers with respect to production, packaging, pricing and marketing. Additionally, commercial marihuana produced by private producers must be sold through licensed pharmacies, which are different from marihuana dispensaries in the US because in addition to selling pharmaceutical products, they also sell a wide array of consumer goods like cosmetics and foods. IRCCA is also charged with registering users through the national registry and monitoring the entire marihuana production process, i.e. from seed to sale, through its state-run marihuana track and trace system. To date, no other jurisdiction has implemented a national registry of users, nor opted to sell 'recreational' marihuana through pharmacies, but given the highly controversial nature of both policy developments (Musto, 2018, Murkin, 2014), international constraints and domestic pressures may have been involved. Finally, users are restricted from purchasing or growing (through home cultivation or cannabis clubs) more than 40 grams of marihuana per month or 480 grams per year. For home cultivators, the maximum annual limit is six female plants per household whereas for cannabis clubs, it is 99 plants per year, but under the same condition that total production not exceed 480 grams per user on an annual basis.

Figure 7.1 Uruguay's state regulated supply model for recreational marihuana



Adaptation of Regulated Market Model by Borland (2003)

7.2 Conceptualising policy transfer and scope of this chapter

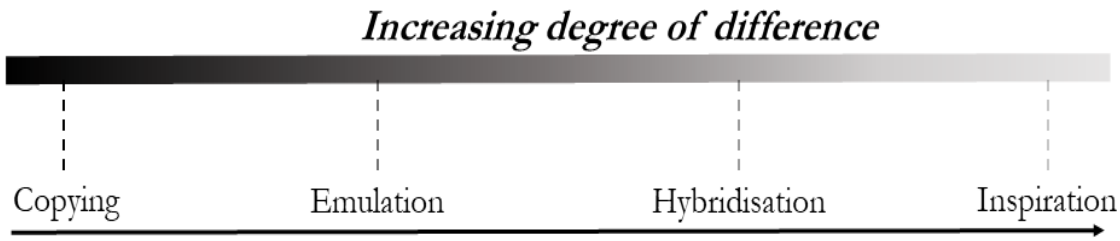
In this section, I draw on the relevant literature to develop a framework that examines the influence of marihuana supply precedents in other countries, and their interactions with international pressures and domestic politics and structures, in shaping the development of Uruguay's marihuana regulation. In accordance with Dolowitz and Marsh, the concept of 'policy transfer' refers to the process by which knowledge of policies, administrative arrangements, ideas, and institutions in one policy context (past or present) is used in the development of policies in another political system (Dolowitz and Marsh, 1996). In this regard, policy transfer suggests the purposive action of policymakers in Uruguay to pursue (or not) a particular course of action over other alternatives. Even in cases where transfer appears coerced, the idea of policy transfer suggests that political agents were at least aware that they were drawing on ideas and lessons from another political system (Jones and Newburn, 2007).

As noted above, I concentrated primarily on the development of some very specific, key features of Uruguay's approach to state regulated marihuana supply. A number of factors influenced my particular choice of case study areas, but more specifically I wanted to explore the development of some high-profile policies that have been widely regarded as innovative, but without explanation for how or why they were developed or included in the first place. Therefore, I deliberately chose seemingly *prima facie* cases of Uruguayan exceptionalism through which to explore the nature and extent of the model's distinctiveness. For the purposes of this chapter, the objective has been to first, examine whether and to what extent policy outcomes by way of distinctiveness of Uruguay's approach were indeed different in the context of an increasingly diverse range of international experiments in marihuana regulation (Kilmer and Pacula, 2017). Secondly, to the extent that they were, to explore the degree to which and in what ways processes of transfer influenced particular policy developments.

Transfer processes and outcomes were evaluated in terms of Dolowitz and Marsh's typology (see **Figure 7.2**) which lists a range of degrees: copying, emulation, hybridisation and inspiration. Copying is the transfer of 'wholesale' policies from one jurisdiction to another, in which policymakers are searching for a 'quick fix' solution to the policy problems they face (Minkman et al., 2018). Emulation refers to the incorporation of the basic model of a single policy but rejects copying every detail; in other words, there is agreement that the programme or policy is the best standard for

designing legislation at home, though requiring minor adjustments and adaptation to the local context. Hybridisation relies less strongly on a single source and rather involves a process of redefining and synthesising two or more policies from several different political contexts to produce a policy best suited to local conditions. Finally, inspiration refers to a policy being influenced by another international innovation, but the outcome does not resemble or draw on the original (Dolowitz and Marsh, 2000).

Figure 7.2 Degrees of transfer in policy development



Source: Dolowitz and Marsh (2000)

Whereas copying, emulation and inspiration might appear intentional, hybridisation is a far more complex and dynamic process (Yahiaoui, 2015, Minkman et al., 2018). Yahiaoui (2015) suggests that the hybridisation process is relatively fluid since it involves the interaction of different stakeholders bargaining and negotiating on the terms and details of the transferred policies, thereby shaping unpredictable policy outcomes. As a result, hybridisation can lead to various policy outcomes or different types of hybrid transfers, which may include a policy that is similar to an international precedent, similar to a policy found in the domestic context or it can create a completely new policy based on a combination of elements and select aspects of policies found in other policy spaces (Michaels and de Loë, 2010). Although these three descriptions of hybridisation might appear similar to copying, emulation and inspiration, it is important to note that hybridisation can involve either a combination of or all three of these processes (Yahiaoui, 2015). It is possible, for example, that hybridisation might create a 'new' policy based on policy actors adopting a combination of elements from different policies elsewhere, as was the case with the development of

Canada's hybrid water policy, which was inspired by examples from Australia and the US and included copies of select policies found in each jurisdiction (Michaels and de Loë, 2010). The key distinction is that hybridisation draws on and incorporates ideas or (select aspects of) policies found in two or more political contexts, whereas copying, emulation and inspiration refer to policymakers looking to imitate, adapt or be inspired by a policy or model in a single jurisdiction.

The primary foci of analysis were the processes by which contextual factors shaped the decision (or not) to transfer particular aspects of international ideas and policies to Uruguay. Within the development of each policy issue, I focused on the perceptions of and strategic actions taken by key policy actors, including local officials, bureaucrats/civil servants, ministries and agencies and policy entrepreneurs (Dolowitz and Marsh, 2000). Contextual factors might involve those internal to a policy system, including institutional and structural constraints; differences between technological, economic or political resources across policy contexts; constraints of past policy decisions and historical legacies (Dolowitz and Marsh, 1996); as well as the existence of substantial opposition or pressure to adopt a particular course of action over other policy alternatives (Dolowitz and Marsh, 1996). Transfer processes may also include coercive and voluntary forms, or combinations of the two. For analytical purposes, I understand elements of coercion and voluntarism as the extent to which international actors shaped pressures and constraints under which Uruguay sought to develop its approach to marihuana regulation. International pressures and constraints are likely to involve particular types of actors like supranational bodies, e.g., the United Nations or the International Narcotics Control Board (INCB) and other states, whereas the agents of international transfer might also include, in addition to those named above, non-state actors, e.g., policy entrepreneurs/experts, transnational drug policy NGOs, think tanks and consultants (Stone, 2004).

Defining the processes of transfer in this way requires further clarification. In the context of international policy innovation, elements of voluntarism and coercion may appear more complex than these have been presented in previous policy transfer studies (Page, 2000, Benson and Jordan, 2011). Indeed, we might expect elements of both processes to be present. Similar challenges have also been observed in the drug and health policy literature, in which scholars are conflicted around whether transfer processes should be understood as coercive (Ogden et al., 2003, Sharman, 2008) or voluntary (Cliff et al., 2004) in low and middle income countries. In light of this being

the first case study to examine how global influences shaped the specific content of Uruguay's approach to marihuana regulation, a reflection on the utility of terms like 'coercion' or 'voluntarism' in explaining this process is revisited in the Discussion section of the chapter.

Results

This section of the chapter provides a descriptive account of the empirical findings. It is divided into two parts, reflecting the two main types of policy issues that were analysed in the development of Uruguay's marihuana regulation. The first part presents aspects of Uruguay's regulation of marihuana supply that relate to 'high politics'; areas that interact with other states (Olsen, 2017). This includes: (i) why Uruguay ended up with state regulated supply, followed by the development of some of the regulation's more specific features, including: (ii) institutional capacities of the regulatory board; (iii) marihuana traceability system; and (iv) national user registry. This is followed by a presentation of the findings related to aspects of Uruguay's marihuana regulation that seem most relevant to areas of 'low politics', or the policies that are the domain of the state's welfare (Olsen, 2017). In order of presentation these include: (i) commercial sales through pharmacies; (ii) restrictions on cannabis clubs; and (iii) monthly purchase limits.

Within each section, I first explore the relevance of international precedents and ideas to the development of the individual components of Uruguay's approach to state regulated marihuana supply. In doing so, I examine the interactions between key policy actors' perceptions of marihuana policies in other jurisdictions involved in the transfer process and explore their intentions and motivations. I then explore the constraints on policy transfer and the extent to which marihuana innovations from other jurisdictions were combined, synthesised and adapted to Uruguay's domestic politics and structures. I close by reflecting on the extent to which the policy transfer process was constrained by external pressures from relevant international actors, with particular reference to the INCB, the US government, Argentina and Brazil.

7.3 State regulation

The basic ideas and concepts underpinning Uruguay's state regulation of marihuana supply appear to have sourced from knowledge about similar developments occurring at the state-level in the United States. In October 2013, the Drug Control Board, the

National Seed Institute, national legislators from Frente Amplio and Proderechos [a drug reform organisation in Uruguay] went to the United States to learn about the evolving marihuana regulation experiences in Colorado, Washington and California. A key motivation for looking to these state-level experiences concerned close contacts between Uruguayan officials and like-minded drug policy institutes and experts in the US, particularly the Washington Office on Latin America (WOLA) and the Drug Policy Alliance (DPA), in which there was a common view that marihuana could be regulated in ways other than a commercial approach. International links made with drug policy experts and US drug policy institutes were thus key to policy learning and exchange from the state-level marihuana policy experiments in the United States. Uruguayan officials and policymakers became part of this network in 2012, later attending the 2013 biannual 'Reform Conference', held that year in Denver, Colorado. As one politician noted in a 2018 interview, '*WOLA and the DPA ... knew that we were working on this bill and [so] they invited the Drug Control Board [and] us to get to know what was going on in Colorado.*' (P15, politician)

The 2013 meeting seemed particularly important for Uruguay given the significant marihuana policy changes that had occurred in Colorado and Washington State. As described in Section 2.3.4, in 2012, Colorado and Washington became the first two US states to legalise recreational marihuana markets for persons 21 and above. Thus, another key motivating factor behind drawing on the US state-level experiences was the recent policy changes that had taken place in these two early adopting states. As both states were in the process of implementing their respective recreational marihuana regulatory frameworks, WOLA and the DPA organised a corresponding workshop entitled, 'Launching Legal Marijuana: Regulatory Challenges and Options', to which policy actors in Uruguay were invited, as a summary report of the meeting suggested:

> *Learn from the unfolding experiences in the U.S. states of Colorado and Washington in implementing the legislation recently passed to regulate marijuana, as well as to debate ideas, lessons learned and best practices on this issue* (Washington Office on Latin America and Drug Policy Alliance, 2013).

Through these exchanges, it became apparent to key actors in Uruguay that there was much to learn from regulators in Colorado and Washington, who had undertaken the difficult task of designing and implementing the first two legal recreational marihuana supply systems in the US. Throughout the interviews, however, several participants also expressed concern about whether the policy goals and regulatory structures underpinning the US state-level marihuana supply systems could be transferred to

Uruguay without consideration for the institutional, constitutional, legal and sociocultural differences between the two countries.

First, politicians and policymakers generally felt that the ideological orientation underpinning Colorado's approach to regulating marihuana supply was culturally inappropriate for Uruguay. This was because, as one politician argued, it was based on the '*North American ideology, an ideology of the capitalist market'* (P15, politician), which ran counter to a deeply entrenched neo-statist ethos of government intervention in Uruguay. Although several participants described constraints and limitations of policy transfer between Colorado to Uruguay as ideologically-driven, these were also reflective of public health and policy concerns regarding the role of the commercial sector in the promotion of 'ill health'. As the following quote (from one civil society actor) illustrates, these concerns relate to the strategies and approaches used by corporations to promote widespread use of unhealthy products and behaviours:

> *I think that it was great lesson learning but negatively speaking. It's great, the regulation that they [Colorado] did. But we did not want to go down the same road of a 'free market' where the companies are the ones who regulate [the market] because quickly it can get into their hands. In terms of the balance between autonomy and taking care of public health, a product can be potentially risky if you don't place limits on it. We could not differentiate that experience from tobacco and alcohol that are already legal and that today it is very difficult to imagine putting tobacco marketing at a complete zero* [emphasis in original]. (P29, civil society)

The significance of libertarian positions in shaping drug policy with respect to market size, product types and characteristics, branding and promotional activity appears to have been much more pronounced in Colorado than Uruguay. As another participant suggested, in Colorado it seemed as if *'anyone could produce, anyone could sell. You go and get a license. Uruguay is more closed off.'* (P8, civil society) These differences in approaches to corporate regulation reflect a long-standing history of state intervention in the regulation of public goods in Uruguay. A tightly regulated and controlled marihuana market, similar to Washington State's approach, was perceived to be less likely to facilitate marihuana commercialisation and therefore was generally considered more suitable for Uruguay's domestic political context.

Some participants felt that Washington's legislation was particularly relevant for Uruguay, as it required that a state regulatory board oversee and regulate supply with a legal mandate to protect public safety over tax revenue generation. These were elements of Washington's approach that key actors in Uruguay sought to emulate while they expressed their rejection of parallel features from Colorado's example. Discussing the

differences between Washington State and Colorado's approaches to marihuana regulation and their implications for the development of Uruguay's marihuana supply system, one representative of the Drug Control Board remarked that:

> *We were not exactly in agreement with the final proposals that they had. We did not subscribe to the view of Colorado's regulation. A little bit more with the State of Washington's, but above all Colorado's was very liberal. Right? It liberated the market in the hands of the companies and nothing else, without a regulatory body or anything. Because you see in Colorado, the regulatory body is the [state's] tax authority. Right?*
>
> *In Washington, in Washington State, the regulatory body is the alcohol agency. So, it seemed to us more reasonable that [our regulation] was more like Washington's, and that the regulation was not so focused on the state collecting more taxes rather than education. Because the initiative that was voted on in Colorado was like that. It was important because it was going to bring in so much money…we were not in agreement with that orientation.* (P11, regulator)

A key factor to consider here is the importance of national (and subnational) socio-historical and legal institutions as facilitating policy transfer between Washington and Uruguay but constraining Colorado's influence. A fundamental contrast between many parts of the United States and Uruguay is their different structural and historical traditions concerning the role of the state, particularly as this relates to the regulation of alcohol supply. As noted in Section 2.3.4, Washington's state control of marihuana supply was influenced by its past alcohol policy framework (Barry and Glantz, 2018), which according to Gruenewald, had more restrictions on aspects of alcohol supply compared to Colorado (Gruenewald, 2011). For some participants, such similarities in state control between Washington and Uruguay, therefore, reflected a shared policy history of state regulated alcohol supply, as well as structural and cultural factors related to the role of the state in the provision of public goods and services. This is illustrated in the following quotation in which a former representative of the Drug Control Board discussed the importance of Uruguay's historic legacy of a state monopoly over alcohol production and how this influence constrained the more libertarian features of Colorado's approach:

> P13: *What Washington and Colorado have done, well they are discussing it [their approaches]. Because once you regulate a drug that isn't a market commodity but is harmful, the pressure of corporations to sell, sell and sell. It becomes complicated. So, one of the regulatory mechanisms is that the logic should not be to sell, sell, sell.*
>
> RB*: Why did you not want the marihuana market to be regulated like Colorado or Washington?*
>
> P13: *Because Uruguay already had these regulatory experiences of other phenomena.*
>
> RB: *What other phenomena exactly?*

> P13: *Alcohol…Alcohol at one point was regulated by the state. ANCAP is the National Administration of Petroleum, Alcohol and Cement. At one point, it was the only producer of national alcohol, of distilled alcohol. It was ANCAP. And the rest of the other distilled alcohol companies paid an incredibly high tax that made it inaccessible [market entry], at least made it very differential.* (P13, regulator)

Another important contextual difference is the legal systems of the United States and Uruguay. Notably, the First Amendment Clause of the US Constitution limits how much the US federal government, and consequently the states, can restrain advertising or 'commercial speech,' and likely prevents states from prohibiting marihuana marketing entirely (Pacula et al., 2014). This helps explain the greater acceptance of marihuana marketing and branding in Colorado and Washington than was the case in Uruguay. Indeed, according to one civil society actor, such legal differences likely enabled Uruguay to develop a more restrictive model than the US states, as this pertains to restrictions on branding and promotional activities:

> *This is Uruguay. We are not talking about the US where suddenly there is a multi-million-dollar parallel cannabis market, which is in California as well as Colorado. There will be [that type of market because] culturally the market plays a role in regulating itself. I even believe there are laws, that—I don't know, a model equal to Uruguay's could not be made in the United States because I cannot restrict things according to US law… restrict things that by US law cannot be restricted…[like] plac[ing] more restrictions on the free exercise of business.'* (P29, civil society)

Other legal and sociocultural differences between the US states and Uruguay also played a key part in shaping distinctive policy outcomes. As described in Section 2.3.4, California was the first US state to legalise possession and use of medical marihuana in 1996 in the context of continuing federal prohibition (Pacula et al., 2014). Proponents of marihuana legalisation in California sought to reduce the state's role in the market as much as possible to avoid legal issues with US federal drug laws. Clearly, the same legal situation also applies to Colorado and Washington, but as described in the previous chapter (Section 6.2.2) and in more detail below in Section 7.4.3, the US federal government's shifting stance towards state-led efforts in 2013 provided additional flexibility to regulators in these two states. Importantly, some key actors felt that this situation had an impact on the evolving marihuana production and distribution system in California to the effect that it was seen as inconsistent with the goal in Uruguay to tightly regulate marihuana supply through state control. As one representative of the Ministry of Livestock, Agriculture and Fisheries (MGAP) argued in a 2018 interview:

> *The model in California was a model that was a little bit more liberal let's say, which permitted cultivation in many cases outdoors. There were no limits, for example, on the quantity of plants. I think that distribution was not regulated. In other words, if not more [than Colorado], the California model liberalises production.* (P38, regulator)

There were also sociocultural differences that constrained California's influence over Uruguay's marihuana supply system, which were interrelated to such legal constraints. To provide context to the following quote, though cannabis cooperatives have existed in California since the 1990s, they were technically illegal prior to 2019, and therefore, less visible in the public sphere. As one civil society actor claimed in a 2018 interview:

> *In California, I saw a developed cannabis industry that seemed legitimate and helped to normalise the substance. But also, it seemed that – as I saw concentration levels, which seemed okay to me. But, there were things that were missing or things that I did not see like small cooperatives of producers that supplied themselves, which I would imagine have to exist in California.* (P12, civil society)

Interview accounts and analysis of public documents also suggest that key officials in Uruguay felt pressured to develop a tightly controlled marihuana market in anticipation of the international response to the proposed policy reform. This was briefly discussed in Chapter 4 (Section 4.5), including with reference to high-level officials of the Mujica Administration publicly stating that their preference for state control over marihuana production, distribution and sale was driven by concerns of meeting Uruguay's obligations under the UN drug conventions (Huidobro, 2012b). This concern is evident, for example, in the following quotation by former Defence Minister Huidobro at a 2012 press conference where the Mujica Administration's marihuana regulation proposal was presented to the public:

> *We have to keep in mind the international treaties, the relationship with our neighbours and diplomatic issues. In particular, we must keep that in mind that this move, it must be clear that this is not liberalisation until the moment when this drug is legal at the international level. We have to take measures not to affect our neighbouring countries, nor be accused of being some type of international drug distribution centre. For these motivations, and these alone, state control over production of the drug seems like a better option* (Huidobro, 2012b).

In summary, within the context of collective policy learning, this was not a matter of direct transfer or policy imitation, but rather of redefining and constructing a marihuana supply system through hybridisation, blending the experiences of some US states and international influences, alongside historic precedents and institutional legacies. As outlined in subsequent sections, this specific hybridisation process is a theme that runs consistently across the broad narrative of these particular policy developments. Overall, the impression is that this blending process helps explain the broader contours of Uruguay's approach to marihuana regulation, which seeks to tightly control the marihuana market through a strong state presence. Although Colorado and California's experiences provided key actors with ideas and lessons of what not to do in terms of avoiding a commercial marihuana market, there were some important aspects of

Washington State's model that key actors in Uruguay sought to emulate and adapt to Uruguay's neo-statist culture and historic legacy of state regulated alcohol supply. The remainder of this chapter explores how this complex interplay between domestic institutions and international pressures shaped the degree to which key actors drew on marihuana supply precedents in other jurisdictions in the development of the more substantive details of Uruguay's approach to state regulation of marihuana supply.

