**A Generational Ban creates Inequality between *Non*-smokers**

Johannes Kniess argues that a generational smoking ban, which prevents all those born after a certain date from buying tobacco, need not violate relational egalitarian commitments.[1] Those denied the freedom to smoke need not be regarded as inferior, discriminated against, stigmatised, or have their interests neglected. However, his argument focuses on a comparison between the younger cohort, who are permanently denied the freedom to smoke, and existing smokers, who retain the freedom to smoke because withdrawing this would impose greater burdens on them.

As illustrated in Table 1, there are *three* relevant groups in society: (1) older smokers, (2) older non-smokers, and (3) younger non-smokers. (The ban, if effective, means that there will not be any smokers in the younger cohort, so the potential fourth category is empty.) The comparisons Kniess makes focus on groups 1 and 3, but neglect group 2: those who are old enough to smoke, but who are not already smokers.

Table 1: Groups in society.

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| --- | --- | --- |
|  | Those who are already smokers | Those who are not already smokers |
| Those born before the ban | 1. Older smokers | 2. Older non-smokers |
| Those born after the ban | 4. Younger smokers  (an empty category) | 3. Younger non-smokers |

A generational ban involves differential treatment of older cohorts (groups 1 and 2) and younger cohorts (group 3). Kniess argues that such differential treatment can be justified when groups have different interests. However, the difference of interests here is between smokers (group 1) and non-smokers (groups 2 and 3), not between young and old. Therefore, it is not obvious that this difference of interests can justify the difference in treatment between generations. There seem to be potentially problematic inequalities between groups 1 and 2 (who have different interests but are treated the same) and between groups 2 and 3 (who have the same interests but are treated differently).

Let us focus on group 2, the older non-smokers. Under these proposals, they will retain the freedom to smoke that is denied to younger cohorts (group 3). But there is no obvious reason why they should retain this freedom. To be sure, taking this away would be a case of withdrawing (rather than merely withholding) freedom.[2] However, withdrawing the freedom to smoke from non-smokers would not impose the same burdens as withdrawing it from smokers. Smoking is not generally part of the identity or long-term plans of non-smokers. Therefore, there seems little reason to exempt non-smokers from the ban, simply because of when they were born. If there is justification for differential treatment, it should be based on whether one is already a smoker or not.

Suppose that it is justifiable to deny younger people the freedom to start smoking. In that case, there seems no *principled* reason to allow an older non-smoker the freedom to start smoking either. If older non-smokers are allowed this freedom, while younger generations are not, then this creates an unjustified inequality between the two groups of non-smokers. While this need not involve stigmatising either group, it could involve unequal recognition of their interests.

Kniess argues that a ban on smoking is likely to be in the interests of the younger cohort. However, he rejects the suggestion that the ban should be extended to everyone, since it would not be in the interests of existing smokers. But, again, his discussion of the older cohort focuses on those who are already smokers and neglects those who are not smokers.

If a tobacco ban is in the interests of non-smokers, this presumably includes older non-smokers, as well as younger ones. As New Zealand’s former Associate Health Minister, Ayesha Verrall, observed, there is no safe time to start smoking.[3, p.1930] Therefore, this older group seem to have a complaint that the generational smoking ban fails to recognise their interest in not smoking. This seems unfair, even if (as Kniess argues) there is justification for exempting existing smokers from the ban.

Of course, there might be *practical* reasons to discriminate on the basis of age, rather than whether one is an existing smoker. It might be difficult to distinguish between smokers and non-smokers in the older cohort. And, while one might try giving the former but not the latter some kind of licence to smoke, this might be costly and difficult to administer. Such a scheme might also be objectionable on other grounds, for instance it could be stigmatising.

These reasons of practicality might justify a policy that discriminates on the basis of age, rather than whether one is a smoker. However, this does not change the fact that such a generational ban creates inequality between two groups of non-smokers. The relevant difference of interests, which is supposed to justify differential treatment, is not between the younger and the older, but between those who are and are not already smokers. However, the generational ban, in effect, treats all of the older generations as if they were already smokers. This generates inequalities involving older non-smokers.

This argument is not intended as an objection to a generational ban. According to an old proverb, ‘the best time to plant a tree is twenty years ago; the second-best time is now.’[4, p. 2350] Maybe something similar is true of tobacco bans. Had smoking been banned long ago, we would now have an equal and smoke-free society. Since this is not the case, it might be that the next best option is to introduce a ban now, to bring about such a society in the future. However, the transition from a smoking society to a smoke-free society may involve some generational inequality in the meantime.

**References**

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[4] Brancalion PHS, Holl KD. Guidance for successful tree planting initiatives. *J Appl Ecol* 2020;57:2349—2361.