7.4 Institutional capacities of the regulatory board

Despite the clear borrowing of elements from the Washington experience, Uruguay's marihuana regulation deviated from it in a few notable ways. One key difference concerns the designated responsibilities of Uruguay's regulatory authority, the IRCCA, over marihuana supply, whose principal focus, in addition to ensuring regulatory compliance, is to control any marketing-related activity, including branding. As discussed in the previous subsection, there had been considerable resistance to adopting a Colorado or Washington-style approach to corporate regulation among representatives of the Mujica Administration, which constrained policy transfer between Washington State and Uruguay in this regard. Yet, the specific motivations for rejecting particular aspects of Washington State's approach were also strongly influenced by broader political considerations, namely concerns to demonstrate to the international community that Uruguay's approach to marihuana regulation would *not* resemble a commercial marihuana market. As a representative of the Drug Control Board argued in a 2018 interview:

> *Uruguay had to give signals to the region and the world that this was going to be done but that it was going to be done very well and in a controlled manner. That it was not going to be overnight that marihuana would be sold in supermarkets or become another commodity. I think that from there, it was a signal that this was done in a controlled manner, supervised without conforming to a conventional market.* (P3, regulator)

Policymakers therefore searched for other international models of regulation from which to borrow and adapt to Uruguay's domestic context. In 2012, the Mujica Administration and the Drug Control Board, in collaboration with FESUR, invited international experts, academics and drug policy NGOs to Uruguay, who were already working in favour of marihuana policy reform in other political contexts. International drug policy experts and organisations were thus key to policy learning and exchange, particularly as this relates to ideas around how to regulate the corporate marketing practices of marihuana producers. One organisation in particular was Transform Drug Policy Foundation, a UK-based think tank that according to its website *'promotes*

awareness of effective alternatives, provides new models of regulation, and supports those who are moving towards better approaches' (Transform Drug Policy Foundation, 2019). As one key official of the Mujica Administration stated in a 2018 interview:

> *I liked a document a lot that I read called "Blueprint for Regulation" by Steve Rolles and Lisa Sanchez. It was a plan for regulation. At that moment, a lot of people were contacted, a lot of people came to speak with us. Yes, we concluded immediately, at the level of government, that we did not want a legalisation like the style of Colorado or Washington.* (P6, regulator)

As indicated above, of particular interest was Transform Drug Policy Foundation's 2009 report, *After the War on Drugs: Blueprint for Regulation*, which according to Transform was *'a set of practical and pragmatic options for a global regulatory system for non-medical drugs'* (Rolles and McClure, 2009). Policymakers condensed Transform Drug Policy Foundation's complex 215-page *'flagship guide'* down to its most essential features, but still maintained broad policy goals and some of its main elements as the basis for Uruguay's legal marihuana supply infrastructure. The specific features that were borrowed from *Blueprint for Regulation* seem broadly consistent with some aspects of the 'Regulated Market Model', an adaptation of one idealised type of model for the regulation of tobacco supply (Borland, 2003), but which has not been implemented in other policy contexts. These elements included the wider policy goal to *'maintain legal access to adults but remove incentives for profit motivated efforts to increase consumption'* (Rolles and McClure, 2009), as well as tasking the regulatory board with managing supply *'so as to prevent the emergence of branded products and limit all forms of profit driven marketing and promotions* (Rolles and McClure, 2009). These elements of the 'Regulated Market Model' were also consistent with Uruguay's historic tradition of state intervention in the regulation of public goods, although there was one notable difference concerning the decision to avoid that the IRCCA become directly involved in supply or distribution. As one high-level official of the Mujica Administration explained regarding the process of blending international examples with domestic politics and institutions in the development of the regulatory structure over marihuana supply:

> *We had an idea that we must go towards regulation. But clearly, it was a step much more complicated to realise. Now, you can sell and buy it. But it was not a commodity for us. We understood that the public discussion in Uruguay had to be with the Uruguayan tradition. That implies some things as well. For example, Uruguay has an enormous tradition of a lot of dependence on the state in the regulation of public goods or health. So clearly this was not like the United States where the private sector was going to do it all. At the same time, we did not want the state to become directly involved in production. There is a mixture of that. This is what ended up coming out.* (P6, regulator)

Though there was similarity at a very broad level, there were substantial differences in detail between the forms that Uruguay's marihuana supply system took compared with models advanced by Transform Drug Policy Foundation. Indeed, in terms of the concrete details of policy content and instruments, there is nothing that seems to suggest that key officials looked to the 'Regulated Market Model' and decided to directly import it to Uruguay without significant adaptation. Due to space constraints, I briefly elaborate here on one essential feature that sets Uruguay's marihuana regulation apart from other marihuana supply precedents and international experiments. Decision-makers in Uruguay decided to make private producers responsible for the entire supply chain, including distribution to pharmacies, described by one politician as where '*the state regulates and gives authority to produce to a private entity and it outsources production and distribution.'* (P7, politician) This feature did not resemble a single approach advanced by Transform Drug Policy Foundation. This includes the 'Regulated Market Model', which was more similar to Washington State's three-tier state distribution system, requiring that the state or regulatory board, *'act as a bridge between manufacturers and retailers'* (Rolles and McClure, 2009). Although the option of state distribution was considered by Uruguayan officials, ultimately, some key actors argued that the two-tier approach, consisting of producer and retailer, was the *'best model'* (P38, regulator) for Uruguay:

> *Well, it was thought that the state would produce it. And then another possibility was through licenses, but the state would assume another responsibility like distribution. In the end, we opted for the model that was from the plant to packaging, let's say, and placing it in the pharmacies. The producers [would be] in charge of that entire process. That was also a reason for discussion of that group [the working group that developed the specific regulations of the law (See Section 1.4)] and we ended up deciding it was the best model.* (P38, regulator)

There were several technical reasons why the distinctive two-tier marihuana supply system developed in Uruguay over other policy alternatives. First, Uruguayan officials had to guarantee that the marihuana supply system had '*adequate cultivation conditions in order to meet public demand'* (P38, regulator) without much practical experience. As one participant claimed in a 2018 interview, '*it was difficult to evaluate how much it would cost to produce [marihuana] because we did not have experience in that field'* (P38, regulator), with respect to cultivation, production, packaging and distribution. There were also other economic factors that policymakers had to consider. Uruguayan officials had to '*take into account the profit of the pharmacies as well as the ones who were going to be responsible for the whole production process*' P38, regulator) and that each earned at least a marginal profit, otherwise there would be no incentive for private actors to participate in the production system. This decision also had to be reflected on in relation to ensuring that the price of

marihuana did not rise above $1 per gram so as not to be undercut by the illicit market. Consequently, this balancing of different priorities and negotiating on the details of the regulatory structure helps to explain why the two-tier supply system became understood by key officials as the *'best model'* (P38, regulator). Overall, the two-tier supply system was seen as likely to reduce production costs and market inefficiencies in ways consistent with the overarching goal of combating the illicit drug market.

7.5 Marihuana traceability system

As indicated above, Uruguayan officials were not in *'agreement with the orientation'* (P11, regulator) of the US state-level marihuana policy developments, particularly Colorado's regulatory system. On the other hand, there were important attractions in exploiting the benefits of policy learning and drawing on the state-level experiences, as according to a representative of the Drug Control Board, *'it was important to learn all that we could'* (P11, regulator) from these early adopting states. Lesson learning from Colorado and Washington State has not been so much about the ways in which the marihuana market is regulated per se, but rather about the influence of the political, legal and institutional context in which regulation occurs. As another participant commented in a 2018 interview, *'Uruguay took quite a lot of references from Colorado's legislation when the law was made.'* (P9, commercial sector) Yet, while Uruguay's traceability system imitated aspects of the systems used in both US states, key decision-makers did not transfer these elements to Uruguay without considerable adaptation to the local context. This policy and several of the other policies under analysis, were adopted in a very specific way that intersected with Uruguay's domestic politics and structures, and then adapted to the concerns of neighbouring countries, particularly the United States.

Many of the key actors involved in formulating Uruguay's marihuana supply model had connections with regulators in Colorado and Washington, but more so with Colorado's Marijuana Enforcement Division. As described above, representatives of the Drug Control Board and key politicians had visited Colorado in 2013 to learn about the newly evolving marihuana supply system and its implementation. Thus, Colorado's Marijuana Enforcement Division provided opportunities for an exchange of ideas and concrete examples of what policies worked in practice, but more specifically, Uruguayan officials were interested in learning about Colorado's Marijuana Inventory Tracking Solution (MITS) system. According to one representative from the Drug Control Board, *'the*

important thing from Colorado that we looked at was the traceability system. In other words, we studied a lot of what they told us and then we came back and discussed it.' (P18, regulator)

Aside from the practical lessons that the state-level marihuana regulatory experiences could provide to Uruguay, a key motivation for looking to Colorado's marihuana traceability system was to avoid anticipated conflicts with the US government. As described in Chapter 6 (Section 6.2.2, pp. 238-239), Uruguayan officials were concerned by how the US government might respond to the proposed legislative changes to Uruguay's marihuana policy. In response, key officials have attempted to work around these expected tensions by adapting Uruguay's marihuana regulation to the preferences of the United States. As indicated in Chapter 6, of particular relevance has been the 2013 US federal guidance to state regulators in Colorado and Washington State issued by the Obama Administration and Department of Justice in August 2013. The US federal guidance, otherwise known as the 'Cole Memorandum', is a set of guidelines reflecting eight federal priorities that US states must comply with in order to avoid federal interference in their respective state-level marihuana regimes (Cole, 2014). Several high-level officials felt that it was important for Uruguay to emulate the Memorandum's key provisions, notably the requirement that states implement comprehensive track and trace systems to monitor distribution and prevent marihuana from moving across a state border where sales were illegal.

Indeed, at the time of policy development representatives of the Drug Control Board felt that Colorado's traceability system did not require major adjustments since it was viewed by most participants as relatively comprehensive. In particular, a key element of Colorado's traceability system that policymakers felt should be transferred to Uruguay was the ability for authorities to *'remotely control what was being produced at the production sites'* (P18, regulator) and virtually track the plant from 'seed to sale' up until the point when it reached the consumer. As a representative of the Drug Control Board stated in a 2018 interview:

> *The monitoring of the plants, all the technology that was applied to follow the plants, this applied to us. They transferred the technology to us and we went to see it. It was like I can tell someone 'look, you can put this like this on the plant and you enter [it here].' Like that. You would go into a place where there were thousands of plants and you passed a reader over them and it would tell you the [tracking process] of each one. So, for us, all of that was very important. And a lot of these ideas and practices, we brought back here.* (P11, regulator)

Uruguay's traceability system was not, however, the same system that Colorado utilised in its state-level marihuana supply regime. In 2014, then-Secretary-General of the Drug

Control Board Julio Calzada expressed in the media that key officials were working on enhancing Uruguay's traceability system by using the same radio-frequency technology to track plants and products that the country already uses *'to track beef from the field to store shelves'* (Calzada, 2014). The significance of this decision is that Uruguay's track and trace system for beef production includes specific genetic makeup technology that when applied to marihuana would enable authorities to identify the origin of any plant legally produced in Uruguay. This additional requirement was unlike Colorado's system, as according to key officials, it would allegedly allow authorities to track plants grown at home or marihuana purchased from commercial pharmacies using a specific genetic tracker in the product itself. As Secretary-General Calzada later claimed in the same press interview in 2014:

> *What we want to know is that what's being planted here isn't leaving the country. When a home grower registers his plant, we'll do an analysis and provide a card with a certain code. And what we'll inspect will be these codes, which we'll follow by radio-frequency. This is perfectly doable* (Calzada, 2014).

The decision to combine aspects of Colorado's traceability system with Uruguay's existing meat track and trace technology was strongly shaped by both legal and geopolitical considerations. First, there was significant pressure from neighbouring countries like Argentina and Brazil for Uruguay to prevent or at least reduce the risk that any marihuana produced in the country would enter their respective borders, where there were strict laws against drug consumption. At a 2014 press conference, former Assistant Secretary of the Mujica Administration Diego Cánepa reflects this concern in a statement to the media, arguing: '*The traceability system is key for guaranteeing that marihuana adjusts itself to the legal parameters and it also offers security to other nearby countries'* (Cánepa, 2014).

Additionally, interview accounts suggest that representatives of the Drug Control Board and Mujica Administration felt compelled to modify Colorado's traceability system due to concerns with how the US government would react to Uruguay's marihuana supply system. It was, therefore, seen by Uruguayan officials as critical not only to transfer a Colorado-inspired marihuana traceability system to Uruguay. But, also to make it more rigorous by adapting it to Uruguay's state-of-the-art track and trace system for meat production. This can be observed in the following interview account by one high-level official who discussed the immense efforts that they had made to adjust Uruguay's traceability system to the preferences of the US government:

> *It was the time of Obama. There were negotiations, not negotiations, but exchanges with the United States at a very high level where we explained our process and we told them the truth. We did not believe that we had abandoned the issue [Uruguay's obligations under the UN drug conventions]. It was an issue for the Uruguayan context, for Uruguay, and that each country is free to organise itself as it wishes. Also, we did something very complete, which is that we incorporated the plant itself into the traceability system. Very complex. All of this so that if marihuana appears outside of the country, we know that it came from here. Marihuana from Uruguay has not appeared outside of Uruguay. In other words, the controls exist.* (P6, regulator)

These comments reflect the strain felt by representatives of the Drug Control Board and key officials of the Mujica Administration in terms of adapting marihuana regulation to the preferences and concerns of neighbouring countries, particularly the US government. Uruguayan officials were clearly concerned by the actions of US states in terms of how they were attempting to resolve conflicts with US federal drug laws. However, it is less clear what their specific motivations and intentions were in blending Colorado's marihuana traceability system with Uruguay's meat production technology. Media statements would suggest that this decision was motivated by concerns to address diplomatic tensions with Argentina and Brazil regarding the risk that marihuana produced in Uruguay might enter their respective borders. Conversely, in the interviews, it seems that this decision was very strongly shaped by efforts to avoid anticipated tensions with the US government. Overall, the decision to make Uruguay's marihuana traceability system appear more rigorous than Colorado's example was driven by a combination of external pressures, ranging from visible tensions with Argentina and Brazil as well as anticipated expectations of the US government.

7.6 National user registry

The national user registry did not source from international experiments or marihuana supply precedents but rather was a clear example of policy innovation within the development of Uruguay's state regulation of marihuana supply. Nevertheless, its development was still very strongly shaped by international concerns, particularly pressure from Argentina and Brazil, as well as anticipated tensions with the United States. In the domestic context, the national user registry was arguably one of the most criticised aspects of Uruguay's marihuana supply system. Cannabis user rights groups and some politicians opposed the measure, arguing that it was reflective of the same *'repressive philosophy'* (P10, politician) of the international drug control regime. US drug policy experts and NGOs, who acted as consultants for the Uruguayan government in

2013, also did not support the idea, as according to one international expert in a 2018 interview:

> *There were these early signals from the government that they might use a register of users as the basis for identifying people with drug problems, which undermines the legitimacy of the process.* (P42, international expert)

However, there were broader contextual factors with which representatives of the Drug Control Board and the Mujica Administration had to contend. Among these were reassuring the public and opposition parties that Uruguay's marihuana supply system would be tightly controlled and monitored by the state. There were also legal constraints as well as diplomatic concerns that intersected with broader public security priorities, which help to explain the greater significance of supply control in Uruguay compared to marihuana policies in other jurisdictions. As described above, there had been significant pressure from Argentina and Brazil for Uruguay to prevent illegal diversion of marihuana into their respective borders, where there were strict laws against drug consumption. According to one representative of the Drug Control Board in a 2018 interview:

> *Because what we wanted, working with the registry, was to address the issue of cannabis tourism. Especially because of the impact and the contradiction that we are going to have with Argentina and Brazil.* (P11, regulator)

Negative insights from the Dutch coffee shop experience informed their thinking on this issue, as without a national user registry, the marihuana supply system in the Netherlands seemed less '*transparent*' (P6, regulator). Therefore, it was seen as inadequate in terms of addressing the drug trafficking issue because '*no one knows legally where the drug comes from.*' (P6, regulator) While some representatives of the Drug Control Board recognised that the national user registry was controversial, they ultimately felt compelled to adopt the measure in order to assuage doubts among neighbouring countries regarding the risk of illegal diversion. As a representative of the Drug Control Board argued in a 2018 interview:

> *The national registry, the most controversial. It's what sometimes is not well understood. We had studied the Dutch issue, without a national registry, without anything. We had a very serious problem. We have all dry borders with Brazil, 700 kilometres of dry border. And the border that we have with Argentina is the Uruguayan river and Rio de la Plata, it is a border that you are between 30 and 50 minutes between each other…So the open use system was going to generate border problems and this would distract us from what was most essential, which for us was for marihuana to be regulated so as to be able to combat drug trafficking. That was the central aim.* (P11, regulator)

7.7 Commercial sales through pharmacies

In the domestic context, one of the most contentious features of Uruguay's marihuana supply regulation concerns the decision to sell recreational marihuana through licensed pharmacies. As previously described, a central difference between Uruguayan pharmacies and US state-level cannabis dispensaries is that in addition to some selling marihuana, they also sell various pharmaceutical, cosmetic and food items whereas cannabis dispensaries in some US states exclusively sell marihuana and marihuana-related products. Knowledge about the US state dispensary model was shared and contested within a narrow marihuana policy reform community. Several participants involved in debating and even drafting the marihuana regulation bill, including then-President José Mujica, thought that marihuana should be sold through either tobacco stands similar to those found in Spain or stand-alone shops akin to cannabis dispensaries in California or Colorado. Additionally, international drug policy NGOs argued that they had advised government officials for Uruguay '*to go for more of a dispensary model like in the US [in other words] marihuana standalone [shops]*' (P41, international expert) as pharmacies were not the most *'adequate point of sale.'* (P41, international expert) This view was echoed by another informant, a representative of the Uruguayan Association for Cannabis Studies (AECU), who argued:

> *It should have been dispensaries like there are in Colorado. Like where there are places that produce marihuana in the back and sell it to the public in the front. Then, we would know that they are there and the issue of transportation and everything. I don't know. They were afraid to do that.* (P27, civil society)

A key factor to consider is the importance of political, economic and supply concerns as sources of constraint over the adoption of a Colorado-inspired dispensary model in Uruguay. First, some representatives of the Drug Control Board asserted that in 2012 they were not convinced that stand-alone marihuana dispensaries were the best solution for Uruguay, and rather should be kept as an '*alternative'* (P18, regulator), if a prior agreement between the Executive Branch and two of Uruguay's largest pharmacy trade associations failed to transpire. In 2012, the Executive Branch and representatives of the Drug Control Board had negotiated an agreement with the Association of Pharmacies and the Uruguayan Pharmacy Centre that commercial pharmacies would become the national vendors of marihuana to the public. Support from the two largest pharmacy trade associations in Uruguay was also critical given opposition to the bill from the Uruguayan Pharmacists Association, another important professional trade union in Uruguay, whose leadership included pharmacists that had refused to sell

marihuana to the public in 2012. Although some key actors of the Mujica Administration thought that the decision was not ideal, at that time it was important to seize the political opportunity. As a representative of the Drug Control Board asserted in a 2018 interview:

> *They came to speak to us at the Executive Branch and they said 'Well, we want to carry all of this forward. We are the ones that have managed all drugs of great risk for the last 100 years in Uruguay. We think that we are the entities with the best capacity to be able to do this'…It was one of the loosest limbs that we had. There was an organisation that was widely recognised in the country that wanted to make an agreement to be within the law. And we put it [in] as such.* (P11, regulator)

Secondly, some representatives of the Drug Control Board argued that Uruguay did not have the economic dimensions to adopt a dispensary type of approach, as for marihuana to be widely available, the state would have to *'find places [specialised stores] where it was not very costly.'* (P11, regulator) Finally, supply concerns also shaped the decision against adopting a dispensary model in Uruguay. These concerns centred largely on the perception that the state-level dispensary system was developed on the basis of a markedly different legal and market situation, mainly in California, in which there was sufficient supply and widespread distribution to satisfy public demand. However, if brought to Uruguay, then the California model was seen as likely to undermine the law's key objective, which was to make marihuana widely accessible in order to compete with the illicit market. With two of the most well-known pharmacy trade associations in Uruguay offering to sell marihuana to the public, policymakers felt that this could help develop the decentralised system needed to make marihuana widely accessible. To provide context to the following quote, there are 19 different provinces in Uruguay, which for one politician illustrated the key issue with adopting a California-inspired dispensary model:

> *Uruguay is a small market. Right? So, if one was going to do a model like California, let's say, the market studies that we have from the companies themselves talk about that we would have needed to have some 15 sales locations, only selling marihuana. And that does not allow for a decentralised system. In Uruguay, there are 2,000 pharmacies, 1,000 in the interior and 1,000 here [in Montevideo]. There is a decentralised system, which is already in the entire territory…that allows us to reach the entire country.* (P15, politician)

7.8 Forty-five member limit for cannabis clubs

As indicated in Section 2.3.4, previous research indicates that in the development of the marihuana supply system, key officials borrowed from the Spanish cannabis club experience (Musto, 2018). Although this research provides empirical support to this finding, it also suggests that the development of the cannabis club model in Uruguay

was far more complex, particularly as this relates to the micro-level details of the regulation regarding restrictions on cannabis club membership. As this subsection illustrates, development of the restrictions on cannabis club membership was informed by a combination of insights from particular features of the different cannabis club models in Spain, as well as a very specific detail of California's medical marihuana supply system, both of which were subsequently adapted to domestic expectations of Uruguayan society that marihuana commercialisation should be avoided.

In September 2012, Uruguayan officials invited international experts to present at a series of conferences in order to increase public support for the marihuana regulation proposal. At one of the events, international activists from Spain, such as then-president of the Spanish Federation of Cannabis Associations (Musto, 2018), exchanged information and shared knowledge on the different types of cannabis club models that existed in its quasi-legal context. As discussed in Section 2.3.4, a 'Spanish model' of cannabis social clubs does not exist, which according to Decorte is reflective of the lack of a national regulatory framework governing cannabis club structure, organisation and practice in Spain (Decorte et al., 2017). Consequently, several different types of cannabis clubs have emerged, some of which have developed their own self-regulatory guidelines and practices (Musto, 2018). Legal factors and political concerns, therefore, constrained policy transfer between Spain and Uruguay. In particular, several key actors felt that directly transferring these voluntary aspects of Spain's cannabis club system to Uruguay had serious implications for the state's capacity to prevent profit-motivated efforts and sales to tourists.

In addition, socio-political factors both constrained and enabled transfer of the basic ideas behind the cannabis club experience in Spain to Uruguay. First, for several participants, it did not seem like the Catalonian cannabis club model was the most appropriate, since it did not limit club membership, but more importantly because it seemed to be based on '*more of a system of marihuana commercialisation'* (P8, civil society). Therefore, negative insights were used as illustrations for what policymakers should not do based on the perceived mistakes of Catalonia, where cannabis clubs operated more like for-profit businesses. According to several key actors, capping cannabis club membership, as was the case in Basque Country, appeared more culturally appropriate for Uruguay, as it would be consistent with public demand to tightly control marihuana supply. Although some key actors felt that it was important to transfer the Basque experience of restricting cannabis club membership to Uruguay, the precise limitations

would need to be further adapted to the preferences and political realities of Uruguayan culture. As a representative of the Drug Control Board explained in a 2018 interview:

> *People came from Spain, from Barcelona and from Basque Country. They were two different community models…A Spanish activist came and did a seminar for us. Two seminars, he participated in, to explain all of the experiences that they had, like the legal frameworks to develop the model. Their model was a social model you see. They have a lot more clubs. They have a lot more members than ours, but it is a social model. Not like the Catalan model, which is a business model [because] it has money, they put a club in and people pay.* (P11, regulator)

Several key participants thought that it was important to build flexibility into the marihuana regulation bill in accordance with the '*realities of the country*' (P6, regulator). In particular, a number of key actors argued that several of the more detailed aspects of Uruguay's marihuana regulation should not have been written into the law but rather subject to the regulatory process. This strategy was unfeasible, however, owing to the strength of public demand and opposition from legislators of then-President Mujica's own political faction, Frente Amplio, against a more liberal approach to regulating marihuana supply. Thus, representatives of the Drug Control Board and key officials of the Mujica Administration had to win support for marihuana policy reform on the basis of consensus and unanimity. Importantly, in 2013, then-President Mujica's party had a slim majority in both houses, and so needed the entire party to vote in favour of the proposal in order to secure its passage. This provided optimum conditions for opponents within Frente Amplio to restrict elements of the marihuana reform bill and shape it to their own policy preferences. According to a high-level official of the Mujica Administration:

> *The law is overly detailed for my liking. But it's very Uruguayan. It was so much so that the parliamentarians wanted to make sure the law was very detailed too. But it was at the cost of being able to create the law that many of us wanted. That is, several legislators kept adding in things that should not be in the law, which were administrative issues or to give more flexibility to the government. It defines a lot where it can be sold, how it can be sold, in what way, how many grams. In this matter, it should be more flexible according to the realities of the country. But, they put it in the law and so any change must go through Parliament. That was a problem.* (P6, regulator)

Thus, policymakers and politicians understood that in order to pass the marihuana regulation law, they would need to develop a reasonable cap on cannabis club membership that was consistent with domestic expectations of Uruguayan society and critical legislators. A key issue, however, was that no other jurisdiction had previously restricted cannabis club membership with a precise figure. Therefore, one representative of a cannabis user group suggested in a 2018 interview that: '*the number was completely arbitrary. They had a vague idea but without an exact figure.'* (P12, civil society)

Representatives of the Drug Control Board stated that they then considered aspects of California's medical marihuana model for guidance on this issue. The key element borrowed from California's medical marihuana system was the provision that cannabis cooperatives were allowed to possess up to 99 plants per year. Although key actors felt constrained by domestic influences, these restrictions found no formal opponents among reputable international organisations like the INCB or other international actors, particularly the United States. This enabled policymakers to establish a maximum limit that although *'arbitrary'* (P12, civil society), at least provided some flexibility to the marihuana reform proposal. As one politician claimed in a 2018 interview:

> *Those [45 members and 99 plants] are the boundaries that we set, a maximum of plants, a maximum quantity of people and this has to do with the experiences that there were in other countries. When we analysed the club scheme, we were looking at what was taking place in Spain. We said to ourselves, well, it is great the club idea, it has interesting elements. Now, we cannot let this get out of hand like what is happening in Spain, where there are clubs with hundreds of thousands of people, hundreds of plants. It is already impossible to control any club association. So, what we decided to do was establish maximums so we could have controlled clubs.* (P7, politician)

Finally, the 99-plant limit from California's example, along with both negative and positive insights from the various cannabis club experiences in Spain, were further synthesised into what ultimately became the 45-member limit on cannabis club membership in Uruguay. As a key actor from the Drug Control Board asserted in a 2018 interview:

> *45 people and 99 plants. You see, that is more or less a limit on plants in California… from there, we also did a study of what there was, a comparative study for the possibilities that there were here to eventually be able to do one of these somehow. How much someone could get [from each plant in grams]?*
>
> *We limited the number of members of cannabis clubs to 45 so that the clubs could not commercialise like what happens in Catalonia. Because if there is a club of 150 people, it is a business for those [that operate the club]. So, to start a club, they have members but in reality, is it an important profit for the club. Instead, 45 members and 99 plants have been [numbers] for cannabis social clubs, as they are called.* (P11, regulator)

Yet, for other participants, broader ideas and symbols from Spain and California were more important than the details of cannabis club policies or the research evidence about their effectiveness (or lack thereof). Although it might be expected that legal differences, geographical size or institutional factors would restrain policy transfer between California and Uruguay, in this case, it did not. Transferring the 99-plant limit to Uruguay was not a means to prevent marihuana liberalisation, but instead served a political purpose in terms of reassuring the public and sceptical legislators that

marihuana supply would be tightly controlled. As a representative of the Uruguayan Association for Cannabis Studies (AECU) contended:

> *There are a lot of numbers that come from the USA; 6 plants were what a person could have in California. 99 plants, I think is what a medicinal license has in California. Now, we are not California. It is totally decontextualized. What happened was it served them [the Drug Control Board and politicians] to say that we were not the only ones. In California, they do this too.* (P27, civil society)

This is further illustrated by the assertion that the Drug Control Board and key policymakers did not consider the advice given by cannabis users and predominant home cultivators in Uruguay who had worked with the plant for decades. According to one home cultivator in a 2018 interview:

> *Those that worked as 'advisors' at that moment; those that had knowledge, none of our positions were taken into consideration. One thing is being an 'advisor', the other is that they listen to you. The truth is from the price, sales through pharmacies, down to who would produce marihuana, it is all an invention.* (P27, civil society)

In particular, home cultivators had advised the Drug Control Board that 99 plants for 45 members would produce far more than 480 grams of marihuana per user annually, as production does not depend on plant numbers but rather on environmental conditions. Indeed, as one cannabis club member explained in a 2018 interview: *'one plant could produce 480 grams by itself.'* (P8, civil society) Reflecting on the decision to limit cannabis club membership to forty-five members, one representative of the Drug Control Board responded by saying:

> *For us, it seemed that clubs with a lot of members was not the best idea. Even, President Mujica was not convinced that they [would need to be] so large, and so we opted to limit the number of members to 45 people. Today, with the evaluation of time, a more sustainable number could have been 90 people.* (P18, regulator)

Finally, for one home cultivator involved in debating the details of marihuana regulation, the reason for why the limit on cannabis club membership was placed at forty-five members was above all political and for reasons of social control:

> *They did not want us to be able to become successful. They did not want us to be rich off of marihuana. It is for that reason that we are so restricted. Because what happens if it is a much bigger club? Control it. So, they do not have to be so small. They made us unviable.* (P27, civil society)

7.9 Forty-gram limit on consumption

Before turning towards the account behind the rationale for the 40-gram limit on consumption, it is important to first provide some context regarding its development. Policymakers were constrained by both domestic expectations that marihuana commercialisation would be prevented as well as by policymakers with population

health concerns, who threatened to vote against the bill unless there were *'limits'* (P7, politician) written into the legislation. However, there were also the goals of marihuana regulation to consider. As discussed in Sections 4.5 and 5.4, the state's strategy was to combat organised crime and protect the health of individual users by making the legal market more attractive than the illicit drug market through increased accessibility and availability.

Proponents of reform therefore felt pressured to determine a 'reasonable' monthly consumption limit that was simultaneously inclusive, so that it did not *'leave out the heaviest users'* (P29, civil society), while also not being disproportionate to local use patterns in ways that promoted excessive consumption. Consequently, these domestic political factors shaped the ways in which the 40-gram limit evolved in this process, perhaps more so than international constraints. It should be noted that key officials in Uruguay had originally proposed a 30-gram monthly consumption limit for marihuana in 2012. This subsection seeks to explain the process by which that amount was adapted to domestic politics and sociocultural factors in Uruguay, which ultimately shaped how policymakers arrived at a 40-gram monthly consumption limit in 2013.

In 2012, then-Secretary-General of the Drug Control Board Julio Calzada announced to the media that Uruguay planned to impose a maximum consumption limit of 30-grams per month in order to compete with the illicit market (Calzada, 2012c). The origin of the 30-gram limit cannot be traced to international precedents, but rather it seems to have originated from local sources. First, representatives of the Drug Control Board argued that they consulted with local addiction specialists and harm reduction advocates who had informed them that more than one marihuana cigarette per day would likely promote problematic use. Later in 2013, politicians and policymakers increased the monthly consumption limit to 40 grams per user after consulting with local cannabis activists and home cultivators who informed them that, on average, *'a frequent user consumes more than one gram per day, [but] not much more [than that].'* (P12, civil society) When asked the origins of the 40-gram monthly consumption limit, one representative of a cannabis activist group argued in a 2018 interview:

> *Clearly, that would be the legal argument for why to limit the quantity. Because there was a social demand to not allow this measure to liberalise drug consumption. So, we limited the quantity that each user could access per month and that in some way helps that they don't consume a lot, which is a public health focus. That could have been the argument behind that. I think that participation by the users and cultivators during the regulation process made it so that that that quantity was reasonable for a daily cannabis user. So, then it would be reasonable to avoid that users ended up going to the black market.* (P12, civil society)

As indicated in the previous quote, these two pieces of information were blended together in order to arrive at a *'rough calculation of what's an upper limit of what a regular user might need [per month]'* (P41, international expert) to enable them to *'break free from the drug trafficking scheme'* (P7, politician), without promoting excessive consumption or the development of an illegal grey market (defined as the trade of a legal commodity through an unauthorised distribution channel). Accordingly, the 40-gram limit was described by key actors as based on the assumption that habitual users smoke a little more than one gram of marihuana per day (1.3 grams x 30 days=40 grams) and therefore reflected a balance between preventing users from *'revert[ing] to the black market but not a crazy high amount that people could then buy and sell it to the black market.'* (P41, international expert) As a representative of the Ministry of Livestock, Agriculture and Fisheries argued in a 2018 interview:

> *[The quantity] was done statistically, analysing statistically consumption of recreational marihuana in Uruguay in a habitual consumer. More or less what amount of marihuana [does a habitual user] consume per day and per month? The quantity in grams per month was established in function of that, which someone could purchase in the pharmacies.* (P38, regulator)

There were several technical reasons why the monthly consumption limit was ultimately increased to 40 grams per user. First, key actors drew on negative insights from Colorado and Washington, particularly in terms of the policy pathway that they did not wish to take. Representatives of the Drug Control Board wanted to prevent a system like Colorado or Washington, where there were no restrictions on bulk sales or ration limits establishing a reasonable amount for personal use. As described previously, Colorado and Washington State restrict individual purchases to 28 grams daily per user, which according to several participants was an amount that was excessively high and unreasonable for novel users. As one civil society actor argued in a 2018 interview, the 28-gram limit was: *'nonsense in terms of care for a first-time experience that has its risks.'* (P29, civil society) It was also an amount that a representative of the Drug Control Board felt was unrealistic and far above what an average user would require, and therefore, would likely produce an illegal grey market if brought to Uruguay. As a representative of the Drug Control Board argued in a 2018 interview:

> *Who is going to smoke 28 grams per day? No one. Right? So, if I can go every day to a dispensary, another day go to another, and to another and I buy 28 grams each time and I sell 25, and smoke 3 per day, given that I smoke a lot. You are not going to smoke more than 3 [grams] per day. That person is not going to make more than $1,200 to $1,500 per month. So, it is not going to produce a criminal market because there is no possibility to profit [from the sale], which has indeed been a ritual for the criminal market.* (P11, regulator)

Secondly, policymakers had to adapt the maximum limit to political and technical constraints as well as local consumption patterns in Uruguay to compete with the illicit market. Although international activists from Spain informed key officials that on average most users do not consume more than fifteen grams of marihuana per month, representatives of the Drug Control Board had to ensure that all consumers had access to a sufficient supply. This included moderate to less frequent users who wanted to produce less harmful products, i.e. non-combustible forms, at home for personal use. However, policymakers were constrained not only by domestic pressure to write the maximum consumption limit into the law but also by the fact that the state would only be producing marihuana flower but not cannabis-infused creams or oils. Therefore, a representative of the Drug Control Board presented the forty-gram limit as an amount that, although higher than what most consumers would use monthly, would provide a wide enough margin for habitual users not to have to purchase marihuana in the illicit market. At the same time, it was a limit that offered moderate or less frequent users the flexibility of producing less harmful products at home:

> *If you wanted to consume more from a health perspective and not consume combustibles or edibles. Because you wanted to produce some type of oil to use. Something more locally produced or artisanal, 15 or 20 grams would not serve you. So, with 40 grams, that leaves you with a margin that you could accumulate. Right? You could do things with 40 grams. So, for that reason, [the law] has that margin and that flexibility. It was not totally arbitrary.* (P11, regulator)

These comments reflect the limited international constraints policymakers felt, but also the importance of domestic factors in shaping policy outcomes. Indeed, for most other participants involved in debating the forty-gram limit, the number was entirely *'arbitrary [and without a] technical foundation. It could have been sixty, it could have been twenty.'* (P29, civil society) This view of the policy process was confirmed by several other participants, including one politician who argued in a 2018 interview that: *'In reality, there can be people that consume more than that and don't have problems. But, well we had to put in [a maximum quantity].'* (P15, politician) As another politician described the decision to adopt a forty-gram limit, '*Well, establishing clearly from which investigation [the 40-gram limit comes from], I think we are not going to find one. We are not going to find one. 40 grams was part of a political agreement.'* (P7, politician) Although the forty-gram limit was an amount that most participants felt was far above average consumption rates in Uruguay, it was an amount that was at least significantly lower than the purchase limits reflected in some of the US state-level recreational marihuana supply systems. Commenting on the political implications of restricting monthly purchase limits in Uruguay to a level far less than

what was occurring in some US states like California, one civil society actor asserted in a 2018 interview:

> *I think that 40 grams for a recreational, occasional, weekend user, it is a dosage, 40 grams per month is a much more significant dosage that afterwards you will have leftovers, let's say…For those that smoke a joint, 40 grams could last you months. Now, for a person that smokes daily 2 or 3 grams, yes, 40 grams will be enough. So, this was searching for a balance that would represent more the fact, not of policies or technically speaking, but rather not to leave out the heaviest users, which we knew was the majority volume of what they had been consuming in the black market or what they had been growing at home. And that it was not an amount that was a barbarity for novice users, like how some are smoking in California, where there are places where you can buy 40 grams daily not monthly.* (P29, civil society)

In summary, insights from Spain and the US states were not meant to prevent problematic marihuana use or illegal diversion to other states but instead served a political purpose. Above all, these examples were drawn on to illustrate to the public and critical policymakers that Uruguay's marihuana supply system would *not* be like the United States, but rather would be tightly controlled by the state. Indeed, drawing on the US state experiences, but not other marihuana policy experiments such as the Netherlands (which has had a 30-gram monthly consumption limit since 1976 (MacCoun, 2011)), provided more flexibility to policymakers and politicians, who otherwise were constrained by domestic expectations. This allowed key actors in Uruguay to set a consumption limit that, although not necessarily representative of local realities, would appear reasonable to the public and critical politicians compared to Colorado, Washington State and California.

7.10 Discussion

The findings outlined in this chapter demonstrate the complex and dynamic process of how some very distinctive features of Uruguay's approach to state regulated marihuana supply were developed. The chapter highlighted that rather than following either an entirely innovative or emulative process, Uruguay's approach best fits with the 'hybridisation' category of policy transfer: that is, it combines and synthesises aspects of programmes in other settings to develop a policy best suited to the local context. Hybrid forms of transfer are illustrated by how several key elements of Uruguay's marihuana regulation appear to have diverse sources. This hybridisation process explains the development of Uruguay's state regulation versus a commercial model, in which key policy actors blended negative lessons from Colorado and California regarding the drawbacks of limited state involvement in market regulation alongside parallel features in Washington State's regulation of marihuana supply.

Marihuana supply precedents and other international experiments were not adopted as direct copies, but rather were adapted in very specific ways that intersected with domestic politics and global pressures. Although key actors clearly borrowed from select features of Washington's model, they also rejected the state's approach to corporate regulation, and rather emulated ideas and concepts from Transform Drug Policy Foundation's *Blueprint for Regulation*. This included the broad policy goal to eliminate profit motivated efforts and the emergence of branded products. At the same time, key actors adopted a two-tier supply system, consisting of producer and retailer, rather than the policy option of state distribution from Washington State's model and select examples from *Blueprint for Regulation* in order to adapt Uruguay's marihuana regulation to the preferences of Uruguayan society and expectations of relevant regional actors, namely Argentina, Brazil and the US government.

Relatedly, the chapter demonstrated the significant pressures and constraints that Uruguayan officials felt in terms of adapting particular features of Uruguay's marihuana supply system to broader public security dimensions of drug policy. In particular, key actors emulated Colorado's marihuana traceability system, later to adapt it to the concerns of neighbouring countries and anticipated tensions with the United States. They did this by incorporating specific genetic makeup technology from Uruguay's state-of-the-art track and trace system for meat production. Clearly, there were also elements of inspiration, such as the policy option of commercial sales through pharmacies and the inclusion of a national user registry. But, these policies were illustrative of very specific features in an overall context of hybridisation. Importantly, as with most of the other policies under analysis, their development was reflective of the diplomatic pressures that Uruguayan officials felt from neighbouring countries to prevent illegal diversion to other states where there are strict laws against drug use.

Other hybrid forms of transfer include the 45-member limit on cannabis club membership, which was developed by combining and synthesising both positive and negative aspects of the different cannabis club experiences in Spain, along with a very specific feature of California's medical marihuana model, i.e. 99-plant limit. Finally, the 40-gram monthly restriction on consumption was inspired by negative insights from some US states combined with knowledge on average consumption patterns in Spain. These insights were then adapted to Uruguay's domestic politics and sociocultural factors, leading to a limit on consumption that would make marihuana available without promoting excessive use. Both of these policy developments did not have international

origins, but rather marihuana supply precedents, specifically negative insights from Spain and the US states, were strategically used to justify predetermined policy decisions.

Exploring the development of Uruguay's marihuana regulation through the concept of hybridisation sheds new light on the complexity and uncertainty of this process and the political dynamics involved. At a macro-level, it is evident that Uruguay's marihuana regulation is distinctive compared to existing marihuana supply precedents in other contexts, owing to the centralised role of the state in the regulation of marihuana commerce. This finding is consistent with earlier held views that Uruguay's approach to marihuana regulation is qualitatively distinctive from the purportedly commercialised US state-level systems (Pardo, 2014, Room, 2014b, Kilmer and Pacula, 2017), on account of particular political and legal features of Uruguayan society (Rolles and Murkin, 2016, Musto, 2018). At the micro-level, however, unpacking each individual component of Uruguay's marihuana supply model reveals very little that was completely innovative or that did not have international influences to explain its development. In contrast to earlier findings (Obradovic, 2019, Musto, 2018, Pardo, 2014, Rolles and Murkin, 2016), this study provides empirical evidence of a significant degree of hybridisation and adaptation of various elements of marihuana supply systems in Colorado and Washington State, as well as other sources, than negative lesson-drawing would imply. Importantly, the policies begin to tell a story of how Uruguayan officials were pressured to develop a more cautious approach to state regulation of marihuana supply, which was shaped by international constraints and criticism from neighbouring countries, but more so the United States.

Although Uruguayan officials wanted to adopt a brave new approach to marihuana regulation, they could not be overly ambitious. This was particularly the case regarding policy issues that intersected with broader security dimensions of drug policy and the concerns of the regional hegemon, the United States. The broad implication of this research is that Uruguayan officials were very careful and conservative in the more constrained space of high politics. They did not want to be seen as a rogue state within the context of the international drug conventions but also within the context of the state's marihuana traceability system. The more that an issue intersected with broader public security dimensions and the more that it intersected with the concerns of the United States, the less scope there was for policy innovation. Although there was greater latitude in areas of low politics, like how many people are involved in a cannabis

club, where this intersects with broader security dimensions of drug policy, Uruguayan officials were very constrained.

This is an important finding in the understanding of international influences on the development of Uruguay's marihuana supply regulation. Indeed, previous scholars have argued that external actors like the International Narcotics Control Board (INCB) (von Hoffmann, 2016), but more so, the United States (Graham, 2015, von Hoffmann, 2016) had relatively little influence over Uruguay's marihuana policy process. While the US may have been 'reluctant' to publicly criticise Uruguay's marihuana supply system due to its own domestic policy reforms in Colorado and Washington State (Graham, 2015, von Hoffmann, 2016), as the findings from this chapter illustrate, this does not mean that the United States was insignificant to the development of Uruguay's approach to marihuana regulation.

The findings would also seem to conflict with previous studies on the voluntary nature of policy decisions within Uruguay's marihuana policy process. In this regard, previous research appears to underplay the significance of political agency and presents a rather deterministic view of the politics of marihuana policymaking in Uruguay. For example, von Hoffman (2016) and Musto (2018) assume that policy outcomes, in other words, the policies that were borrowed from abroad, were direct representations of policymakers' specific motivations and aims. For von Hoffman, the dynamics of policy transfer are depicted as a purely rational, linear exchange, in which epistemic communities and transnational advocacy networks 'presented recommendations and shared experiences with alternative forms of cannabis regulation' with decision-makers in Uruguay (von Hoffmann, 2016). Similarly, Musto argues that international elite networking was crucial to the adoption of Colorado's licensing and traceability systems, as well as the Basque Country's cannabis social club model (Musto, 2018), but is unclear on why these policies were adopted in the first place and the extent to which they indeed resemble similar developments in the US and other places. Notably, the findings from this research indicate that although the nature and extent of policy transfer seemed voluntary for most elements, these decisions were also reflective of broader political considerations, namely to adapt Uruguay's marihuana legislation to the preferences of the United States, particularly for issues where this intersects with public security priorities.

More consistent with the findings is Murkin's account of Uruguay's marihuana policy process, who argues that the role of international drug policy institutes should be understood as advocates for specific policy elements (Murkin, 2014). This perspective suggests that Uruguayan officials were under external pressure to adopt these elements in order to demonstrate that they were developing a regulatory approach that had international support. Similar to the findings from this chapter, Murkin argues that policymakers were constrained by pressure from Argentina and Brazil for Uruguay to address the risk of marihuana tourism, which led to the adoption of more restrictive policy instruments like the national user registry and a prohibition on sales to foreigners (Murkin, 2014). To my knowledge, however, this is the first study to unpack the relevance of international constraints and pressures in the development of Uruguay's distinctive state regulated supply system – including such elements as a two-tier licensing structure, sales through pharmacies and a Colorado-influenced traceability system. It is also the first study to explore the relevance of domestic pressures (to avoid marihuana commercialisation) in Uruguay's development of restrictions on cannabis club membership and a 40-gram limit on monthly consumption. This is an important distinction for analytical purposes. It matters not just that Uruguay was the first country to have regulated marihuana supply, but also the particular ways in which that regulation was developed. In other words, it is important to understand the nature and outcome of the new policies, in addition to the processes and conditions that enabled policy change to occur.

Contemporary drug policy debates have often presented the international drug control regime as a US policy export (Jelsma and Bewley-Taylor, 2012, Bewley-Taylor and Jelsma, 2012, Nadelmann, 1988, Bullington, 2004), though with very little empirical research to support such claim (Collins, 2018). The findings from this chapter reflect similar observations made by Page and Benson, which suggest that elements of voluntarism and coercion may appear messier than these have been presented in previous policy transfer studies (Page, 2000, Benson and Jordan, 2011). The direct use of pressure from the US government did not seem to adequately explain the constraints felt by policy actors in Uruguay to pursue certain policy pathways over other alternatives. Given the lack of evidence of the US Department of State threatening Uruguay with legal or economic sanctions, these decisions cannot be described as based on direct coercion to avoid potential consequences for non-cooperation. Nor can they be qualified as entirely voluntary given that particular decisions were adopted in light of

the anticipated tensions and uncertainty with how the United States would respond to changes to Uruguay's approach to marihuana control. Instead, the findings from this chapter demonstrate that international constraints arose less from the formal power structure of the UN drug conventions, and rather were related to the perceived need to preemptively adapt Uruguay's marihuana regulation to the preferences of the United States.

The study's analytical approach demonstrates the importance of exploring not only the degrees of policy transfer, but also the underlying processes that shape and constrain policy content and outcomes. Benson proposes that research exploring the dynamics of policy development could identify the links between different dimensions of transfer and transfer processes (Benson and Jordan, 2011), specifically related to whether emulation and copying can conclusively be influenced by direct effects of coercion, whereas inspiration might be shaped by more voluntary processes. Although this study does not attempt to make broad generalisations about the implications of its findings, it does provide some valuable insights regarding the nature and relationship between different transfer processes, suggesting that in the Uruguayan context, these were more complicated than they were straightforward. Clearly, emulation was relevant to some aspects of Uruguay's marihuana regulation; however, as described above, this process cannot be labelled as purely coercive, but rather seems preemptive, with the expectation that adapting Uruguay's marihuana regulation to the preferences of the United States would avoid future conflict. Nor was inspiration unilaterally shaped by the voluntary transfer of ideas and beliefs, as the national user registry was very strongly influenced by international pressures from Argentina and Brazil to prevent illegal diversion of marihuana produced in Uruguay from crossing their respective borders. Within the context of international innovation, these findings illustrate the importance of considering both the degrees of transfer and the ways in which the transfer process comes about or is constrained (Jones and Newburn, 2007), with research implications for exploring the process of policy development of marihuana policy innovations in other political contexts.

Consistent with prior drug policy research (Jones and Newburn, 2007, Thomas et al., 2019, Bewley-Taylor, 2014), the findings also reveal that symbolism and ideas were significant to shaping the decision to transfer some very specific elements of marihuana supply precedents in other jurisdictions to the Uruguayan context. This can be best illustrated by the account of how Uruguay decided to directly copy the 99-plant limit

per cannabis club from California's example. Although this policy was strongly featured in marihuana policy debates in Uruguay, important contextual differences that might be expected to constrain the transfer process were less significant. For example, the 99-plant limit in California's medical marihuana model is reflective of the specific political and legal context of the US, in which individuals may face mandatory federal sentencing of forty years in prison for cultivating 100 marihuana plants or more for personal use (Yeh, 2015), raising questions around its applicability to the Uruguayan context. Emerging research on the operation of cannabis clubs in Uruguay post-implementation provides some empirical support to this conclusion. According to Decorte (2015), cannabis club members often reported having less than 99 plants at any given time, including clubs that were at maximum capacity, i.e. 45 members. Although this might seem like an illustration of policy failure (Dolowitz and Marsh, 2000), the findings from this chapter indicate that policymakers were completely aware of the political, social and economic differences between California and Uruguay for other policy issues—namely, state regulation, sales through pharmacies and consumption limits. In the context of drug policy development and change, this suggests that scholars might consider the importance of symbolism and ideas in the transfer process as a means to justify predetermined policy decisions (Thomas et al., 2019).

The symbolic use of marihuana supply precedents in the Uruguayan context might also be related to the unique characteristics of its domestic policymaking process. Previous accounts of policy development in Uruguay have found that there are other concentrations involved in decision-making processes besides evidence and consultation, such as the importance of public opinion and consensus-building (Zucco, 2013, Buquet, 2009). Both of these attributes of the Uruguayan policy process were clearly important to the development of restrictions on cannabis club membership and monthly consumption limits, in which marihuana supply precedents served a political purpose, more so than the specific details of these policies or the research evidence about their effectiveness.

7.11 Conclusion

The development of Uruguay's approach to state regulated marihuana supply demonstrates the importance of exploring the complex interplay between global influences and domestic factors in shaping the dynamics of policy transfer. The overall conclusion is that Uruguay's marihuana regulation was not entirely innovative nor was it

a direct copy of other marihuana supply precedents, but rather best fits with the 'hybridisation' category of policy transfer: that is, several of the regulation's key elements have diverse sources, which were subsequently combined and synthesised to develop a policy best suited to local conditions. The historic tradition of state intervention—including state regulated alcohol supply—in the Uruguayan context meant that marihuana supply precedents were not accepted uncritically, and debate among key actors largely ended in endorsing the importance of state control, and highlighting that unregulated corporate control of the market could not serve as the overarching aim of policy.

This hybridisation process was also indicative of the uncertain conditions under which Uruguay's state regulation of marihuana supply was debated and designed, leading to key actors preemptively adapting several of the regulation's features to the preferences of neighbouring countries, but more so the United States. This was particularly the case for issues that intersected with broader public security dimensions of drug policy. Ultimately, the findings demonstrate that Uruguay's hybrid approach to marihuana regulation was shaped by the dual pressures that policymakers faced, as they sought to reconcile the specific contents of the legislation with the preferences and concerns of Argentina, Brazil and the US government, alongside the particular institutional, political, legal and sociocultural features of Uruguayan society.

8 Discussion

8.1 Introduction

This thesis set out with the aim of examining the extent to which Uruguay's marihuana regulation can be understood with reference to the pursuit of policy coherence in health governance. In doing so, it examined the specifics of the content of the policy, as well as the processes and dynamics influencing policymaking in this context. In this chapter, I discuss the key contributions and implications of this research for current understandings of Uruguay's marihuana policy experiment. I summarise the major findings of each empirical chapter, consider their significance in relation to previous literature on Uruguay's marihuana policy reform and discuss the wider implications of the Uruguayan case for drug policy, global health and unhealthy commodity regulation more broadly. I close by discussing the limitations of the findings, reflect on insights gathered from the case study and offer some thoughts on directions for future research.

8.2 Domestic political context

Chapter 4 is the first of four empirical chapters that examines the different priorities, concerns and positions articulated on the problem and solution of marihuana criminalisation by key actors involved in marihuana policy debates within Uruguay. In contrast to previous research (Musto, 2018, von Hoffmann, 2016, Murkin, 2014), it illustrates that there are extremely few examples of key actors supporting the status quo of marihuana prohibition within this context. Instead, drawing on the concept of drug policy constellations (Stevens and Zampini, 2018), the analysis reveals the existence of a widespread consensus that decriminalising marihuana use but criminalising all forms of access was viewed as an untenable policy approach. This underlying context helps to explain how a confluence of actors with different concerns and priorities came together to explore and pursue marihuana policy alternatives—reflecting diverse perspectives of individual liberties, anti-authoritarianism, harm reduction, public security and population health. Having identified this common ground, this research highlights the existence of underlying tensions between key actors across the different constellations, with disagreements becoming apparent (and policy relevant) regarding their preferences for different types of supply systems and the role of the state in market regulation. Moreover, population health advocates showed considerable concern about the risks of rising consumption, thereby arguing for policy interventions that discourage use at the population level. Conversely, actors from the other four constellations seemed to

privilege the reduction of use-related harms for current users and combating the illicit market.

These last two findings corroborate those of some of the existing literature on Uruguay's marihuana policy debate (Lissidini and Pousadela, 2018, Musto, 2018, Garcia, 2013, Queirolo et al., 2018, Repetto, 2014, Ponte, 2013, Valdomir, 2015), and therefore, might not be overly surprising. Nevertheless, it is worth restating the importance of overlapping priorities and consensus-building across diverse constellations of actors in the context of discussions about marihuana policy reform that were taking place in Uruguay between 2005 and 2017. As this thesis argues, the key to distinguishing between the overlapping priorities, goals and the diverse beliefs of different actor constellations is the recognition that groups with different values can temporarily align over specific policy proposals, though they may emphasise different points of concern. The critical point that this research makes is that the boundaries between the priorities and concerns of the different actors involved in Uruguay's marihuana policy debate are more complex and nuanced than has been presented in the available literature to date. Elements of a broad ideological conflict about the role of the state and drug use – as noted in previous research (outlined in Section 2.4.5) – clearly are identifiable within the Uruguayan context. Data and analyses presented here go beyond previous findings by demonstrating that more attention should be paid to the ways in which the priorities and policy preferences of the various actors involved actually overlap and mutually reinforce one another's goals. In other words, the extent of consensus is arguably more significant than ideological divisions, which might be expected on the basis of the international drug policy literature.

Previous research on Uruguay's marihuana policy process has also acknowledged the significance of health and harm reduction concerns in shaping marihuana policy debates (Lissidini and Pousadela, 2018, Garcia, 2013, Musto, 2018), as described in Sections 2.4.3 and 2.4.4. Drawing on analysis of government documents and media sources, these studies have described actors promoting health priorities as part of either a 'harm reduction' or a 'prohibitionist coalition' (Musto, 2018, Garcia, 2013). However, no prior study has used interview data to systematically investigate the policy positions of key actors who were promoting population health concerns or provided empirical evidence that a 'prohibitionist coalition' is relevant to the Uruguayan context. By examining the various perspectives, concerns and underlying justifications for policy positions, this study offers empirical evidence of the division between harm reduction and population

health advocates being rooted in different interpretations of the harms of marihuana use. This is apparent, for example, by the way in which harm reduction advocates conceptualised harm as associated with the illicit drug market whereas population health advocates saw this as a product of use itself. This research demonstrates that debates around specific aspects of regulation (rather than polarised positions of support for or opposition to policy reform at a macro level) are a more appropriate level of analysis when studying the relationships between the different priorities and preferred policy outcomes relevant to marihuana policy debates. Accordingly, these findings offer novel insights into the range of relevant positions and perspectives within debates shaping Uruguay's marihuana policy reform, which has not been adequately captured in previous research that assumes the existence of a relatively high degree of polarisation across the different groups.

Before moving on to discuss the remainder of the key findings, it is important to reflect briefly on the extent to which the policy constellation framework proposed by Stevens and Zampini (2018) was applicable to the Uruguayan context. The findings reveal several of the policy constellation framework's core features. These features include the relatively uncoordinated and fluid nature of these constellations and involvement of a diverse range of actors whose priorities and goals overlap for particular policy proposals. Finally, the framework was able to show how individual liberty and anti-authoritarian advocates strategically built an unlikely alliance with powerful actors of the Mujica Administration to amplify their relative influence in drug policy debates and decisions. However, the policy constellation framework says very little about important institutional factors in shaping the contingent nature of the networks and actors involved. Among such factors are the role of pluralist political systems, consensus-building and centrist political ideology, aspects which appear to have played a significant role in the Uruguayan case and which have been previously highlighted as important to policymaking in Uruguay (Pousadela, 2016, Lissidini and Pousadela, 2018, Chasquetti, 2007, Bergara et al., 2006).

In addition, the findings emphasise the importance of studying the characteristics of the historical, legal and political context through which policy problems emerge and develop. The policy constellation framework is certainly useful in understanding how actors with diverse priorities come together through mutual recognition and support for each other's goals. But it does little to shed light on the Mujica Administration's decision to incorporate home cultivation and cannabis clubs within the Executive

Branch's legislative proposal—policy options that were initially rejected by public security advocates because of Uruguay's international drug treaty obligations. I therefore propose that the policy constellation framework might usefully be complemented by a contextual approach to analysing the politics of policy change (Gilson et al., 2018). More specifically, the findings indicate that the contingent nature of the networks and actors involved in Uruguay's marihuana policy debate is linked to the broad consensus underpinning the decision to reform marihuana policy. This broad consensus was shaped by important historical issues such as the lasting legacy of the military dictatorship on drug enforcement practices in Uruguay and the decades-long demand for policy reform present in civil society. Such contextual factors seem to have allowed previously marginalised perspectives to become more directly involved in drug policy debates and decisions, including individual liberty and anti-authoritarian advocates, which have been significant to understanding the particular development of Uruguay's marihuana policy reform.

The contingent nature of these constellations was not merely because of the broad consensus underpinning the need to pursue marihuana policy reform. It was also because of the perceived multidimensionality of the marihuana policy problem, which allows different actors to promote their goals according to their own priorities and concerns. Marihuana regulation, as Lissidini and Pousadela (2018) put it, 'was a result of interactions between actors that ended up aligning for markedly different reasons—public security and combating illicit drug trafficking, health and harm reduction and rights and individual liberties.' This is revealing itself by the way in which an emphasis on the individual and social harms of illicit drug markets, resulting from marihuana's illegal status, encouraged policy responses that focus on providing users with widespread access to an affordable, quality-controlled marihuana product. Effectively, this conceptualisation of the underlying problem appears to have allowed actors reflecting a diverse range of priorities and concerns to promote their preferred policy approach to marihuana regulation without experiencing significant contestation from actors of other constellations. Ultimately, this helps to explain how actors with potentially competing priorities came together to discuss and develop marihuana policy alternatives, as their goals seem to complement and mutually reinforce one another.

The contextual distinctiveness of Uruguay creates important challenges for the policy constellation framework, as one of its key assumptions is that marihuana policy debates are highly polarised between prohibitionists and legalisation advocates. The analysis

suggests that this polarised depiction of drug policy debates overlooks the potential for actors with seemingly conflicting views on other issues to share more common ground than divergence on what to do about the drug problem (Goode, 1998). In the case of Uruguay's marihuana regulation, it is clear that there were some tensions around whether a goal of reform should be to reduce harms of use, reduce use entirely or combat the illicit market. At the same time, the data show that all actors generally felt that criminalising drug users was not the most appropriate response to marihuana control and had unintended consequences on health and public safety. Therefore, while the policy constellation framework offers a valuable hermeneutic device to explore the complexities and underlying contours of marihuana policy debates in Uruguay, it seems that this framework does not pay sufficient attention to contextual factors shaping the nature and dynamics of this debate.

8.3 Horizontal coherence within health and across other policy spheres

The task of exploring the development of Uruguay's marihuana regulation and the international challenges to implementing the legislation is taken on in the remaining results chapters. Each empirical chapter takes a different starting point to examine the implications of the findings from Chapter 4 for the development and implementation of marihuana regulation. The first of these, Chapter 5, employs the concept of horizontal coherence as defined by Siitonsen (2016), to explore the relevance of the promotion of policy coherence across different policy spheres of health policy, with particular reference to unhealthy commodities, notably tobacco and alcohol, and across other policy spheres, with particular reference to public security, in the development of marihuana regulation. The analysis demonstrates that policy actors selectively drew on policies and experiences from the regulation of tobacco, alcohol, sex work and gambling in ways that promoted particular features while discarding others. Overall, the promotion of policy coherence within health reflects a desire by policymakers to develop marihuana regulation that could achieve the implicit goal of legitimating marihuana use without creating a commercial driver or structural force that would promote excessive consumption.

Despite efforts by some tobacco control advocates, the promotion of policy coherence across marihuana and tobacco regulation is relatively limited. First, scope for effective policy coherence within health seems to be challenged by different interpretations of policy coherence (as discussed in Section 1.2 and 5.1 of this thesis). For instance, the

way that key actors of the Mujica Administration promoted policy coherence seems to reflect an assumption that marihuana and tobacco regulation can operate simultaneously without impairing each other's goals; that is, the two policies were viewed as consistent with one another. Conversely, unhealthy commodity regulation advocates believed that tobacco control should be viewed as a higher priority than other health issues. As such, policy coherence in this context appears to have been presented, albeit not always explicitly, as a way to protect tobacco denormalisation goals, with the view to directing that marihuana policy in Uruguay should itself become consistent with tobacco-free objectives. Relatedly, policy coherence appears challenged by the logic of 'tobacco exceptionalism', or the idea that the distinctive policy responses to tobacco control (Collin, 2012, Collin and Hill, 2015, Hawkins et al., 2016), are not directly applicable to marihuana regulation. Finally, the general reluctance by unhealthy commodity regulation advocates to promote policy coherence across taxation and other supply control measures in general also seems to have challenged effective policy coherence across health issues in Uruguay.

The analysis shows that this selective approach to promoting policy coherence across marihuana, tobacco and alcohol was based on concerns to avoid unregulated corporate control of the marihuana market. However, the findings also illustrate the considerable substantive and political obstacles of reconciling conflicts between unhealthy commodity regulation and public security objectives. As the analysis demonstrates, policy actors discarded policies and experiences from tobacco and alcohol control, particularly those elements that would reduce demand for the legal market. In turn, the policies and practices presented as driven by public security concerns are those elements that raise particular tensions with unhealthy commodity regulation objectives. Such policies include those that seek to stimulate demand for the legal marihuana market rather than alter levels of consumption among the population as a whole. This result may be explained by concerns expressed by some public security and harm reduction advocates that if the state did not facilitate the flow of and access to marihuana, then it may lose potential clients to more competitive drug traffickers.

As a result, the ideas and policies from tobacco and alcohol control that were seen as consistent with the implicit goal of making the legal market more attractive than the illicit market have been translated into marihuana regulation over those which might undermine efforts to reduce crime and drug-related violence. The interview data suggest that this situation may have been intensified by the strategic appropriation of

public security arguments by harm reduction and civil liberty advocates, resulting in approaches to taxation and supply control measures exacerbating challenges for effective policy coherence in the regulation of unhealthy commodities. Accordingly, in this context, it is not surprising that population-based measures that target the upstream drivers of 'ill health' (such as those relating to demand reduction) have encountered significant barriers in the development of marihuana regulation in Uruguay.

The findings qualify and challenge claims made by some key officials in Uruguay that marihuana regulation constituted part of a consistent strategy to regulate unhealthy commodities, namely tobacco and alcohol, based on Uruguay's commitments to public health and rights-based approaches (Romani, 2015b, Cánepa, 2013a). This is not to say that ideas drawn from the regulation of tobacco and alcohol were irrelevant to the development of Uruguay's marihuana policy. Indeed, the analysis demonstrates that ideas from these experiences about the importance of preventing widespread marketing campaigns and unregulated corporate control of the market found in prior research on Uruguay's marihuana policy reform (Murkin, 2014, Pardo, 2017, Garat, 2016, Arocena and Aguiar, 2017, Rivera-Vélez, 2018, Forné, 2017, Musto, 2018) are evident within the policy to some extent.

However, the process of coordinating ideas about the commercial determinants of health with marihuana regulation appears to have resulted in their being partially blocked by competing interpretations of policy coherence. For instance, tobacco control advocates felt that marihuana regulation was incoherent with Uruguay's tobacco approach because the law only prohibited marketing, advertising and event sponsorship that promoted excessive consumption but not use entirely. This was seen as potentially undermining tobacco denormalisation goals, if the normalisation of marihuana use were to simultaneously increase tobacco consumption. Conversely, representatives of the Mujica Administration and Drug Control Board felt that such marketing restrictions were consistent with Uruguay's tobacco control approach, as both policies could feasibly operate in the same domain without impacting each other's goals. Underpinning this policy preference is the assumption or perhaps lack of evidence indicating that increased marihuana consumption would not stimulate tobacco use or dual use of both products.

More commonly, policy coherence appears to have been pursued in ways that were consistent with or that were subordinated to the public security objective of marihuana

regulation. The data indicate that representatives of the Mujica Administration and Drug Control Board did not seem particularly concerned by the risk that marihuana use might increase on account of more liberal drug policies. Instead, the overriding goal of combating the illicit market was viewed as more important. This finding might be related to how public security advocates viewed marihuana not as the main problem of public insecurity. Rather, legalising the marihuana market became viewed as a solution to the rise in crack cocaine use and associated criminal activities. This underlying premise seems to suggest a situation in which public security policy is detached from the practices and goals of unhealthy commodity regulation in Uruguay. In this analysis, it therefore becomes clear that if there is an element of regulatory coherence between unhealthy commodity regulation and the public security objective of marihuana regulation, then it is likely to be found on the weaker end of the coordination spectrum (Cedujo and Michel, 2017).

One element of this research that is of potential significance for the development of a more coherent non-communicable disease (NCD) prevention policy is the evidence of potential synergies that the public security agenda has created with other policy sectors beyond health. As noted in the analysis, underpinning Uruguay's public security strategy is the neoliberal assumption that promoting market expansion and competition in legal drug markets will lead to enhanced public security and reduced drug-related crime. This neoliberal assumption has arguably created an opportunity for policy coherence across other policy spheres, including finance, trade and agriculture, which have comparable policy priorities of reduced tariffs and market expansion, though with the objective of promoting economic development.

This study does not indicate that public security policies based on combating the illicit drug market will inevitably foster policy incoherence between marihuana, tobacco and alcohol. Unhealthy commodity regulation advocates can learn from the importance that marihuana regulation has attributed to protecting health and promoting individual rights through supply control measures. As suggested by Lencucha and Thow (2018), rather than focusing on product quality and composition, unhealthy commodity regulation advocates can draw on supply side issues to promote policies that foster healthy product environments. By engaging with other sectors such as agriculture, unhealthy commodity regulation advocates can promote policies that ensure the legal marihuana market is not only more attractive than the illicit drug market, but also that the price, accessibility and availability of marihuana is consistent with health protection

goals. Their critical point is that unhealthy commodity regulation advocates often neglect supply side issues (Lencucha and Thow, 2019), which in the context of public security and marihuana regulation, may add a layer of difficulty to developing a more coherent NCD prevention policy. These challenges could be intensified if unhealthy commodity regulation advocates in Uruguay have to compete with the objective to combat the illicit drug market alongside economic growth and development goals.

8.4 International politics: vertical coherence and policy space

Informed by Koivusalo's (2009) conceptual definition of policy space, Chapter 6 considers the significance of Uruguay's international obligations under the UN drug conventions and other sources of external constraint in shaping the space available to Uruguay to develop a legal marihuana market. The external constraints relevant to the analysis of Uruguay's marihuana policy space include the US Patriot Act, the Financial Action Task Force's (FATF) International Anti-Money Laundering Standards and the World Bank's (WB) Financial Inclusion Initiative. Contrary to expectations and existing literature, one of the more significant findings to emerge from this study is that Uruguay's international drug treaty obligations constrained policy space less than the norms and practices of international finance. This research does not imply that the UN drug conventions were insignificant, however. Rather, the findings presented here demonstrate that the policies and goals of the UN drug conventions have been integrated into the norms and practices of international anti-money laundering and finance institutions responsible for preventing funds derived from the distribution and sale of marihuana from entering the formal financial system.

This integration has been significant to understanding challenges with policy implementation. This is apparent, for example, in the unanticipated constraints on Uruguay's ability to implement aspects of marihuana regulation that require access to the formal financial system, and arguably more importantly, the US interbank payment system. As a result, aspects of marihuana regulation that involve (or require) international business transactions denominated in US dollars are more likely to have faced significant challenges in implementation compared to those that do not tend to interact with the formal financial system, e.g. cash-based policy options or home cultivation. The interview data suggest that this situation may have been intensified by Uruguay's highly dollarized economy, resulting in a dependence on bilateral relationships between Uruguayan banks and US financial institutions, which has

restricted how Uruguayan banks can work with marihuana producers and retailers. In this context, it is not surprising that Uruguayan and non-US banks have been reluctant to provide financial services to the emergent marihuana industry, given that this could interfere with their relationships with US financial institutions and place them at risk of losing access to the US interbank payment system.

This study also suggests that implementation of marihuana regulation was challenged by what might be defined as the complex interplay between drug policies, anti-money laundering standards and financial inclusion practices at both horizontal and vertical dimensions. The findings show that marihuana regulation comes into conflict with Uruguay's commitments to the FATF's international standards, which otherwise expect that banks prevent funds derived from illicit drug trafficking from entering the formal financial system. At the same time, the state's commitments to the World Bank's (WB) Financial Inclusion Initiative, which encourages states to fully digitise their financial services (World Bank, 2020a), have created particular challenges for pharmacies to participate in the legal sale of marihuana, since this would place them at risk of losing access to banking services.

Vertical tensions between the UN drug conventions and the FATF are perhaps expected to constrain Uruguay's ability to implement marihuana regulation, given the political commitment to prevent funds derived from the sale of marihuana from entering the formal financial system. However, this study highlights the significant obstacles in reconciling conflicts between marihuana regulation and financial inclusion objectives, particularly when marihuana producers and pharmacy owners require access to financial services to carry out essential business operations. Consequently, informal constraints associated with both the control of money laundering and financial inclusion have limited the range of policy measures that Uruguay can use to effectively achieve its national public security and health objectives of marihuana regulation.

The findings outlined in this study advance existing research on the relevance of international pressures and constraints on Uruguay's marihuana policy process. They offer novel insights into the indirect influence of the UN drug conventions and the power asymmetries created by tensions between marihuana regulation and the norms and practices of international finance. As discussed in Section 2.3.3, existing studies have listed a number of reasons to explain *how* Uruguay was able to adopt marihuana policy reform, despite conflict with the international drug treaties. These explanations

include factors linked to the apparent consistency between Uruguay's marihuana regulation and its obligations under international health and human rights law (Walsh and Jelsma, 2019, Musto, 2018). Other common explanations are related to the INCB's lack of police powers to enforce the provisions of the UN drug conventions (Hawken and Kulick, 2014, Conti-Brown, 2018, Álvarez et al., 2017) and the alleged reluctance of the US government to intervene in Uruguay's marihuana policy process (von Hoffmann, 2016, von Hoffmann, 2018, Valdomir, 2015, Babor et al., 2018, Room, 2018, Álvarez et al., 2017).

However, the scope of these studies is limited by their exclusive focus on issues of sovereignty and legal authority in relation to the UN drug conventions. Consequently, existing research disregards the powerful influence of the norms and practices of the US Patriot Act, the FATF, the World Bank and the international banking sector in constraining Uruguay's ability to implement marihuana regulation. By examining the significance of the wider governance of international crime, this study analyses the tensions and coherence issues created by conflicts between Uruguay's marihuana regulation and the policies and practices of a variety of international actors with a political commitment to prohibiting marihuana production, distribution and sale. The analysis demonstrates that Uruguay's ability to implement marihuana regulation has been most significantly constrained by the actions of US financial institutions. These constraints are further illustrated by the tangible risks of financial loss for Uruguayan and non-US banks that fail to comply with the anti-money laundering controls of the US Patriot Act and the FATF. This study thus indicates that vertical coherence issues and tensions can be more comprehensively understood if analysis moves beyond exploring issues of sovereignty and legal authority to considering questions of autonomy and power asymmetries that characterise such interactions, and their implications for Uruguay's marihuana policy space.

Relatedly, this study also makes a distinctive contribution to marihuana policy debates and research by highlighting the impacts on policy space arising from tensions between marihuana regulation and the US Patriot Act. Describing these highly complex finance issues and conflicts helps to shed light on the wider dynamics of international business transactions denominated in US dollars, which are likely to have implications for non-US banks seeking to service the accounts of marihuana-related businesses in other policy contexts. As noted in this analysis, specific to the international control of money laundering is the primacy of a narrowly constructed risk management principle in

approaches to financial supply. For example, the FATF's international standards and the World Bank's financial inclusion practices have typically excluded reference to the money laundering implications of potentially low-risk financial transactions, at least in the context of perceived risky business activities such as drugs, Internet gambling and tobacco sales (Hill, 2015). Rather, the dominant expectation has been that banks should avoid risky business relationships and protect the fiscal integrity of the formal financial system.

Of course, concerns about the impacts of finance norms and practices on policy space are not limited to Uruguay or even marihuana regulation but also economic (Preston, 2002, Alexander, 2002, Mayer, 2009) and health governance (Thow and McGrady, 2014, Koivusalo et al., 2009), among other sectors. Nevertheless, the ongoing challenges to developing a legal marihuana market in Uruguay suggest the need to advance understanding of the relationships between implementation of marihuana regulation, anti-money laundering standards and financial inclusion practices. Indeed, previous marihuana policy research in the US states has shown that finance norms of the US banking sector have also created challenges for the development of a market-based marihuana supply system within the US. According to some studies, US banks have seemingly refused to service the accounts of marihuana-related businesses due to alleged concerns of federal prosecution for money laundering (Subritzky et al., 2015, Parker et al., 2019, Hill, 2015).

The wider significance to drug policy of examining such interactions with key global, regional and national financial governance mechanisms can be further illustrated by Canadian banks allegedly refusing to service marihuana-related businesses in Canada (Crabb, 2019), actions that have been apparently contested with specific reference to the norms and practices of international finance. Potential challenges to Jamaica's exportation of medical cannabis to countries that seemingly allow medical cannabis imports (Owram and Regan, 2019) also serve to highlight the significance of understanding such complex interactions between the normative practices of the financial sector across jurisdictions. Accordingly, these ongoing challenges to access financial services for the marihuana industry suggest that there are likely to be continued constraints in developing a legal marihuana market, as long as the policies of other countries and the norms and practices of international financial institutions appear fundamentally in conflict with the market-based policies of marihuana regulation.

This also study makes a conceptual contribution to the political science and development literatures by offering critical insights into how future policy coherence studies might think about vertical interactions across governance levels. As discussed in the Preface to the Results, the development literature tends to use the concept of 'vertical coherence' to indicate interactions across policies at the same level of government (Den Hertog and Stroß, 2011, Carbone, 2008, Ashoff, 2005) or between policies of intergovernmental organisations such as the United Nations and those of its member states (Siitonsen, 2016). However, as the analysis demonstrates, this definition of vertical coherence does not fully capture the interactions of Uruguay's policies and processes with those of a diverse range of international actors. In particular, the existence of and interactions across the US Patriot Act, the FATF's regional anti-money laundering standards and the World Bank's financial inclusion initiative added additional layers of complexity to Uruguay's marihuana policymaking process. In this regard, the concept of multilevel governance provides an analytical lens that is particularly suited to exploring complex institutional contexts (Slaughter and Hale, 2010), in which the policies and processes of different actors interact to shape and constrain the substantive content of national policy decisions (Horký, 2010). Future policy coherence studies might therefore explicitly engage with MLG debates to understand and explain how complex and fluid institutional arrangements shape the substantive content of individual policies.

While focused with primary reference to policy coherence, this study can also inform debates held within the multilevel governance literature. By employing an actor-oriented approach (Marks, 1996, Horký, 2010), this study responds to recent criticisms within this literature regarding the lack of studies which illustrate how non-state actors and informal governance processes shape or constrain development of national policy (Piattoni, 2010, Tortola, 2017, Zürn et al., 2010, Slaughter and Hale, 2010). Tortola (2017) argues that the MLG literature has a government bias, which tends to privilege public authorities over governance processes between state and non-state actors. He further suggests that the growing interest of political scientists in formal institutions and structures has led to insufficient attention towards how informal processes and procedures shape substantive policy outcomes. While Hooghe and Marks (2016) contend that understanding the dynamics of authoritative decision-making requires a broader focus on both 'formal and informal institutions to explain whether hierarchy, interdependence, or relative independence characterizes [these] relationships', empirical

studies that explore such questions beyond the European Union are comparatively limited.

The findings of this study suggest that the MLG literature would have much to gain from empirical research that explores horizontal public-private relations as well as the interplay between horizontal and vertical interactions within complex multilevel governance systems. In this regard, the analysis developed here provides an important contribution to this body of work by offering a case study of the complex policy dynamics of marihuana policy, in which decision-making at national, regional and international levels is highly interconnected. Moreover, this research builds on previous studies of multilevel governance by focusing on policy dynamics across horizontal and vertical levels (Bache et al., 2016), which serve to highlight the power and influence of different actors (both state and non-state) within a dynamic and fluid system consisting of a number of overlapping policies and processes (Tortola, 2017). The added value for policy coherence and public health is that the concept of multilevel governance offers a powerful lens for conceptualising the complex interplay between horizontal and vertical interactions and how those intersect to constrain national policy space. This emphasis on policies and processes provides a particularly useful framework for understanding and explaining the complexity of how different actors and levels 'connect, interact and, most notably, overlap' (Zürn et al., 2010) in the policymaking process.

This research also complements the small number of studies within the multilevel governance literature focused on the role of corporate actors in constraining domestic policy space to implement innovative health measures (Hawkins et al., 2019, Hawkins et al., 2020, Hawkins and McCambridge, 2020). The findings from Chapter 6 complement those of Hawkins and MacCambridge (2020) who argue that multilevel governance systems can be particularly challenging for public health policy because of the interdependencies that these create across different policies at diverse levels. As Hawkins and MacCambridge point out, 'the interconnectedness of policy making at different levels of abstraction means decisions taken in one setting have often far-reaching ramifications in others.' While this interconnectedness can create opportunities for policy innovation (Hawkins et al., 2020), it might also enhance corporate power to exploit the multiple layers of interactions across international, regional and national levels. Put simply, this literature suggests that multilevel governance systems allow corporate actors to influence policy decisions through venue shifting and multi-dimensional lobbying strategies (Hawkins and Holden, 2016, Hawkins et al., 2019,

Hawkins et al., 2020) as well as challenge, block and delay implementation of health policy innovation (Hawkins and McCambridge, 2020).

In the case of Uruguay, the complex interplay between the US Patriot Act, regional anti-money laundering standards and domestic financial inclusion legislation was identified by Uruguayan banks and pharmacies as a functional constraint on their ability to process marihuana-related transactions through the formal financial system. Underlying these challenges were distinctive contextual features of Uruguay such as its highly dollarized economy, which severely limited how Uruguayan banks could work with marihuana producers and retailers. In addition to understanding how corporate actors manipulate multilevel governance systems, this study points towards the need to consider how underlying economic and structural power imbalances foster a policy environment that is conducive to informal norms and practices limiting health policy space. Moreover, it also highlights the importance of studying the policy context and characteristic features of the respective multilevel governance system when analysing how the policies and processes of different actors might challenge domestic efforts to implement national health policy.

By analysing the implications of legal frameworks that exist at both international and national levels for domestic policy space, this study also complements existing scholarship on international law (Lines et al., 2017, Liberman, 2014, McGrady, 2012, Foster, 2017) and global health governance (Lencucha et al., 2016a, Voon, 2017, Russell et al., 2015). One aspect of both literatures that this analysis draws particular attention to is how different legal instruments were used rhetorically to advance as well as constrain Uruguay's efforts to introduce a legal marihuana market. As the analysis shows, Uruguayan officials and representatives of the International Narcotics Control Board both drew on non-technical aspects of the UN drug conventions and international human rights treaties to either promote or impede Uruguay's national policy space to pursue marihuana regulation. These results reflect those of Lencucha et al. (2016) who also found that other countries, particularly LMICs, oppose innovative tobacco control measures at the World Trade Organisation (WTO) by selectively employing non-technical arguments that are often more rhetorical than they are based on sound evidence. This suggests that the rhetorical use of international legal instruments may be seen as a strategic framing device to protect national policy space in what otherwise might be characterised as an international system that serves to

'exacerbate existing inequalities' (Smith, 2004) between LMICs and high-income countries.

8.5 Complex interplay between domestic factors and international politics

Chapter 7 examines how the complex interplay between domestic politics and structures and international pressures shaped the development of some very specific features of Uruguay's approach to state regulation of marihuana supply. The analysis shows that a significant number of interviewees felt that Uruguay's historic and contemporary innovations in the regulation of unhealthy commodities served to constrain the direct transfer of marihuana policy innovations in other jurisdictions. Of particular relevance has been the institutional legacy of Uruguay's state monopoly over alcohol production in constraining the direct influence of some of the more libertarian features of marihuana policies in some US states—namely unregulated corporate control of the marihuana market. The analysis attempts to unpack the various ways in which key actors conceptualised and drew on other innovations in marihuana regulation in other contexts. The purpose was to explore how their intentions and motivations were shaped by the dual pressure to make marihuana regulation compatible with global constraints, domestic politics and structures, or a combination of the two. Drawing on the concept of hybridisation (Dolowitz and Marsh, 1996), this study argues that several key elements of Uruguay's marihuana regulation have diverse sources, reflecting both the country's distinctive political and legal features and its geopolitical relationships with other relevant regional actors, namely the United States, Argentina and Brazil.

Analysing the complex process of how some very distinctive features of Uruguay's approach to state regulation of marihuana supply were developed, this study provides novel insights into the relevance of international influences in the development of marihuana regulation. At a broad level, the results show that Uruguay's deeply entrenched neo-statist ethos of government intervention influenced which aspects of marihuana policy innovations in other contexts were either rejected or selected in the development of marihuana regulation. This research offers empirical evidence that key actors in Uruguay sought to adapt Washington State's approach to Uruguay's historic tradition of state regulated alcohol supply, while rejecting parallel features in Colorado's libertarian-oriented example. The analysis also found that the experiences in Colorado, California and Spain provided key actors with ideas and lessons of what not to do in

terms of avoiding a commercially-driven marihuana market, as lesser restrictions raised serious implications for the state's capacity to tightly control marihuana supply.

These findings broadly complement the work of other studies in this area (Musto, 2018, Obradovic, 2019, Cerda and Kilmer, 2017, Pardo, 2014, Walsh and Ramsey, 2018, Rolles and Murkin, 2016), as summarised in Sections 2.2.1, 2.2.2 and 2.3.4. However, the analysis also suggests that the degree to which Uruguay's marihuana regulation is internationally distinctive appears relatively limited, a finding that contrasts with claims in much of the existing literature. A potential explanation for this discrepancy is that past scholars have only examined which marihuana policies were rejected on account of Uruguay's unique political and legal features, which at a macro-level might make the regulation appear distinctive. Yet, the extent to which the particular features of marihuana policies in other jurisdictions were selected, combined and then adapted to Uruguay's local politics and structures, has not been critically examined. This is an important distinction for analytical purposes. As the analysis shows, the development of Uruguay's distinctive approach to marihuana regulation can best be understood as a form of 'hybridisation' in which aspects of policy models in other countries were adapted, combined or rejected in order to develop an innovative approach that nevertheless reflects elements of existing regulatory models. Crucially, this blending of marihuana policy innovations in different jurisdictions with the domestic context was carried out in a very specific way, which intersected with visible tensions with the policies of Argentina and Brazil and anticipated pressure from the US government, particularly for issues that involved broader public security priorities.

The data presented here challenge aspects of the claim of some policy scholars that an uncertain international response allowed Uruguay the flexibility to experiment with and adopt marihuana policy reform (von Hoffmann, 2016, Musto, 2018, Álvarez et al., 2017). While previous research has focused on the overall process dynamics of whether Uruguay would reform marihuana policy, to my knowledge, this study has been one of the first attempts to thoroughly examine the development of the specific contents of the legislation and the various international processes by which policy transfer came about and was constrained. This is an important analytical distinction given that an uncertain international response seems to have shaped and constrained the actions and motivations of key actors in Uruguay in the development of marihuana regulation. The selection, combination and adaptation of marihuana policy innovations reflect the uncertainty with how other countries might respond to the introduction of a regulated

marihuana market. It is therefore indicative of the immense pressures, both domestic and international, that key actors in Uruguay faced to illustrate that the marihuana market would be tightly controlled by the state and that marihuana produced in the country would not cross the border of another jurisdiction. While it is significant that Uruguay was the first country to adopt marihuana policy reform, as the analysis shows, it is also clear that Uruguayan officials were very careful and conservative in the more constrained space of high politics or in the development of public security policies that interacted with those of other states (Olsen, 2017), particularly for issues that intersect with the preferences of the US government.

Although these findings might seem unsurprising to scholars familiar with drug-related aspects of US foreign policy towards Latin America, it is important to highlight that this study found that specific efforts by the US government were not relevant to explaining constraints on Uruguay's policy space to develop a legal marihuana market. A possible explanation for this may be related to the unique international drug policy experience and approach (McPherson, 2006, Grandlin, 2006). Some commentators have reflected on how international drug policies often conform to US standards despite lack of direct US pressure (Sharman, 2008, Bullington, 2004, Hülsse, 2008). This explanation potentially helps to account for the unanticipated constraints on policy space arising from tensions between marihuana regulation and the US Patriot Act as well as the norms and practices of international finance. As the analysis shows, policymakers sought to adopt specific details of Colorado's marihuana regulation, with a view to adapting marihuana regulation to the preferences of the regional hegemon. But, they did not take on board crucial lessons from that experience in terms of the implications of the US legal framework for Uruguay's marihuana policy space.

8.6 Limitations of the findings

There are a number of recognised limitations within this research. First, the findings suggest that the UN drug conventions were indirectly significant to shaping the development and implementation of Uruguay's marihuana regulation. Yet, it is possible that there may be some hidden aspects of this influence and relevance due to the types of actors and organisations that I sought to recruit for a formal interview. While I interviewed high-level officials of the Mujica and Vázquez Administrations and representatives of Uruguay's Drug Control Board, their perceptions of key events and sources of external pressure are unable to capture the complex relationships and

interactions between key global and regional drug and crime prevention organisations, e.g. the INCB, UN Office on Drugs and Crime (UNODC) and the FATF, as well as the US government, Argentina or Brazil. In part, this reflected my decision to focus on recruiting domestic level participants for interviews given the relative dearth of research examining Uruguay's marihuana policy process through the lens of local perspectives. This challenge might also reflect the approach taken to identify interview participants, which was likely limited by the decision to recruit local gatekeepers, rather than another person who might have a professional relationship with some of these international actors and organisations.

While I did attempt to recruit a representative of the INCB, the lack of response to the interview request from this organisation is less clear. It might be related to the potential challenges in discussing their personal or professional views on Uruguay's marihuana regulation in terms of the risks that this may pose to their employment or professional relationships. However, it is also recognised that it would have been unfeasible to recruit such high-level officials, particularly from the United Nations, as well as representatives of the US government, Argentina or Brazil due to time constraints and resources. In spite of this limitation, the study certainly adds to our understanding of the indirect influence of the UN drug conventions in shaping implementation challenges due to the way in which recreational marihuana is categorised as an illicit substance at the international level, with implications for other international bodies and countries.

Relatedly, my recruitment strategy did not lead to formal interviews with representatives of international health bodies such as the Pan-American Health Organisation (PAHO) or the World Health Organisation (WHO). Data from policy documents and the snowball technique employed to identify additional participants did not indicate that representatives of PAHO and the WHO were involved in shaping the development of marihuana regulation or implementation challenges. To be clear, I did ask interview participants what their perceptions were of the relevance of these organisations to marihuana policy debates within Uruguay and the regulation's development, having also interviewed an external consultant that works with PAHO and the WHO in Latin America, which helped to confirm this observation. However, conducting interviews with representatives of international and regional health organisations would have positively contributed to my account of the challenges to developing coherent regulation across unhealthy commodity industries in Uruguay.

Additionally, the results could have been enriched by a more in-depth analysis of the extent to which Uruguay's marihuana regulation was pursued in accordance with international human rights commitments. This limitation of the research design might possibly be related to the study's focus on the relevance of the pursuit of policy coherence within health governance and the focus of the interview schedule on how key actors perceived that this argument shaped the development of marihuana regulation. Additional research is certainly warranted to investigate these claims of consistency between marihuana regulation and Uruguay's obligations under international human rights law to complement the initial findings of this research.

Finally, representatives of Uruguay's pharmacy trade unions and national legislators that were against marihuana policy reform declined or were unavailable to participate in this research. As outlined in Section 3.2.4, the low response rate to interview requests from the commercial sector and Uruguayan policymakers appears related to international interest in marihuana regulation in Uruguay, resulting in the potential for interview fatigue among those directly involved in this process (Musto, 2018). While interviews with key actors representing other concerns and sectors would have provided additional insights into the complexity and challenges of developing marihuana regulation in Uruguay, the findings presented in this thesis suggest that this sort of data would have further contributed to the study's overall findings.

8.7 Understanding marihuana policy reform in Uruguay: Implications for health governance, research and policy

As outlined in Section 3.1.1, this research has focused on a selection of key issues and specific situations within the development of Uruguay's marihuana regulation. The expectation has been that the findings might produce important knowledge with potentially wider relevance given the international significance of the case. The study is focused on the specific case of Uruguay's marihuana regulation and therefore, I do not make claims about the application of the findings to other contexts. However, it is evident that Uruguay's marihuana policy experiment is considered by several drug policy reform scholars and advocates of marihuana legalisation as an innovative alternative to drug prohibition and commercialisation that could serve as a model for the rest of the world (von Hoffmann, 2016, Pardo, 2017, Pardo, 2014, Cerda and Kilmer, 2017). In the following, I discuss insights from the Uruguayan case study that raise interesting questions in the context of global health and the regulation of

unhealthy commodities more broadly. It begins by discussing the research implications of the findings for domestic politics and coherence across policy spheres before moving on to consider their significance to international politics and the protection of policy space. I close by discussing the policy implications of the findings beyond the Uruguayan case of marihuana regulation.

8.7.1 Domestic politics and coherence across policy spheres

While this research has sought to develop a comprehensive understanding of the complexities and challenges in developing the world's first national marihuana supply system in Uruguay, several questions remain to be answered. A greater focus on implementation research could produce interesting findings that account more for the specific aspects that have affected Uruguay's experience. Future research could investigate, for example, the extent to which the shifting political nature of Uruguay has facilitated or further constrained implementation of the marihuana supply system. This may be of interest because, in 2020, Uruguay had another important political shift with the election of the centre-right President Luis Lacalle Pou (The Economist, 2020), effectively ending a 15-year left-wing party rule by the coalition government Frente Amplio. Such shifting dynamics are particularly intriguing since President Pou has been a vocal opponent of state regulation of the marihuana market while also being the author of a 2009 legislative proposal to depenalise home cultivation of marihuana as a crime prevention measure (Pou, 2010a). Future work might usefully examine the extent to which this change in government has affected the national health objectives of marihuana regulation and the extent to which these may have been neutralised or even impaired by the impact of public security policies (Ashoff, 2005). This research might be of interest to researchers, policy makers and health advocates, both in Uruguay and other contexts, concerned with the significance and limitation of Uruguay's marihuana policy reform as an innovation in health governance.

Relatedly, implementation of commercial sales through pharmacies in July 2017 provides opportunities to explore how and whether there have been any changes or undermining of support for marihuana regulation and the potential implications of such dynamics for development of a legal marihuana market. This research shows that warnings from US banks to their Uruguayan respondent banks were widely regarded by key actors in Uruguay as the key constraint on implementation of commercial sales through pharmacies. This mechanism of constraint has likely discouraged other

pharmacies from selling marihuana due to the financial challenges other establishments have faced. Yet, data from this study also indicate that pharmacy owners expressed concern about the uncertainty surrounding how their banking relationships with US and non-US financial institutions might be affected if they were to sell marihuana through the formal financial system. Further work is needed to fully understand the role of pharmacies and the implications of their concerns about access to financial services, among other issues, in shaping ongoing implementation challenges.

This research also raises important questions around the extent to which a rhetorical commitment to policy coherence has translated into substantive policy action within health governance in Uruguay. As outlined in Section 5.5.3, scope for effective policy coherence across health issues has been constrained by different interpretations of coherence, ranging from the absence of contradiction to the more ambitious idea of mutual reinforcement of policies. An important question arising from this investigation is whether and to what extent these different interpretations of coherence have implications for implementation of a more coherent unhealthy commodity regulation policy in Uruguay. One potentially promising approach for analysing such diverse notions of coherence and their implications for policy design and implementation is Cedujo and Michel's (2017) conceptual framework, which defines policy coherence as a systematic process that consists of three elements or components: 1) policy coordination; 2) policy coherence; and 3) policy integration. Although some scholars argue that these concepts are loosely interchangeable (Adelle and Jordan, 2014, Adelle and Russel, 2013) or represent different degrees of coordination (Peters, 2015), Cedujo and Michel suggest that 'coordination' and 'integration' are closely related to 'coherence', but, in practice, do not carry the same meaning (Table 8.1).

Table 8.1 Conceptualising coordination, coherence and integration			
	Coordination	**Coherence**	**Integration**
Definitions	A process in which members of different organisations share information and exchange knowledge in order to be more efficient when implementing policies and programmes.	A process where policymakers design a set of policies in a way that, if properly implemented, they can potentially achieve a larger goal.	A process of making strategic and administrative decisions aimed at solving the complex problem; the new goal exceeds the individual goals of other related programs and agencies.

Adaptation of Cedujo and Michel (2017)

In thinking about health governance and the process implications of any discernible commitment to policy coherence, I therefore propose that future research might usefully employ Cedujo and Michel's (2017) conceptual framework to examine the relevance of such diverse notions of coherence as a basis for an implementation study. Indeed, data from this research suggest that some of the policies and practices that were presented as consistent with Uruguay's tobacco approach during policy formulation have been implemented in ways that might raise tensions between marihuana regulation and tobacco control objectives during policy implementation e.g. emergence of cannabis-branded products and marketing restrictions to prevent excessive consumption (as outlined in Section 5.5.3). Future research might therefore explore whether and to what extent substantive action on policy coherence has been shaped or constrained by different notions of coherence, e.g. whether policymakers view this as a process of information sharing and knowledge exchange or whether this has been seen as the more ambitious effort to design a set of policies in such a way that it enables the attainment of a larger goal.

It might also be interesting to examine whether and to what extent the policies and practices of Uruguay's public security agenda have been integrated with unhealthy commodity regulation policy, to the effect that this has shaped or constrained substantive policy action on policy coherence within health governance. Research focusing on the capacity of a decision-making body, such as the Executive Board of the Institute for the Regulation and Control of Cannabis (IRCCA) or the Ministry of Public Health, to implement marihuana regulation in such a way that it achieves public security

goals without impairing the objectives of unhealthy commodity regulation policy would be particularly relevant.

Another important implication of this research is the need to consider how ideas drawn from the regulation of tobacco and alcohol control might represent particular models and regulatory approaches and to consider their implications for marihuana regulation in practice. As outlined in Section 2.2, much of the international literature available to date, including my own work (Barry and Glantz, 2016, Barry and Glantz, 2018), has explored whether so-called public health best practices from tobacco and alcohol control have informed the development of marihuana regulation. This research is focused primarily on the potential relevance of these experiences for marihuana policy development in the US states (Blake and Finlaw, 2014, Caulkins and Kilmer, 2016b, Hall, 2017) and more recently Canada (Hughes, 2018), but with limited attention paid to their significance at the cross-national level in Uruguay, Spain and the Netherlands (Spithoff et al., 2015, Room, 2014b, Babor et al., 2018). Importantly, empirical research examining how policymakers deliberate and draw on ideas from tobacco and alcohol regulation and interpret their relevance for marihuana policy is surprisingly limited in both the health policy and political science literatures.

Moreover, there are important differences in approaches to regulating tobacco and alcohol both across the different policy regimes (Hawkins et al., 2016, Collin and Hill, 2015) and between the policies of different countries and regions (Hawkins et al., 2016, Room, 2006). As such, a comparison of the different ways in which policy actors draw on ideas from tobacco and alcohol regulation across different jurisdictions could be useful in exploring how historic and contemporary aspects of a jurisdiction's approach to regulating unhealthy commodities shape local regulatory practices such that the same broad policy approach might produce divergent outcomes in different settings. More ambitiously, it might be possible to assess whether different interpretations of policy coherence (including their relationship to preferred policy outcomes) or strategies used to promote policy coherence within health, can be characterised in ways that help to explain why some (but not all) ideas from tobacco and alcohol regulation influence the development of marihuana policy.

This research also suggests the need to expand and deepen understanding of the conditions that foster policy inconsistencies or incoherence between health and other policy spheres. Elsewhere, public health scholars widely argue that a particularly

significant challenge in establishing a coherent policy approach across non-communicable disease prevention is the influence of corporate actors, particularly global producers of unhealthy commodities, on policy development (Blouin, 2007, Moodie et al., 2013, Collin and Hill, 2015, Stuckler et al., 2009). This research suggests that corporate actors employ a wide array of tactics and political strategies to promote a policy environment that prioritises profit over public health (Gilmore et al., 2015, Savell et al., 2014, Ulucanlar et al., 2016, Stuckler et al., 2012), including highly publicised pledges to self-regulate corporate behaviour (Moodie et al., 2013, Brownell and Warner, 2009) and investment in corporate social responsibility campaigns (Dorfman et al., 2012, Stuckler et al., 2012). However, insights gathered from this study indicate that health policy scholars would have much to gain by re-examining this assumption given the comparative absence of corporate actors in the case of marihuana in Uruguay. Future research might explore the underlying conditions relevant to explaining why policymakers continue to promote inconsistent policies between health and other policy spheres because of other political commitments and priorities (Lencucha and Thow, 2019).

Indeed, similar issues have already been raised in studies exploring how the dominant neoliberal economic paradigm shapes the availability and accessibility of tobacco, alcohol and unhealthy food products, the ways that corporate actors operate in the market and their relationships with policymakers (Lencucha and Thow, 2019, Battams and Townsend, 2018). Although the implications of this study may not be as relevant for policy issues that are less shaped by the pressure to combat illicit markets, further research might explore how neoliberal ideas shape, and are shaped by, underlying assumptions and policy preferences of policymakers in understanding the conditions that foster policy incoherence. For example, Lencucha and Thow (2019) identify the potential importance of paradigmatic and institutional contexts in influencing the underlying conditions that shape policy environments that prioritise economic development over health protection goals. A more ambitious research agenda might explore whether the synergies created by public security policies with other policy issues like finance, development and agriculture, and the paradigmatic and institutional contexts that foster these synergies, can be understood in ways that help explain why there has been less attention paid to the health implications of their policies (Lencucha and Thow, 2019).

8.7.2 International politics: vertical coherence and protection of policy space

As outlined in Section 2.2.2., in 2016, Uruguay won a lengthy trade dispute against Philip Morris International (initiated in 2010) regarding whether central aspects of the state's tobacco control approach violated a bilateral investment treaty between Uruguay and Switzerland. A key assumption in the public health literature is that the outcome of this trade dispute would have wider implications for current and subsequent disputes involving health, including alcohol and ultra-processed foods (Upreti, 2018, Roache et al., 2016, Thow and McGrady, 2014), as well as environmental regulation (Foster, 2017). An arguably more significant question that has received less attention is how Uruguay's experience of a clear threat to policy space has been drawn on in the context of tensions with international agreements, including investment and trade, concerning other health issues. In this study, the international arbitration tribunal's overall decision, for example, seemed to be used as a strategic framing device to position Uruguay as an exemption to the UN drug conventions and to protect national policy space in the context of tensions with the US Patriot Act. In analysing the potential implications of international arbitration decisions for other investment and trade disputes involving health, human rights or environmental regulation, this research highlights the importance of examining how legal decisions and arguments of defence have been drawn on as strategic framing devices in the protection of national policy space.

One of the more significant implications of this research is the potential for international finance norms to limit implementation of national health policy innovation. Indeed, similar challenges have already been noted in studies exploring the effects of finance norms on fiscal policy space for promoting autonomy over national spending and budgets (Heller, 2005). Arguably, contemporary public health concerns have even more in common with marihuana, although anti-money laundering policies are likely to be less relevant for issues that do not pertain to an illicit substance in most other contexts. Nevertheless, future research might explore how informal governance mechanisms may limit or remove decision-making power from governments and simultaneously provide private sector actors with broad scope over their internal practices and procedures in ways that limit the development or implementation of national health policy. For example, Koivusalo et al (2009) suggest the potential importance of globalisation and economic power imbalances in creating the conditions for wealthier countries to influence the design and implementation of international rules, which are meant to constrain their actions but to their own advantage. As

outlined in this research, this situation could also apply to informal governance mechanisms such as the practices and procedures of international financial institutions.

Future research in this area might also explore how links between domestic banking systems and major financial centres allow international financial institutions to limit the range of policy measures governments can use to protect or improve health or restrict the ways in which the aims of health policy can be met. Situating health policy in this broader policy context could also complement scholarship on how global governance mechanisms allow corporate actors to exploit international investment agreements through venue shopping and veto points (Hawkins and Holden, 2016) by illustrating how underlying economic and structural power imbalances foster a policy environment that is conducive to finance norms and practices limiting health policy space.

The constraints to policy space identified in this study are also likely to reduce innovation in marihuana policy reform in other policy contexts. While key actors pointed towards Uruguay's dependence on the US economy as constraining Uruguay's options, the fact that banks have seemingly refused to service the accounts of marihuana-related companies in other contexts, including Canada (Crabb, 2019) and more recently Jamaica (Owram and Regan, 2019), suggests that this issue is intrinsic to the risk-management practices of the international finance sector. More research is certainly needed to investigate the implications of the findings from this research in the development and implementation of other marihuana policy innovations. A comparative analysis with Canada, which legalised a recreational marihuana market in 2018, would be particularly relevant.

While this research did not find evidence of the US State Department directly threatening Uruguay with legal or economic sanctions for developing a legal marihuana market, the findings clearly show that key officials were concerned by how marihuana regulation might affect the state's diplomatic relations with other countries, particularly the US government, but also Argentina and Brazil. For instance, Uruguay's distinctive approach to state regulation of marihuana supply includes some unusual features such as a prohibition on sales to tourists, a residency requirement and a national user registry. The findings presented in this research show that their development was very strongly shaped by diplomatic concerns to prevent marihuana produced in Uruguay from crossing the Argentine and Brazilian borders. This may be of particular interest because Argentina and Brazil have been two of Uruguay's most important economic and

political partners for several decades and the state's economy depends on exporting commodities to both countries (Luján, 2016), though this export-dependent relationship has shifted in recent years (Basnet and Pradhan, 2017). Arguably more significant to questions of policy space is the recent policy advance by Canada, which, as outlined above, legalised a recreational marihuana market in 2018 (Dyer, 2018). Future work might therefore explore the extent to which ongoing and shifting diplomatic dimensions and concerns have shaped and constrained Uruguay's ability to fully implement marihuana regulation.

Finally, future research could also build on the findings from this study by exploring the extent to which past marihuana policy innovations in different jurisdictions influence the development of marihuana regulation in other contexts. Previous US-based studies (Mallinson and Hannah, 2020, Johns, 2015, Barry and Glantz, 2018) suggest that policymakers in the US have learned from the policy successes and failures of past marihuana policies with less comprehensive reforms. This research indicates that marihuana policies were not transferred as direct copies, but rather were adapted to a state's distinctive political and legal context. As outlined in Section 2.3.4, research further indicates that marihuana policies in different jurisdictions are growing in diversity throughout the Americas. But, this emergent research is less clear on whether such policy innovations can be qualified as distinctive, and if so, the underlying factors that might explain policy divergence.

Based on knowledge gained from this case study, a comparative analysis of policy learning and degrees of policy transfer could provide valuable insights into whether some form of adaptation and hybridisation has also occurred in other contexts as a result of policymakers seeking to align marihuana regulation with global pressures, domestic institutions and politics or a combination of the two. Comparing the development of marihuana policy innovations at the cross-national level could help identify the relevant domestic political factors that might contribute to the ways in which past marihuana policies are drawn on in the development of marihuana regulation. Future work could also increase understanding of the relevant international pressures, both tangible and anticipated, that constrain the actions and motivations of key actors in the development of marihuana policy.

8.7.3 Implications of this study for policy coherence, domestic policy space and multilevel governance

By highlighting the considerable challenges to achieve policy coherence in health governance, this study raises important questions around whether policymakers should treat policy coherence as a normative goal. It should be acknowledged that the extent to which policy coherence has been pursued as a normative goal within Uruguay's NCD prevention policies (World Bank, 2018) as well as the UN Sustainable Development Goals more broadly (Collin, 2012) is relatively limited. In the health literature, policy coherence is often discussed in aspirational terms, with an implicit expectation that activities in economic and other sectors should align with health protection goals (Lencucha and Thow, 2020). However, as this analysis shows, the pursuit of policy coherence across health and other policies might not be feasible or even desirable because of other national priorities and international commitments (Fresco, 2004, Hoebink, 1999). Indeed, as Horky (2010) reflects, 'incoherence may be intended when the government decides to prefer domestic interests in spite of being aware of the adverse effects', an observation that also seems applicable to the findings of this study. Moreover, economic and trade sectors may not work in concert with health and social ministries (Collin, 2012), and the institutional landscape may not afford the prospect of substantive policy alignment between these sectors (Lencucha and Thow, 2019).

Acknowledging the plurality of different policy objectives in the policymaking process, it is apparent that health is only one amongst many concerns that shape policy decisions. This suggests that policymakers might require a more nuanced approach to regulating cross-cutting issues depending on the policy area. Such an approach may result in tensions across policy spheres, as is the case with trade ministries providing subsidies to unhealthy commodity producers while health departments are working to reduce the availability and accessibility of unhealthy commodity markets (Lencucha and Thow, 2020). It may also lead to a situation in which it might be necessary to prioritise the goals of one sector over other policy aims, as observed in the Uruguayan case where public security advocates promoted a competitive price policy for marihuana, despite recognition that this may inadvertently increase consumption at the population level.

As the first country in the world to develop a comprehensive marihuana supply system, Uruguay faced significant domestic and international challenges throughout the policymaking process. However, the most significant and unexpected constraint on Uruguay's policy space to implement innovative health policy was by far the US Patriot

Act. This constraint on policy space is consistent with studies from the finance literature examining the extraterritorial scope of US national legislation on the business practices of international financial institutions (Alexander, 2002, Preston, 2002). These studies suggest that compliance with the US' regulatory controls is often seen by international banks as a more effective strategy than attempting to resolve the issue through US courts (Arnold and Salisbury, 2019, Amariles and Winkler, 2018). The extraterritorial impacts of national legislation in other jurisdictions are widely neglected in the policy coherence and public health literatures, with theoretical and empirical insights focused primarily on national-supranational relations. However, the analysis presented here demonstrates that the extraterritoriality of national legislation can be as important to constraining domestic policy space to implement innovative health measures as legally binding obligations under international treaties and conventions. The substantial threat of economic sanctions for banks that fail to comply with the US Patriot Act suggests that this policy will likely pose a considerable challenge for policymakers seeking to implement national measures inconsistent with its objectives and procedures, regardless of whether they are pursued in the interest of public health.

Finally, this case study serves to highlight the need for increasing understandings of how policymakers within LMICs attend to national and international legal frameworks in the development of policy. The analysis developed here suggests that asymmetric power relations between LMICs and high-income countries may limit the normative value of multilevel governance systems, which has been identified within much of the political science literature to date (Bache and Flinders, 2004a, Hooghe and Marks, 2001, Hooghe and Marks, 2003). This literature suggests that multilevel governance (MLG) is an efficient and superior mode of governance that facilitates experimentation, policy learning and innovation in policymaking at national and subnational levels (Allain-Dupré, 2020, Bache and Flinders, 2004b), including within recent empirical applications of MLG to European drug governance (Chatwin, 2007). However, as this analysis shows, core assumptions of the MLG literature are challenged by how interactions across formal and informal governance mechanisms within a complex institutional context remove decision-making power from local regulators in Uruguay. These interactions were also shown to decrease policy innovation in the more constrained space of high politics or where Uruguay's national marihuana policies interacted with those of other powerful states, namely the US government.

Despite growing recognition of the role that globalisation and economic power imbalances play in creating conditions for wealthier countries to influence the design and implementation of international rules (Koivusalo et al., 2009, Hülsse, 2008, Helleiner, 1999, Slaughter and Hale, 2010), and the challenges this creates for LMICs to achieve legitimate national policy aims (Heller, 2005, Thow and McGrady, 2014), this area has been under-explored both theoretically and empirically within the MLG literature. More recently, research has expanded beyond a theoretical and empirical imperative that multilevel governance is an ideal type of governing arrangement to focus on its implications for cross-national relations (Di Gregorio et al., 2019), domestic policy space (Hawkins et al., 2019, Hawkins et al., 2020, Hawkins and McCambridge, 2020) and democratic accountability (Bache et al., 2016). Multilevel governance systems that are specifically designed to address the diverse needs of LMICs as advanced by some scholars within this literature (Di Gregorio et al., 2019, Allain-Dupré, 2020) might help overcome existing barriers to policy integration across different levels of governance. This study also highlights a need for attending to asymmetric power imbalances between LMICs and high-income countries in order to facilitate decision-making processes across international, regional and national levels within complex multilevel governance systems.

9 Conclusions

This thesis set out with the aim of exploring the extent to which Uruguay's marihuana regulation can be understood with reference to the pursuit of policy coherence in health governance. While Uruguay's marihuana regulation has been widely regarded as an innovative alternative to drug prohibition and commercialisation, a distinctive model of health governance and a potential example for other governments to follow (von Hoffmann, 2016, Pardo, 2017, Pardo, 2014, Cerda and Kilmer, 2017), there has been very little empirical research examining the development of the specific contents and detailed provisions of the legislation. This research therefore offers an important contribution to the literature on marihuana policy change by analysing the complex and dynamic process through which the world's first comprehensive marihuana supply system was developed.

Drawing upon a diverse range of empirical data, alongside theories of policy change, this study demonstrates how national public security and crime-oriented frameworks, as well as international actors, norms and practices, have shaped and constrained the development of a national health policy innovation. Four broad empirical conclusions can be drawn from this case. The first refers to the political factors and historical context that shape the nature and dynamics of marihuana policy debates within Uruguay. In Uruguay's pluralist political system, there was broader engagement of actors with diverse concerns and priorities in marihuana policy debates than might be expected in other political contexts. Furthermore, Uruguay's historic legacy of a military dictatorship combined with growing regional dissatisfaction with the failed 'war on drugs' approach were crucial in shaping an environment in which actors shared more common ground than divergence on what to do about the problem of marihuana control. Thus, it can be concluded that in order to understand the complexity of the Uruguayan case, more attention should be paid to the ways in which the priorities and policy preferences of the various actors involved overlap and mutually reinforce one another's goals. A key implication of this underlying context is that it has allowed different actor constellations to promote their preferred policy approaches to marihuana regulation without facing significant contestation from actors with divergent priorities and concerns.

The second empirical conclusion relates to the relevance of policy coherence within health governance. This study shows that the pursuit of policy coherence within health

governance has been relatively limited and if there is an element of regulatory coherence, it likely can be found on the weaker side of coordination. A rhetorical commitment to promoting consistent regulation across unhealthy commodities in Uruguay is likely to have been important to the ultimate passage of marihuana policy reform in 2013. Generally, efforts to promote substantive policy coherence across marihuana, tobacco and alcohol have been shaped by a desire to develop marihuana regulation that legitimates use without creating a commercial driver or structural force that would promote excessive consumption. The findings also reveal that there were other important constraining factors over the development of consistent regulation across health issues, including challenges in passing legislation in the alcohol policy space, public security priorities to combat the illicit market and constraints imposed by wider financial systems. Consequently, this study raises questions about the extent to which Uruguay's marihuana policy reform was shaped by an explicit goal of policy coherence, instead suggesting that comparisons with tobacco and alcohol regulation were used strategically in order to justify the introduction of a legally regulated marihuana market. In practice, while policymakers selectively coordinated elements from regulatory frameworks for tobacco and alcohol, the outcome of marihuana policy reform was more directly shaped by political considerations—including how to resolve tensions between public security and unhealthy commodity regulation goals.

This last point connects to the third analytical conclusion, which arises from the relevance and impacts of international actors and processes on Uruguay's marihuana policy space. This research makes a distinctive contribution to the public health policy literature in exploring the implications for policy space of conflicts between domestic objectives in relation to marihuana regulation and the practices of international finance. While it might be expected that the UN drug conventions would carry the greatest weight in terms of constraints on Uruguay's ability to develop marihuana regulation, one of the more significant findings to emerge from this study is that Uruguay's international drug treaty obligations constrained policy space less than the norms and practices of international finance. Such norms and practices have exerted powerful influence over Uruguay's ability to implement a legal marihuana market, particularly aspects of marihuana supply that involve business transactions denominated in US dollars. This finding is not only significant for Uruguay in terms of the state's ability to effectively achieve its national health and public security objectives, but also in terms of their implications for other jurisdictions seeking to legalise and regulate a recreational

marihuana market. In practice, the constraints imposed by international financial systems have restricted the capacity of marihuana retailers, producers and banks in Uruguay to participate in the legal supply system, as this might negatively impact their relationships with international banks, particularly the US financial system. Overall, the constraints on policy space identified in this study are experiences that are likely to have relevance in other jurisdictions, particularly in cases where the market-based policies of marihuana regulation remain fundamentally in conflict with the norms and practices of international finance.

Another important aspect of vertical coherence is addressed in the fourth analytical conclusion, which considers the influence of regulatory approaches in other jurisdictions to the development of Uruguay's distinctive approach to state regulation of marihuana supply. While some literature refers to the relevance of the cross-national transfer of marihuana policy innovations to Uruguay (Musto, 2018, Murkin, 2014), this analysis offers two distinctive observations. The first is that the relevance of transfer of marihuana policy examples from other contexts is not to be understood in terms of the direct adoption or rejection of such policies. Rather, what is significant here is how specific features of policy models in other countries were selected, blended and adapted to Uruguay's distinctive political and legal context, leading to the development of an innovative approach that nevertheless amalgamates elements found in existing marihuana supply systems. Second, the elements of transfer were conducted in ways that were shaped by the concerns of neighbouring countries, including Argentina and Brazil, but most importantly the United States. These contextual influences were significant to shaping the development of a relatively detailed marihuana regulation that defines under what conditions users can legally access an affordable, quality-controlled marihuana product, as determined by the state and other authorities.

In the literature on Uruguay's marihuana legislation, various authors point towards Uruguay's distinctive state interventionist culture as constraining the transfer process (Musto, 2018, Murkin, 2014, Walsh and Ramsey, 2018). What can be observed in this case, however, is that policy transfer occurred in part due to the anticipated tensions that key policymakers faced in order to reconcile the specific contents of the legislation with the preferences and concerns of the regional hegemon, the United States. This was particularly the case for policies that intersected with broader public security priorities. It could therefore be inferred that Uruguayan officials were particularly cautious and conservative in the more constrained space of high politics or where policies interact

with those of other powerful states. Indeed, in this case, while there was greater latitude over aspects of regulation involving purchase limits for users or the specifics of the cannabis club system, Uruguayan officials were very constrained in those areas where such regulation intersects with broader security dimensions of drug policy.

In sum, this thesis has made distinctive contributions to existing knowledge on Uruguay's marihuana policy reform by analysing the significance of the country's approaches to tobacco and alcohol regulation, as well as marihuana policies in other settings, to the development of Uruguay's marihuana regulation. Considering the findings together, it becomes clear that Uruguay's historic legacy of a state monopoly over alcohol production, its role as an international leader in tobacco control and recent experience of a trade dispute with Philip Morris International have influenced how key actors approached the development of marihuana regulation. However, Uruguay's historical and contemporary approaches to regulating unhealthy commodities have also interacted and arguably contended with security and crime-oriented frameworks, which have challenged health policy coherence, shaped interactions with other states and constrained Uruguay's ability to implement marihuana regulation as originally envisaged. The relevance of security and crime-oriented frameworks to the development of Uruguay's marihuana regulation raises particular concerns about the extent to which such frameworks might limit the state's ability to pursue autonomously its health goals in marihuana policy and for public health more broadly.

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Appendix 1: Search term outcomes of literature review

English				
Search Terms	*Results*			
	Scientific Electronic Library Online	International Bibliography of the Social Sciences	ISI Web of Science	Academic Search
TI Uruguay AND marijuana OR cannabis and legal*	0	50	9	47
TI Uruguay AND marijuana OR cannabis AND poli*	1	24	12	34
AB Uruguay AND marijuana AND public health	0	7	11	35

Spanish				
Search Terms	*Results*			
	Scientific Electronic Library Online	International Bibliography of the Social Sciences	ISI Web of Science	Academic Search
TI Uruguay AND marihuana OR cannabis AND legal*	5	3	2	6
TI Uruguay AND marijuana OR cannabis AND poli*	7	7	1	43
Uruguay AND marihuana AND salud	15	6	0	11

Appendix 2: Names and descriptions of organisations relevant to marihuana policy debates in Uruguay

Organisation
Plantá tu planta (*individual liberties*) A collective formed by cannabis cultivators in their 30s and 40s that decided to organise in favour of the depenalisation of marihuana cultivation (Draper and Sienra, 2017). The collective originated as an online knowledge exchange forum, providing cannabis users with information on best practices for growing marihuana at home for personal use (Musto, 2018). Plantá tu planta argues that the depenalisation of home cultivation will address the problems of criminalising access to marihuana, including unjust searches and seizures and incarceration of marihuana users that grow plants at home as an alternative to the illicit market (Aguiar and Muñoz, 2007, Musto, 2018).
La Placita (*individual liberties*) A community-based activist group made up of marihuana users, predominately from Montevideo (Uruguay's capital city), who called for an alternative to prohibition that respected the individual rights of marihuana users to smoke without stigma or risk of criminal prosecution (Draper and Sienra, 2017, Aguiar and Muñoz, 2007). Although la Placita formed part of the broader pro-legalisation coalition known as the Cannabis Liberation Movement (MLC), integrated by Plantá tu planta, Prolegal and the JSU (Collazo and Robaina, 2016), the organisation did not want to involve the state in marihuana policy reform efforts (Aguiar and Muñoz, 2007) and therefore, separated from the movement in 2012.
Young Socialists of Uruguay (JSU) (*individual liberties*) Uruguayan political party that had been calling for the liberalisation of the marihuana market since the early 2000s (Aguiar and Muñoz, 2007). However, such call did not materialise into a serious effort for policy reform until 2006, when the JSU launched an official legalisation campaign strategy, alongside other pro-legalisation groups like Plantá tu planta, Prolegal and la Placita (Aguiar and Muñoz, 2007, Draper and Sienra, 2017). One of its members would later become a legislator representing the JSU, introducing a bill in 2011 to legalise home cultivation and cannabis clubs, and later to become a central author of the 2012 bill to legalise and regulate state control over the marihuana market (Draper and Sienra, 2017).

Cannabis Liberation Movement (MLC) (*individual liberties*)

Formed by members of Plantá tu planta, Prolegal and la Placita, the MLC is a pro-legalisation coalition whose main role was to problematize the issue of marihuana criminalisation, arguing that a judicial misapplication in Uruguay´s drug law was leading to the wrongful arrest of individuals for growing marihuana at home for personal use (Movimiento por la Liberación de Cannabis, 2010). It did this by organising the annual marihuana marches in Montevideo and the Molinos de Peréz, events where marihuana users would gather to smoke in public plazas as an act of civil disobedience against the status quo (Musto, 2018, Aguiar and Muñoz, 2007).

Uruguay Association for Cannabis Studies (AECU) (*individual liberties*)

Formed in 2011 by members of Plantá tu planta, AECU was established as an organisation that provided legal resources to marihuana users facing criminal charges for trafficking marihuana (Asociación de Estudios del Cannabis del Uruguay, 2012). Realising the challenges of judicial reform, AECU was also formed as an organisation with the rights of a legal entity, which provided the organisation with the ability to lobby government officials. Although Plantá tu planta continues to exist as a knowledge exchange forum for marihuana users on best cultivation practices, given the shared beliefs and members across the two groups, both are identified by the alias AECU in subsequent chapters unless in cases where it is necessary to distinguish between the two organisations.

National Party (*population health*)

One of Uruguay's oldest traditional parties, the National Party (otherwise known as the 'Blancos') is a centre-right wing political faction whose members were against state control over the marihuana market, asserting that reducing barriers to access would increase consumption and associated health harms (Amarilla et al., 2013). However, in 2009, current President Lacalle Pou (2020-2025) introduced a bill to depenalise home cultivation of marihuana as a crime prevention measure, arguing that this approach would provide an 'escape valve' for socially responsible marihuana users not committing serious crimes (Pou, 2010a).

Colorado Party (*population health*)

One of Uruguay's longstanding traditional parties, the Colorado Party is a centrist political faction whose members were against state control over the marihuana market, citing concerns that this reform would make marihuana use socially acceptable and therefore would increase use among the entire population (Sander and Montaner, 2013). One of its members was the author of a 2010 multi-partisan bill to depenalise home cultivation of marihuana to address the legal inconsistency in Uruguay's 1974 drug law.

Independent Party (*individual liberties*)

Uruguayan political party whose main priority was to depenalise home cultivation of marihuana in order to reduce the consequences of a legal incoherence in Uruguay's 1974 drug law on marihuana users. Although believing that all users have the right to consume drugs, some politicians within the party were concerned that liberalising state control over production and sale of marihuana would contravene Uruguay's obligations under the international drug control conventions (Radío, 2013).

Frente Amplio (*individual liberties*)

Founded by a coalition of leftist parties in 1971, Frente Amplio first came into power in 2005, ending a nearly 100-year era of conservative party rule (Musto, 2018). One of Uruguay's largest political parties within the coalition was the Movement for Popular Participation (MPP). In 2011, some legislators representing the MPP introduced a bill that would address the legal incoherence in Uruguay's drug law through the depenalisation of home cultivation and development of cannabis social clubs. In 2012, key leaders of the MPP, including former President José Mujica, former Minister of Defence Eleutorio Fernández Huidobro and former Minister of the Interior Eduardo Bonomi (Draper and Sienra, 2017), introduced a bill to liberalise state control over the production and sale of marihuana, with the stated objective of reducing violence and drug-related crime associated with marihuana's status as an illicit substance (Musto, 2018, Draper and Sienra, 2017, Garcia, 2013).

Prolegal (*anti-authoritarian*)

Prolegal is a cannabis users' rights organisation founded by members of the Federation of University Students (FEUU) and the Jovenes of the Vertiente Artiguista (JVA) in 2005 (Aguiar and Muñoz, 2007). Its primary purpose was to address the legal incoherence in Uruguay's drug law, favouring an approach that liberalised widespread access to marihuana (Musto, 2018). Although Prolegal is a member of Proderechos, given the shared beliefs and members across the two organisations, both are identified by the alias Proderechos in subsequent chapters of the thesis unless in cases where it is necessary to distinguish between the two organisations.

Proderechos (*anti-authoritarian*)

Concerned by the singular focus of the individual right to marihuana consume movement, founding members of Prolegal formed Proderechos in 2006 (Musto, 2018), a civil society organisation dedicated to 'the necessary transformation of Uruguay, both in its cultural and social aspects and in its legal framework, all of

which are maintained under a prevailing conservative regime that restricts everyone's liberties' (Proderechos, 2006). The members of Proderechos include Prolegal, Ovejas Negras, Cotidiano Mujer, Mujer y Salud [Woman and Health] (MYSU), Instituto de Estudios Legales y Sociales del Uruguay [Institute of Legal and Social Studies of Uruguay] (IELSUR), Servicio Paz y Justicia [Peace and Justice Service] (SERPAJ) and Friedrich Ebert Stiftung Foundation in Uruguay (FESUR) who collectively pushed for drug policy reform, abortion decriminalisation, marriage equality, access to euthanasia and democratisation of the media in response to lack of government focus on sociocultural change (Musto, 2018, Draper and Sienra, 2017).

Friedrich Ebert Stiftung Foundation in Uruguay (FESUR) (*anti-authoritarian*)

A German political foundation whose primary purpose is 'the promotion of democracy and social justice. FESUR supports and contributes to the analysis of current political issues at the national, regional and global levels in pursuit of a more democratic, just and sustainable society' (Friedrich-Ebert-Stiftung, 2017). Although drug legalisation had not been on FESUR's agenda prior to 2005, the organisation became engaged in marihuana policy debates because several of its affiliate organisations, including Proderechos, were actively involved in problematizing the issue (Collazo and Robaina, 2016, Musto, 2018). FESUR did not have a specific position on policy design or instruments, but rather was in favour of liberalising all drug markets as part of a broader movement against repressive state institutions and the criminalisation of bodily autonomy.

Drug Control Board (JND) (*harm reduction*)

The Drug Control Board is an executive agency of the Office of the President, politically responsible for carrying out the Executive Branch's drug policy agenda (Junta Nacional de Drogas, 2020). The Drug Control Board was in charge of orchestrating the move to liberalise state control over the marihuana market, indicating that it had served as the intermediary link between individual liberties, anti-authoritarian and public security advocates. Some individuals that worked for the JND between 2010-2015 were also connected to the harm reduction NGO el Abrojo, working throughout the 1990s on developing community-based programs aimed at reducing the harms and risks of alcohol and illicit drug use (Draper and Sienra, 2017, Musto, 2018).

El Abrojo (*harm reduction*)

Founded by individuals that would later become civil servants working for the Drug Control Board (2010-2015), el Abrojo was established as a non-profit civil society organisation in 1984, 'oriented toward the development of processes to increase autonomy and transform society in creative ways' (El Abrojo, 2020). El Abrojo also 'believes that it is necessary to participate in the public debate on issues related to social policies, human rights and the construction of democratic participation amongst the Uruguayan citizenry' (El Abrojo, 2020). The organisation had worked alongside the Drug Control Board in the 1990s, with the objective of developing community-based interventions aimed at reducing the harms and risks of alcohol and illicit drug use (Garat, 2015). In 2011, el Abrojo

began to participate in marihuana policy debates, calling for an approach that liberalised access to marihuana as a response to the use-related harms of marihuana criminalisation for those that continue to use (Lapetina, 2011).

Security Cabinet (*public security*)

Established in 2011 by former President Mujica, the Security Cabinet's role was to coordinate policies and governmental strategies related to the maintenance of law and order and ensuring national public security (President of the Uruguayan Republic, 2011). The Security Cabinet includes other governmental actors such as the Secretariat of the Office of the President, the Assistant Secretary (who also serves as the president of Uruguay's Drug Control Board), and the Ministries of the Interior, Defence and Foreign Relations, who were concerned about rising violence and drug-related crime associated with the use of harsher illicit substances other than marihuana (Peregil, 2012, Musto, 2018).

Ministry of Public Health (MSP) (*population health*)

The Ministry of Public Health is Uruguay's lead health agency, responsible for designing policies and interventions that promote health and prevent disease, 'under the guiding principles of universality, equity, quality, solidarity, sustainability and efficiency' (Ministerio de Salud Pública, 2020). Although not taking a formal position on marihuana legalisation, the MSP insisted that any sort of marihuana policy reform be accompanied by a comprehensive strategy to prevent use at the population level through education and treatment for the entire population (Briozzo, 2012).

Executive Committee of the Uruguayan Medical Society (SMU) (*population health*)

The Executive Committee of the Uruguayan Medical Society (SMU) was established in 2012, with the objective of providing information to health professionals, politicians and the general population and contribute a population health perspective on marihuana policy reform (Lima et al., 2012). Its members consist of medical experts working in the broader areas of mental health, addiction and tobacco cessation including the Uruguayan Psychiatric Society for Children and Infants (SUPIA), Uruguayan Psychiatric Society (SPU), Tobacco Epidemic Research Centre of Uruguay, the Uruguayan Society of Analysis and Behaviour Modification (SUAMOC), Uruguayan Association of Psychotherapy and Psychoanalysis (APU), Society of Medical Psychology and Psychosocial Medicine, and the Faculty of Medicine, Pharmacology Division (Lima et al., 2012). The Executive Committee of the SMU was primarily concerned that liberalising state control over the marihuana market might reduce risk perceptions and increase use, particularly among young people, calling for a precautionary approach that focused on education and treatment, with the overall goal of discouraging consumption at the population level.

Uruguayan Psychiatric Society (SPU) (*population health*)

Founded by a group of medical professionals in 1974, the Uruguayan Psychiatric Society believes that 'scientific evidence should be at the core of the debate' about marihuana legalisation (Uruguayan Psychiatric Society and Uruguayan Psychiatric Society for Children and Infants, 2012). One of Uruguay's most prominent and well respected health organisations, the SPU became involved in marihuana policy debates in 2012, asserting that 'it would have been appropriate for the SPU to be consulted as a group of specialists on the subject' before indicating the intention to legalise marihuana (Uruguayan Psychiatric Society and Uruguayan Psychiatric Society for Children and Infants, 2012). Although the SPU's leadership did not take a formal position on whether marihuana should be legalised (Uruguayan Psychiatric Society and Uruguayan Psychiatric Society for Children and Infants, 2013), the organisation felt that the state should be careful not to trivialise use-related harms that marihuana can provoke, including acute effects on memory, concentration and motor skills as well as chronic problems of amotivational syndrome, adverse effects on brain development and intelligence, and drug dependence (Borda et al., 2013). They also cited concerns that marihuana use may produce short-term psychiatric disorders such as anxiety, depression, hallucinations, and schizophrenia, particularly for individuals with a genetic predisposition.

Uruguayan Psychiatric Society for Children and Infants (SUPIA) (*population health*)

Another one of Uruguay's prominent health organisations that worked closely alongside representatives of the SPU. See above description regarding concerns and priorities.

Tobacco Epidemic Research Centre of Uruguay (CIET) (*population health*)

Founded by representatives of the Uruguayan Medical Society, the Medical Federation of the Interior and the Uruguayan Cardiologist Society, the Tobacco Epidemic Research Centre of Uruguay was established in 2006 with the purpose of promoting implementation of the WHO Framework Convention on Tobacco Control in Uruguay (Tobacco Epidemic Research Centre of Uruguay, 2019b). A well respected and widely recognised organisation in Uruguay, the CIET 'provides scientific information, carries out community interventions and advocacy efforts to inform decision-making and the population on the risk factors of non-communicable diseases' (Tobacco Epidemic Research Centre of Uruguay, 2019a). The CIET became involved in marihuana policy debates in 2012, based on concerns that liberalising access to marihuana may renormalise smoking behaviour and called for an approach that was consistent with tobacco denormalisation objectives in Uruguay (Bianco, 2013).

Uruguayan Pharmacists Association (*population health*)

The Uruguayan Pharmacists Association is a professional trade union of professionals that graduated from the School of Medicine's Chemistry Department at the University of the Republic (Domènech, 2015). The organisation did not take a formal position on marihuana legalisation, but was strongly opposed to selling marihuana through pharmacies, citing concerns that this approach would send an inadequate message to the public that marihuana use was harmless and potentially beneficial to health (Olmas, 2013).

Ser Libre (*population health*)

Ser Libre is a drug rehabilitation centre in Montevideo, Uruguay that was founded on the principle that abstinence is the fundamental way to recover from drug addiction (Ser Libre, 2020a). The organisation's 'vision' about problematic drug use is that any drug strategy should 'prioritise interventions that reduce problematic use through demand reduction, with the objective to discourage, denormalise and eliminate the desire for use of addictive substances' (Ser Libre, 2020b). Consequently, Ser Libre strongly favoured maintaining the status quo, in which marihuana use was depenalised and access was prohibited. They advocated for a change to the strategic focus of drug control efforts, from criminalising the user to one centred on education and treatment at the population level (Piñero and González, 2013).

Appendix 3: Documents included in thematic analysis

Document Nº	Date	Document Title	Pages	Document type
Strategy for Life and Coexistence	12 June 2012	Estrategia por la Vida y la Convivencia	20	Executive Memorandum
Decreto 128/2016	9 May 2016	Procedimiento de actuación en el Ámbito Laboral	4	Presidential decree
Decreto 79/2016	3 March 2016	Modifica artículo 36 del Decreto 120/2014	1	Presidential decree
Decreto 250/2015	21 September 2015	Modifica los Decretos reglamentarios de la Ley 19.172	3	Presidential decree
Decreto 120/014	19 May 2014	Reglamentado de la ley 19.172	34	Presidential decree
Ley N° 19.574	10 January 2018	Ley de lavado de activos	49	Legislation
Ley N° 14.294	11 November 1974	Ley de estupefacientes	33	Legislation
Ley N° 17.016	28 October 1998	Regulación de la ley de estupefacientes	33	Code of Regulation
Ley N° 19.172	7 January 2014	Decretos Reglamentarios (Regulación y Control del Cannabis)	150	Code of Regulation
2284/0 CAR	6 August 2013	Proyecto de ley aprobado por la Cámara de Representantes. Informes y proyectos de ley de la Comisión Especial de Drogas y Adicciones con Fines Legislativos de la Cámara de Representantes.	100	Parliamentary minutes

		Mensaje y proyecto de ley del Poder Ejecutivo		
2284/1	6 August 2013	Disposiciones citadas	51	Parliamentary minutes
2284/2	7 August 2013	Versiones taquigráficas de las sesiones de la Comisión Especial de Drogas y Adicciones, con Fines Legislativos de la Cámara de Representantes. Año 2012	117	Parliamentary minutes
2284/3	7 August 2013	Versiones taquigráficas de las sesiones de la Comisión Especial de Drogas y Adicciones, con Fines Legislativos de la Cámara de Representantes. Año 2013	101	Parliamentary minutes
2382/0	10 September 2013	Versión taquigráfica de la sesión del día 10 de setiembre de 2013	10	Parliamentary minutes
2388/0	17 September 2013	Versión taquigráfica de la sesión del día 17 de setiembre de 2013	12	Parliamentary minutes
2410/0	8 October 2013	Versión taquigráfica de la sesión del día 8 de octubre de 2013. Concurren: Por la Cátedra de Toxicología de la Facultad de Medicina profesora doctora Amalia Laborde. Por la Sociedad de	17	Parliamentary minutes

		Psiquiatría del Uruguay doctora Cecilia Idiarte Borda (Presidenta), doctor Rafael Sibils (Vicepresidente) y por la Sociedad Uruguaya de Psiquiatría de la Infancia y la Adolescencia doctora Beatriz De León (Presidenta)		
2435/0	15 October 2013	Versión taquigráfica de la sesión del día 15 de octubre de 2013. Concurren: Señor Secretario General de la Junta Nacional de Drogas, sociólogo Julio Calzada y sicólogo señor Augusto Vitale Técnico Secretaría Drogas	15	Parliamentary minutes
2471/0	29 October 2013	Versión taquigráfica de la sesión del día 29 de octubre de 2013. Concurren: Doctor Osvaldo Cestau (Gerente de la Asociación de Farmacias del Interior - AFI), contador Daniel De Lorenzi (Gerente del CFU), señor Fernando Cabrera, Prosecretario del CFU y señor Eduardo Planchón, Directivo de AFI	17	Parliamentary minutes

2474/0	31 October 2013	Versión taquigráfica de la sesión del día 31 de octubre de 2013. Concurren: Subsecretario del Ministerio de Salud Pública doctor Leonel Briozzo, Director de Salud Mental doctor Ariel Montalbán y Asesor Legal doctor Fernando Rovira	14	Parliamentary minutes
2484/0	5 November 2013	Versión taquigráfica de la sesión del día 5 de noviembre de 2013. Concurre: Director de Área Gestión Legislativa, señor César González	4	Parliamentary minutes
2491/0	7 November 2013	Versión taquigráfica de la sesión del día 7 de noviembre de 2013	14	Parliamentary minutes
2504/0	12 November 2013	Versión taquigráfica de la sesión del día 12 de noviembre de 2013	14	Parliamentary minutes
2515/0	19 November 2013	Versión taquigráfica de la sesión del día 19 de noviembre de 2013. Concurre: Señor Senador Aldo Lamorte	24	Parliamentary minutes
2525/0	21 November 2013	Versión taquigráfica de la sesión del día 21 de noviembre de 2013	15	Parliamentary minutes
2538/0	26 November 2013	Versión taquigráfica de la	22	Parliamentary minutes

		sesión del día 26 de noviembre de 2013		
CSIS_Art2	5 June 2012	Aporte universitario al debate Nacional sobre drogas por UDELAR	232	NGO report
958	July 2011	Proyecto de ley: Plantación y consumo de cannabis	7	Legislative bill
N/A	7 July 2012	La Sociedad de Psiquiatría ante el proyecto de legalizar la venta de marihuana	2	Position paper
N/A	5 October 2012	La Sociedad de Psiquiatría del Uruguay y la Sociedad Uruguaya de Psiquiatría de la Infancia y la adolescencia ante el proyecto de legalizar la venta de marihuana	4	Position paper
US PUBLIC LAW 107–56	26 October 2001	Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism	132	Legislation (US)
2012-2020 FATF/OECD	February 2012	International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation	137	FATF Recommendations
Cole Memo	29 August 2013	Cole Memorandum: Guidance Regarding	4	US Department of Justice Memorandum

		Marijuana Enforcement		
E/CN.7/2008/L.16	7 March 2008	Ensuring the proper integration of the United Nations human rights system with international drug control policy	2	Draft resolution

Appendix 4: Generic examples of interview schedules for interviewees based on knowledge of policy process

Example of interview guide for actors engaged in marihuana policy debate

Verbal consent

Thank you for accepting to participate in this doctoral research project on the development of Uruguay´s approach to marihuana regulation. Before we begin the interview, I want to inform you that in addition to your organisation´s position on marihuana regulation in Uruguay, which could be that you do not have a formal position or that you did not participate in the process of developing the law, I am interested in hearing your perspective as an expert in [*field or area X*].

Therefore, for the purposes of this study it is not important if you or your organisation did not participate directly in the development of the marihuana regulation law. Rather, I am interested in understanding your perspective of the process of marihuana policy change as a technical expert in the [*field or area X*].

Also, I would like to remind you that your participation is completely voluntary. Nevertheless, I am obligated to receive your verbal consent before we begin the interview. Like we discussed beforehand, the interview will be recorded and on the record but your identity will remain anonymous. If you would like that information that you provide me be considered confidential, you have the right to go off the record at any point throughout the interview. You also have the right to refuse to respond to any of the interview questions.

- Do you understand your rights as a study participant?
- Do you accept that this interview will be recorded and that the transcriptions will be used to inform the development of a case study on marihuana policy change in Uruguay?
- Do you have any questions or concerns about your participation in the study?

Consentimento verbal

Gracias por aceptar participar en esta investigación doctoral relacionada con el desarrollo del abordaje para regular el mercado de la marihuana en Uruguay. Antes de comenzar, quiero comentarle, además de la posición de su organización sobre la regulación de la marihuana en Uruguay, que podría no tenerla o no haber participado del proceso, es mi interés el escuchar sus perspectivas técnicas personales como un experto/a en [*el campo o área X*].

Por lo tanto, para los objetivos de este estudio no es importante si usted o su organización no participaron directamente en el desarrollo del proyecto de ley relativo a la regulación de la marihuana, sino que lo importante es conocer su punto de vista técnico.

También, quiero recordarle que su participación es complemente voluntaria. Sin embargo, es necesario que me dé su consentimiento verbal antes de empezar la entrevista. Como discutimos antes, la entrevista será grabada y formará parte del registro del estudio de forma anónima. Si le gustaría que la información fuera considerada como confidencial, tiene el derecho de salir del registro en cualquier momento. También, usted tiene el derecho de negarse a responder a cualquier pregunta.

- ¿Entiende usted todo lo que le he dicho sobre sus derechos como participante en el estudio?
- ¿Acepta usted que la entrevista sea grabada y que las transcripciones sean utilizadas para desarrollar un estudio de caso sobre el cambio de políticas públicas de la marihuana en Uruguay?
- ¿Tiene usted una pregunta sobre la investigación o una duda sobre su participación en el estudio?

I. Positions, concerns and priorities

1) Can you provide me a brief overview of your role working for [*organisation X*] and how you and your organisation became involved in debates on marihuana regulation in Uruguay?

2) At the time that the marihuana regulation bill was under consideration, what were your primary concerns and priorities?

> *Potential follow-up question:*
>
> How would you describe your current perspective on marihuana regulation compared to the one that you had when the law was under consideration?

3) What other ideas or perspectives do you think were involved in marihuana policy debates in Uruguay? Who do you think were the priorities of those proposing these ideas?

4) What other ideas or perspectives do you believe should have been considered in the development of Uruguay's marihuana regulation? Why do you think that these other ideas or perspectives were not considered?

> *Potential follow-up question:*
>
> What concerns or reflections do you have about the ideas or perspectives that were not involved in the marihuana policy debate or in the development of the regulation?

II. Network of Actors

5) Who do you think were the most important actors or groups in the development of the marihuana regulation law? Which of these individuals or groups do you believe also supported your position or ideas on marihuana regulation?

6) What other actors or organisations within Uruguay do you think were relevant in the development of marihuana regulation? Which of these people or groups do you believe supported your position or ideas on marihuana regulation?

7) What other individuals or organisations outside of Uruguay do you think were relevant in the development of marihuana regulation? Which of these individuals or groups do you believe supported your position or ideas on marihuana regulation?

8) With respect to the actors or groups mentioned previously, were there tensions or difficulties in working with these individuals or groups when pursuing your preferred policy approach?

> *Potential follow-up questions:*

What do you think is the importance of the [*Special Commission on Drugs and Addiction and/or the Senate Public Health Commission*] in the development of the marihuana regulation law?

Who do you think were the most important actors on the [*Special Commission on Drugs and Addiction and/or the Senate Public Health Commission*]? Why do you think that these actors were particularly influential?

What other voices or perspectives do you think were particularly marginalized on the [*Special Commission on Drugs and Addiction and/or the Senate Public Health Commission*] and why?

9) What reflections do you have, if any, about the individuals or groups not involved in the development in the marihuana regulation law?

III. Perceived Health Impacts of Marihuana Policy Change

10) What do you think are the [*positive/negative*] impacts of marihuana regulation on public health in Uruguay and why?

Potential follow-up questions:

What do you think are the health impacts of the law on marihuana users in Uruguay? What do you think are the health impacts of marihuana regulation on the general population?

IV. Policy Coherence

As you are likely aware, Uruguay is known as an international leader in tobacco control policy. At the time that this regulatory proposal was under consideration, there emerged an argument in the public debate associating marihuana regulation with Uruguay's tobacco approach. In other words, there were some actors arguing that marihuana should be regulated in the same way as tobacco and alcohol in Uruguay.

11) What relevance, if any, do you think that this idea had in marihuana policy debates in Uruguay? What do you think was the objective of those that advocated this idea in the public debate?

12) Do you believe that the marihuana market should be regulated in the same ways as [*tobacco/alcohol*], if so, why, if not, why not?

13) In what ways [*would you/would you not*] prefer that marihuana was regulated like [*tobacco/alcohol*] and why?

V. Lessons Learned and Implications of Marihuana Policy Change

I would like to finish the formal interview by hearing your reflections on the lessons that can be learned from the process of developing Uruguay´s marihuana law and implications in domestic and international contexts.

14) In what ways do you think the lessons learned from the process of developing Uruguay's approach to marihuana regulation could be used in the development of other national policies related to unhealthy commodities?

15) Aside from my interest, what other international interest in learning from the process of developing Uruguay's marihuana regulation law are you aware of?

16) If you could give recommendations to those interested in learning from this process, what sort of guidance would you provide and why?

Spanish version

I. Las posiciones, preocupaciones y prioridades relacionadas con la regulación de la marihuana en Uruguay

1) ¿Me explica su rol en [*la organización X*] y cómo usted y/o su organización se involucró/involucraron en los debates sobre la regulación de la marihuana?

2) ¿Qué fueron sus preocupaciones principales y puntos más importantes en aquel momento en que se debatía el proyecto de ley?

   Pregunta potencial:

   ¿Cómo describiría su perspectiva actual con relación a la perspectiva que usted tenía en aquel momento?

3) ¿Desde su punto de vista cuáles fueron las otras ideas o perspectivas que fueron involucradas en este debate?

4) ¿Qué otras ideas o perspectivas usted cree que deberían haber sido incluidas en el desarrollo de la ley de marihuana? ¿Por qué cree usted que esas ideas o perspectivas no fueron incluidas?

   Pregunta potencial:

   ¿Qué preocupaciones/reflexiones puede expresarme, si las tiene, sobre las ideas or perspectivas que no fueron involucradas en este debate o el desarrollo de la regulació*n*?

II. Los redes de actors

5) ¿Desde su punto de vista, cuáles fueron las personas o grupos más relevantes en el desarrollo de la ley de marihuana? ¿De aquellas personas o grupos, quienes fueron las que apoyaron su posición o sus ideas sobre la regulación de marihuana?

6) ¿Cuáles fueron las personas u organizaciones locales más relevantes? De aquellas personas/organizaciones ¿Quiénes fueron las que apoyaron su posición o sus ideas?

7) ¿Cuáles fueron las personas u organizaciones internacionales más relevantes? De aquellas personas/organizaciones ¿quiénes fueron las que apoyaron su posición o sus ideas?

8) ¿Hubo tensiones o dificultades al trabajar con aquellas personas u organizaciones?

   Preguntas potenciales:

   ¿Qué importancia cree usted que tuvo/tuvieron la [*Comisión Especial de Drogas y Adicciones y/o Comisión de Salud Pública*] en el desarrollo del proyecto de ley?

   ¿Desde su punto de vista, quienes fueron los actores más importantes en la[*Comisión Especial de Drogas y Adicciones y/o Comisión de Salud Pública*]? ¿Por qué cree usted que ellos fueron particularmente influyentes?

¿Qué otras voces o perspectivas percibe usted que fueron particularmente marginadas en la [*Comisión Especial de Drogas y Adicciones y/o Comisión de Salud Pública*] y por qué?

9) ¿Qué reflexiones puede expresarme, si las tiene, sobre los individuos o los grupos no involucrados en el desarrollo del proyecto de ley?

III. Los impactos sanitarios

10) ¿Desde su punto de vista, cuáles son los impactos [*positivos/negativos*] de la ley de marihuana en la salud pública en Uruguay y por qué?

Preguntas potenciales:

¿Cuáles son los impactos en la salud de los usuarios de cannabis? ¿Cuáles son los impactos sanitarios en la salud de la población general?

IV. La coherencia regulatoria

Es probable que usted ya sepa que Uruguay es un líder en la política internacional de control de tabaco. En aquel momento de esta propuesta regulatoria, surgió un discurso público asociando la regulación del cannabis a la política de control de tabaco en Uruguay. Es decir, hubo argumentos que el mercado de marihuana debería regularse de la misma manera que el mercado de tabaco o lo del alcohol.

11) ¿Cuál es su percepción sobre el papel/la relevancia que este discurso público tuvo en el desarrollo de la ley de marihuana en Uruguay? ¿Cuál piensa usted que fue el objetivo de utilizar esta idea en el discurso público?

12) ¿Piensa usted que debería regularse el mercado de la marihuana de la misma manera que el mercado de [*tabaco/alcohol*] y por qué cree así? Hay instancias en que no le gustaría que

13) En qué maneras cree usted [*debería/no debería*] regularse el mercado de la marihuana de la misma manera que el mercado de [*tabaco/alcohol*] y por qué?

V. Lecciones aprendidas e implicaciones

Ahora me gustaría terminar la entrevista con sus reflexiones sobre las lecciones aprendidas en este proceso regulatorio y sus implicaciones en el contexto local e internacional.

14) ¿En qué maneras cree usted podrían servir las lecciones aprendidas de este proceso en el desarrollo de otras políticas públicas nacionales de sustancias que impactan la salud pública?

15) Aparte de mi interés, ¿qué sabe usted sobre el interés internacional en aprender de este proceso de desarrollo de la regulación de la marihuana?

16) ¿Si pudiera dar recomendaciones a los que tienen interés en aprender de este proceso de desarrollo, qué les aconsejaría?

Example of interview guide for actors engaged in policy formulation

I. Positions, concerns and priorities

1) Can you provide me a brief overview of your role working for [*organisation X*] and how you and your organisation became involved in debates on marihuana regulation in Uruguay?

2) At the time that the marihuana regulation bill was under consideration, what were your primary concerns and priorities?

Potential follow-up question:

How would you describe your current perspective on marihuana regulation compared to the one that you had when the law was under consideration?

3) Considering the development of some of the specific policies within Uruguay's marihuana regulation. How do you think that [*x policy*] was [*developed/defined*]:

a) 40 gram limit on personal consumption

b) 6 plant limit per household

c) 15 to 45 members per cannabis club

d) National user registry

4) Why do you think that this policy was included in the final law?

5) At the time when you were developing the education campaign, what were your main concerns and priorities? Do you know if a model from another campaign to regulate substances was used?

6) At the time when you were determining the concentration limits for CBD and THC, what were your main concerns and priorities?

7) When the issue with the international financial system emerged, can you describe what happened and what you did to attempt to resolve this issue?

Spanish version

I. Las posiciones, preocupaciones y prioridades relacionadas con la regulación de la marihuana en Uruguay

1) ¿Me explica su rol en [*la organización X*] y cómo usted y/o su organización se involucró/involucraron en los debates sobre la regulación de la marihuana?

2) ¿Qué fueron sus preocupaciones principales y puntos más importantes en aquel momento en que se debatía el proyecto de ley?

Pregunta potencial:

¿Cómo describiría su perspectiva actual con relación a la perspectiva que usted tenía en aquel momento?

3) Pensando en los instrumentos que define la política pública, ¿cómo se percibe usted que [*se definió/se desarrolló*]:

a) el límite de cuarenta gramos mensuales cada usuario

b) el límite de seis plantas cada hogar

c) el límite de 15 hasta 45 miembros cada club cannábico

d) el registro nacional

4) ¿Por qué usted cree que este límite fue incluido en la ley aprobada?

5) ¿Al momento de desarrollar las campañas educativas e informáticas, cuales fueron sus preocupaciones principales y sus prioridades en esa decisión? ¿Sabe usted si utilizaron algún modelo de otras campañas de regulación de sustancias?

6) ¿Al momento de desarrollar los límites de concentración de cannabinoides y THC, cuales fueron sus preocupaciones principales en esa decisión?

7) Cuando surgió el problema con el sistema bancario internacional, ¿me puede explicar que ocurrió y qué es lo que usted hizo para tratar de resolver ese problema?

Appendix 5.1: List of potential interviewees relevant to marihuana policy debates

List provided by the drug regulator 'gatekeeper' in September 2017

Organisation	Role
International Cannabis Corporation	Marihuana production company
Symbiosis	Marihuana production company
Montevideo Pharmacy Centre	Trade union representative
Montevideo Pharmacy Centre	Trade union representative
Pharmacy in Montevideo	Owner
Frente Amplio	Legislator
Monitor Cannabis	Researcher
Drug Control Board	Civil servant
Proderechos	Advocate
Cannabis Museum	Director
Cannabis Community of Uruguay	Member
Uruguayan Association for Cannabis Studies	Advocate
Cannabis Expo	Organiser
Interdisciplinary Group for Cannabis Studies	Researcher
Interdisciplinary Group for Cannabis Studies	Chemist
Uruguayan Medical Society	Physician
Uruguayan Society of Endocannabinology	Physician
Pharmacy Association of the Interior	Trade union representative
Batar Foundation	Advocate
Hemp Production Company	Owner

Appendix 5.2: Matrices constructed to help guide the selection of potential interviewees

Potential interviewees identified as 'academics'

	Tobacco	Alcohol	Psychiatry	Toxicology	Pharmacology	Cannabinoid medicine	Drug Treatment	Economics
Maintain status quo	X						X	
Neither in favour or against policy reform	X	X	X					
Support state control of market	X	X		X	X	X	X	X

Potential interviewees identified as 'policymakers'

	Politician	Civil Servant
Policy debate	X	X
Policy formulation	X	X
Policy implementation	X	X

Appendix 6.1 Written consent form signed by all interviewees

PhD Project Title: Understanding marihuana policy change in Uruguay: Towards policy coherence?

A PhD project funded by the University of Edinburgh's School of Social and Political Science

Rachel Ann Barry
PhD Candidate, International Public Health Policy
Global Public Health Unit, School of Social and Political Science
University of Edinburgh
Edinburgh, UK, EH8 9YL
Phone: [redacted]
Email: [redacted]

	Please check appropriate box
1. I have read and understand the informed consent sheet and have had the opportunity to discuss potential concerns with the researcher	☐
2. I understand that my participation in the study is voluntary and that I may withdraw at any point in which the research is being carried out	☐
3. I understand the potential risks to my participation in the study and have communicated these to the researcher	☐
4. I agree to take part in this project	☐
5. I agree to audio recording of the interview process	☐
6. I agree to the use of anonymised quotes in the publication of the findings if I am identified by a generic professional title	☐
OR	
I agree to the use of anonymised quotes in the publication of the findings if I cannot be identified	☐
7. I agree to the use of anonymised quotes in the publication of the findings in which my employer may be identifiable	☐
OR	
I agree to the use of anonymised quotes in the publication of the findings if my employer is unidentifiable	☐
8. I agree to verify and comment on interview transcripts and extracts to check for accuracy and anonymity	☐

*Please identify my profession as:

_____

_____	_____	_____
Name of Participant	Date	Signature
_____	_____	_____
Name of Researcher	Date	Signature

Formulario de consentimiento firmado

El título de la investigación doctoral: Análisis del cambio en políticas públicas sobre la marihuana en Uruguay: ¿Hacia la coherencia normativa?

Proyecto de doctorado financiado por la Facultad de Ciencias Sociales y Políticas de la Universidad de Edimburgo

Rachel Ann Barry
PhD Candidate, International Public Health Policy
Global Public Health Unit, School of Social and Political Science
University of Edinburgh
Edinburgh, UK, EH8 9YL
Phone: [redacted]
Email: [redacted]

	Por favor, marque la casilla correspondiente
1. He leído el informe de consentimiento y he tenido la oportunidad de discutir las preocupaciones potenciales con la investigadora principal	☐
2. Entiendo que mi participación en el estudio propuesto es voluntaria y que tengo el derecho de retirarme en cualquier momento en que se esté llevando a cabo la investigación	☐
3. Entiendo los riesgos potenciales relacionados con mi participación en la investigación propuesta y he comunicado mis preocupaciones a la investigadora principal	☐
4. Acepto participar en la investigación propuesta	☐
5. Acepto que la entrevista sea grabada	☐
6. Acepto el uso de textuales anónimas en la publicación de la investigación propuesta si estoy identificado/a con un título profesional genérico	☐
O	
Acepto el uso de textuales anónimas en la publicación de la investigación propuesta si no me pueden identificar	☐
7. Acepto el uso de textuales anónimas en la publicación de la investigación en caso de que mi empleador pueda ser identificable	☐
O	
Acepto el uso de textuales anónimas en la publicación de la investigación en caso de que mi empleador no pueda ser identificable	☐

8. Acepto verificar y comentar las transcripciones de la entrevista y los extractos para verificar su precisión y anonimato ☐

*Por favor identificar mi profesión como:
_____

_____	_____	_____
Nombre del participante Firma		Fecha
_____	_____	_____
Nombre de la investigadora principal Firma		Fecha

Appendix 6.2 Participant information sheet

Dear [*insert participant name*],

Thank you for agreeing to be interviewed as part of the PhD project entitled: Understanding marihuana policy change in Uruguay: Towards policy coherence?

Please take the time to read the following information sheet, which outlines the aims and objectives of the project. If you choose to participate in the study, you will be provided with a physical copy of this information sheet as well as a consent form. Your participation is completely voluntary but requires written and verbal consent, which will be collected through a signed consent form and through verbal communication prior to conducting the interview. At any point while the research is being conducted, you can decide to withdraw from the study, without explanation or penalties.

Participation Request

You have been selected to participate because you are or were identified as a key stakeholder involved in the development of Uruguay's 2013 Regulation of the Marihuana Market Act or Law No. 19.172. This study aims to understand the development and formulation of Law No. 19.127, with particular reference to how Uruguay's marihuana regulation was developed, whether and how knowledge and/or evidence related to unhealthy commodity regulation (i.e. tobacco and alcohol) was used in that process, and if it was developed as part of a coherent approach to regulate unhealthy commodities. I would like to interview you to understand your perspectives on whether and how knowledge and/or evidence was used in the process of policy change and the potential consequences (positive and negative) of these actions.

This investigation is part of a PhD project of the University of Edinburgh. The principle investigator is Rachel Ann Barry, who is being supervised by Professors Jeff Collin, Director of the Global Public Health Unit at the University of Edinburgh, and Katherine Smith, Reader, Global Public Health Unit and Co-Director of SKAPE (the Centre for Science, Knowledge and Policy at Edinburgh) at the University of Edinburgh.

This research is funded by a University of Edinburgh School of Social and Political Science PhD scholarship and has been approved by the Ethics Committee of the School of Social and Political Science.

Interview Process

Your participation will involve taking part in a single semi-structure interview in Spanish with Rachel Barry, in which she will ask you questions related to whether and to what extent knowledge and evidence from other policy spheres was used in the development and formulation of Law no. 19.172. Ms. Barry will be residing in Montevideo between October 2017 and August 2018 and will make best efforts to organise a time and place most convenient for you to conduct the interview.

Rather than following a series of predetermined questions, Ms. Barry is interested in your perspective on the process of marihuana policy change in Uruguay. She will begin

with some general questions, then ask follow-up questions necessary to understand the issues or fill in details. The interview will be "on the record" and will be audio recorded to facilitate the preparation of a transcript of the session to use for document analysis. Audio recordings of the interview will be destroyed after they have been transcribed and the transcripts will be edited to remove any information that can be used to identify you.

Time Commitment

The interview should take approximately one hour to complete and should only include one session. However, it is possible that Ms. Barry may follow-up the initial interview with additional interviews, emails, or other correspondence to clarify specific points and verify that she has removed enough information to protect you identify. Unless you specify otherwise, these communications will be treated under the same ground rules as the initial interview.

Participant's Rights

At any point while the research is being conducted, you can decide to withdraw from the study, without explanation or penalties. If that occurs you are encouraged to request that all data be removed and destroyed.

During the interview process, you have the right to refuse to respond to any question or statement. In instances where you would like to provide information in confidentially you have the right to go "off the record" at any time. If you say anything on the record that you subsequently wish you had not, please inform Ms. Barry so that she can rewind the tape to remove any record of the statement.

Potential Risks

There are no unforeseen risks associated with your participation in the study.

Confidentiality and Anonymity

All participants are offered anonymity for themselves and their organisations to encourage open discussions on the intricacies of these policy debates. All names and organisational affiliations will be removed and participants will be identified using generic professional titles (e.g. policymaker). The sensitive nature of marihuana as an illegal substance in most jurisdictions and the international dimensions of the project suggest that participation by individuals residing outside of Uruguay requires careful consideration around anonymity. While we will do our best to protect the identities of all participants, given the small size of Uruguay, there is risk that your participation in the study may be identifiable through publicly available documents. Please inform Ms. Barry of any potential risks that you foresee for yourself or organisation so that we may discuss these issues with the University of Edinburgh's Ethics Review Board prior to conducting the interview and determine the best course of action.

Additional information

Rachel Barry, Professor Jeff Collin and/or Dr. Katherine Smith are more than willing to answer any questions or concerns you have about the study. Please find their

individual contact information below. Their contact information is provided below. For concerns regarding how the research is being conducted, please contact Professor Collin or Dr. Smith directly.

Rachel Ann Barry	[redacted]	[redacted]
Jeff Collin	[redacted]	[redacted]
Katherine Smith	[redacted]	[redacted]

Thank you very much for your assistance in this research project. Understanding how and why marihuana regulation was developed in Uruguay and uncovering the extent to which ideas, policies and practices from other policy spheres shaped its development is of critical importance. We hope that this research will provide valuable insight on marihuana regulation in Uruguay, as well as inform the academic and professional community generally, on whether and how such change was developed as part of a coherent approach to regulate unhealthy commodities.

Full Contact Details

Rachel Ann Barry
PhD Candidate, International Public Health Policy
Global Public Health Unit, School of Social and Political Science
University of Edinburgh
Edinburgh, UK, EH8 9YL
Phone: [redacted]
Email: [redacted]

Información general para participantes, acerca del estudio a realizar

Estimado/a [*el nombre del participante*],

Gracias por aceptar esta entrevista como parte de la investigación titulada: Análisis del cambio en políticas públicas sobre la marihuana en Uruguay: ¿Hacia la coherencia normativa?

Por favor, tómese usted un momento para leer la siguiente información la cual describe las metas y objetivos de la investigación. Si decide participar en el estudio, se le proporcionara una copia de esta información, así como el formulario de consentimiento. Si bien su participación es voluntaria, es necesario de su consentimiento verbal y escrito, por lo se le dará un formulario de consentimiento para su firma y confirmación verbal antes de empezar la entrevista. En cualquier momento, usted puede decidir retirarse de la entrevista sin necesidad de dar mayor explicación, y sin ninguna consecuencia.

Solicitud de participación

Le invitamos a participar en este estudio sobre el desarrollo de la Ley Nº 19.172 de la Regulación del Mercado de la Marihuana en Uruguay. En términos generales, el objetivo principal del proyecto propuesto es: explorar el proceso por el que se extrajeron enseñanzas de políticas públicas relacionadas (por ejemplo, normativas para el control de tabaco y/o alcohol) y cómo se tradujeron tales lecciones en el proceso de cambio de políticas públicas. Además, se busca entender si la ley fue desarrollada cómo parte de una estrategia coordinada para regular productos no saludables.

Usted ha sido invitado para participar por su experiencia o porque fue identificado como un actor clave en el desarrollo y/o formación de la Ley Nº 19.172. Así me gustaría entrevistarle para entender su perspectiva acerca de cómo se usaron las lecciones en el proceso de cambio de políticas públicas, ahondar en ejemplos de lecciones que no se usaron y las consecuencias potenciales de esas acciones.

La investigación propuesta es parte de un proyecto de doctorado que se lleva a cabo en la Universidad de Edimburgo. Rachel Ann Barry es la investigadora principal, y sus supervisores son el Profesor Jeff Collin, Director de la Unidad de Salud Pública Global en la Universidad de Edimburgo, y la Doctora Katherine Smith, Profesora de la Unidad de Salud Pública Global y Directora del Centro para la Ciencia, el Conocimiento y las Políticas en Edimburgo (SKAPE), también perteneciente a la Universidad de Edimburgo.

La Facultad de Ciencias Sociales y Políticas de La Universidad de Edimburgo proporciona el financiamiento para esta investigación. El Comité de Ética de la Facultad de Ciencias Sociales y Políticas ha aprobado esta investigación.

El procedimiento de entrevista

Su participación implicará tomar parte en una entrevista semi-estructurada en español con Rachel Barry. La entrevista busca conocer su percepción acerca de cómo percibe usted el uso y la incorporación de las lecciones de políticas publica relacionadas en el desarrollo y formación de la Ley Nº 19.172. La Sra. Barry estará viviendo en

Montevideo entre octubre 2017 y febrero 2018, y va a concertar un lugar y día conveniente para usted para llevar a cabo la entrevista.

La información obtenida en las entrevistas va a formar parte del estudio de caso sobre el papel de los individuos y las organizaciones, las razones por las que participaron en el proceso de cambio de política pública, las posiciones que sostuvieron en los debates políticos, y los factores institucionales que influyeron sus decisiones políticas y los resultados políticos.

En lugar de seguir un conjunto de preguntas predeterminadas, la Sra. Barry está interesada en su perspectiva sobre el proceso de cambio de política pública de marihuana en Uruguay. Por tal motivo, ella empezará con preguntas generales, y luego seguirá con preguntas más específicas para entender las cuestiones centrales y ahondar en las peculiaridades. La entrevista constará en el registro del estudio y será grabada para facilitar su transcripción la cual se utilizará posteriormente en el análisis de documentos. Las grabaciones de la entrevista serán borradas después de ser transcritas. Asimismo, ella editará las transcripciones para eliminar cualquier información que pudiera utilizarse para identificarle.

Duración de la entrevista

No se espera que la entrevista dure más de una hora, ni que haya necesidad de más de una entrevista. Sin embargo, es posible que la Sra. Barry pueda contactarle por correo electrónico o teléfono después de la entrevista inicial con preguntas adicionales para clarificar puntos específicos, y para verificar que ha eliminado información suficiente para proteger su identidad. A menos que especifique lo contrario, estas comunicaciones serán tratadas bajo las mismas reglas básicas que la entrevista inicial.

Derechos del participante

En cualquier punto mientras que se realiza la investigación, usted puede decidir retirarse del estudio, sin necesidad de mayor explicación y sin ninguna consecuencia. Si esto ocurre, se le anima a solicitar que todos los datos recabados sean eliminados y destruidos.

Durante la entrevista, usted tiene el derecho de negarse a responder a cualquier pregunta. Si le gustaría que la información fuera considerada como confidencial, usted tiene el derecho de "salir el registro" en cualquier momento. Si llega a decir algo que posteriormente desearía no haber dicho, por favor informe a la Sra. Barry para que pueda eliminar cualquier registro de la declaración.

Riesgos potenciales

No se esperan riesgos asociados con su participación en el estudio.

Confidencialidad y anonimato

A todos los participantes se les ofrece el anonimato para ellos y sus organizaciones, con el fin de fomentar discusiones libres sobre las complejidades de estos debates políticos. Eliminamos todos los nombres y las afiliaciones organizacionales de las transcripciones. Los participantes han sido identificados con un título profesional genérico, es decir

'investigador/a'. El hecho de que la marihuana es una sustancia ilegal en la mayoría de las jurisdicciones en el mundo sugiere que los participantes fuera de Uruguay pudieran necesitar medidas adicionales para proteger su identidad. Sin embargo, es necesario mencionar que, aunque haremos todo lo posible para proteger las identidades de todos los participantes, dado tamaño de Uruguay existe el riesgo de que su participación en el estudio pueda ser identificable a través de documentos públicamente disponibles. Por favor, informe a la Sra. Barry de cualquier riesgo potencial que usted pudiera anticipar para usted o su organización, y de esa forma podamos discutir estos temas con la Junta de Revisión Ética de la Universidad de Edimburgo antes de llevar a cabo la entrevista y determinar el mejor curso de acción.

Información de contacto

La Sra. Barry, el Profesor. Jeff Collin y la Dra. Katherine Smith están disponibles para contestar todas las preguntas y dudas que usted pudiera tener sobre la investigación. Por favor véase la información de contacto debajo de esta sección. Si tiene inquietudes sobre cómo se está llevando a cabo la investigación, comuníquese directamente con el Profesor Collin o con la Dra. Smith.

Rachel Ann Barry	[redacted]	[redacted]
Jeff Collin	[redacted]	[redacted]
Katherine Smith	[redacted]	[redacted]

Le agradecemos su valiosa colaboración en la investigación propuesta. Es de vital importancia entender cómo y por qué se desarrolló la regulación de la marihuana en Uruguay y descubrir las bases de conocimiento y/o evidencia relacionadas con otros productos no saludables (por ejemplo, las normativas para controlar el tabaco y/o el alcohol) en las que se basa este cambio.

Esperamos que la investigación pueda dar una valiosa retroalimentación sobre el proceso de cambio de políticas públicas de marihuana en Uruguay, así como proporcionar información a la comunidad académica y profesional en general, sobre el desarrollo de este proceso.

Detalles completos del contacto

Rachel Ann Barry
PhD Candidate, International Public Health Policy
Global Public Health Unit, School of Social and Political Science
University of Edinburgh
Edinburgh, UK, EH8 9YL
Phone: [redacted]
Email: [redacted]

Appendix 6.3: Email template adapted for different types of interviewees

Subject: PhD project about the development of marihuana regulation or Law No. 19.172

Dear [*name*]:

My name is Rachel Barry and I am a PhD researcher at the University of Edinburgh (you can view my professional profile at this link: http://www.socialpolicy.ed.ac.uk/people/phd_students/rachel_barry. For my PhD investigation, I am analysing the development of Uruguay's Marihuana Regulation Act or Law No. 19.172. In general terms, the principal objective of the project is to explore the process by which ideas or policies were drawn on from the regulation of other substances (for example, frameworks for tobacco and/or alcohol control) and how such ideas were translated in the process of policy change. Furthermore, the project seeks to understand the extent to which the project was developed as part of a consistent strategy to regulate unhealthy commodities.

I will be in Montevideo for several months (between 16 October 2017 until mid-2018) interviewing key actors that influenced the development of marihuana regulation between 2005 and 2017. I was informed by someone involved in this process that I should get in touch with you because you had a key role in this process. I have attached the general information about the study for participants to this email.

If you require more information about the project, please do not hesitate to contact me.

Kind regards,

Rachel

Sujeto: Proyecto doctoral sobre el desarrollo de Ley No. 19.172 de la regulación de la marihuana

Estimado [*nombre*]:

Me llamo Rachel Barry y soy una investigadora doctoral en la Universidad de Edimburgo (se puede ver mi perfil profesional aquí: http://www.socialpolicy.ed.ac.uk/people/phd_students/rachel_barry) . Para mi investigación doctoral, estoy analizando el desarrollo de la Ley Nº 19.172 de la Regulación del Mercado de la Marihuana en Uruguay. En términos generales, el objetivo principal del proyecto es: explorar el proceso por el que se extrajeron ideas y evidencia de políticas públicas relacionadas (por ejemplo, normativas para el control de tabaco y/o alcohol) y cómo se tradujeron tales ideas en el proceso de cambio de políticas públicas. Además, se busca entender si la ley fue desarrollada cómo parte de una estrategia coordinada para regular productos no saludables.

Voy a estar en Montevideo por unos meses (entre 16 octubre 2017 hasta la mitad del año de 2018) entrevistando a los actores claves que influyeron el desarrollo de la ley entre los años 2005-2017. Una persona clave a ese proceso recomendó que me pusiera en contacto con usted porque tuvo un papel clave en este proceso. He adjuntado una hoja que tiene información general para participantes, acerca del estudio a realizar.

Si necesita más información sobre el proyecto, por favor no dude en preguntar.

Sin otro particular, saludo a Ud. muy atentamente. Espero su respuesta.

Rachel