

TOBACCO CONTROL AND PREVENTION IN INDIA: A REVIEW

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ABSTRACT:

Tobacco was introduced into India by Portuguese traders during AD 1600. Its use and production proliferated to such a great extent that today India is the second largest producer of tobacco in the world. During the past few decades, India has been in forefront For controlling the anti tobacco campaign. This article attempts a critical appraisal of the various tobacco control laws and its implication in India

Keywords: Tobacco, COTPA ACT , Tobacco legislation



INTRODUCTION:

The history of tobacco is entrenched into the human civilization almost since its origin and dates back to a few thousand years. This agricultural product was then perceived with a mythical notion and predominantly used as an entheogen (substance that causes one to experience feelings of inspiration, often in a “spiritual” manner) by the Native Americans.⁽¹⁾

Tobacco was introduced into India by Portuguese traders during AD 1600. Its use and production proliferated to such a great extent that today India is the second largest producer of tobacco in the world.^(2, 3) Soon after its introduction, it became a valuable commodity of barter trade in India. Trade expanded and tobacco spread rapidly along the Portuguese trade routes in the East, via Africa to India, Malaysia, Japan and China. During this period the habit of smoking spread across several South Asian

countries. Virtually every household in the Portuguese colonies took up the newly introduced habits of smoking and chewing tobacco. Cochin and Goa, on the West Coast of India, and Machilipatnam along the East Coast, were the main ports for Portuguese trade.⁽⁴⁾

Tobacco was first introduced in the kingdom of Adil Shahi, the capital city of Bijapur, presently in Karnataka in south India, along the trading route of the Portuguese. Asad Beg, ambassador of the Mughal Emperor Akbar, visited Bijapur during 1604.1605 and took back large quantities of tobacco from Bijapur to the Mughal Kingdom in the north and presented some to Akbar along with jewel-encrusted European-style pipes

Its note worthy that within twelve years of introduction of tobacco to India , Jahangir, son of akbar noticed the ill effects of tobacco and took measures to prohibit the

same. In 1617, he passed orders against tobacco smoking. Historians believe that Jahangir explicitly issued prohibitory orders against smoking, however not strict on banning the cultivation of the same because it had been a source of commodity for export and the cultivation became extensive. By the middle of the 17 century, tobacco usage became more extensive. Virtually, every household in the Portuguese colony took up the new fashion of smoking or chewing tobacco. Later on, the British introduced modern commercially produced cigarettes.

Mahatma Gandhi spoke about the ill effects of tobacco. 1947, India attained freedom and in the first draft of the constitution, article 47 says "state shall endeavour to bring about the prohibition of the consumption except for medicinal purpose, or intoxicating drinks and drugs which are injurious to health." (4)

The 52nd National Sample Survey conducted by the National Sample Survey Organization⁷ in 1995-96 was the first nationally representative household survey to collect data on tobacco consumption in population, 10 years and older, using surrogate household informants. The prevalence rates of consumption of tobacco in any form were found to be 51.3% for men and 10.35% for women, 15 years and older⁸. The study provided an insight into the socioeconomic, cultural and demographic correlates of tobacco consumption.⁽⁵⁾

Modern tobacco legislation: Tobacco use has not been considered as a good habit by many societies, right from its introduction

in 16th century. Availability of irrefutable scientific evidence on its health hazards from well-conducted cohort and case-control studies during 1950s supported the pleas for tobacco control. However, the anti-tobacco movement acquired a global nature after the publication of the official reports on the subject by the Royal College of Physicians and the US Surgeon General. Subsequently, thousands of scientific investigations have confirmed the association of smoking with various diseases, and have provided additional evidence implicating cigarette smoking as a cause of coronary artery disease, stroke, obstructive airway disease, peripheral vascular disease, pregnancy complications including intra-uterine growth retardation and a variety of neoplasms including cancers of oral cavity, larynx, oesophagus, urinary bladder, kidney, stomach, pancreas, cervix and more recently of haematopoietic system.⁽⁶⁾

Pro-tobacco legislation dates back to 1975 with the Tobacco Board Act, introduced to develop the tobacco industry. It facilitated the regulation of production and curing of tobacco, fixed minimum prices, and provided subsidies to tobacco growers; the objective was to develop the Indian tobacco market and make the industry export competitive. Similarly, the Tobacco Cess Act of 1975 was enacted to collect duty on tobacco for the development of the tobacco industry. Anti-tobacco advocates have criticized these Acts because they nurtured the tobacco industry through subsidies and loose export policies.

India's first national level anti-tobacco legislation was the single-faceted Cigarettes Act of 1975, which mandated health warnings on cigarette packets and on cigarette advertisements. This Act prescribed all packages to carry the warning "Cigarette smoking is injurious to health" in the same language used in the branding on the package. The text was to be a minimum of 3 mm in height, irrespective of the dimensions of the surface on which it appeared or of the dimensions of the brand name. While this Act was a major step in tobacco control, it did not apply to non-cigarette tobacco products.⁽⁷⁾

In the years following the Cigarettes Act of 1975, there were a number of other single-faceted national attempts at controlling tobacco use. For instance, in statutes dealing with the preservation of the environment,

- The Prevention and Control of Pollution Act of 1981 included smoking in the definition of air pollution.
- The Motor Vehicles Act of 1988 made it illegal to smoke or spit in a public vehicle.
- In 1990, the Central Government issued an Executive Order prohibiting smoking in select enclosed public places where large numbers of people could be expected to be present over long periods of time. These places included educational institutions, conference halls, planes, trains, and buses, and each location was

required to display bill boards indicating that smoking was strictly prohibited. No ashtrays were allowed in these places and the sale of cigarettes was banned here.

- In December 1991, the Central Government amended the Cinematograph Act, 1952, to ban scenes that endorse or promote the consumption of tobacco in any form.
- In 1992, the Central Government amended the Drugs and Cosmetics Act, 1940, and thereby banned the manufacture and use of toothpastes and toothpowders containing tobacco.
- In September 2000, amendments to the Cable Television Networks (Regulation) Act, 1994, banned any direct or indirect advertisements related to the use or trade of tobacco on cable television, and introduced penalties of imprisonment or fines for offenders.
- Finally, the Cable Television Networks Amendment Act of 2000 prohibited the transmission of tobacco, liquor, and baby food commercials on cable television across the country
- On World No Tobacco Day 2005, the Ministry of Health announced that the depiction of any form of tobacco use in films and television serials would be banned. The notification also stated that Indian films made

before that date, along with foreign films exhibited in India, would have to incorporate scrolled health warnings in scenes where tobacco use was shown. The ban was due to be brought into effect from August 1, 2005; however, opposition from the media and film industries led to consultation with the Ministry of Information and Broadcasting and delayed implementation until October 2, 2005⁽⁸⁾

Many state-level governments in India have imposed different types of tobacco control legislation. The Delhi government was the first to impose a ban on smoking in public places, with the Delhi Prohibition of Smoking and Non-smokers Health Protection Act of 1996. In addition to prohibiting the sale of cigarettes to minors and prohibiting sale 100 m from a school building, this law allowed for enforcement in public places and public transport by the police and medical professionals. A first time offender is fined 100 *rupees* (US\$ 2.40) and briefed by the police or medical officer about the law and the negative health consequences of tobacco use. As expected, it has been difficult to enforce this ambitious programme, and it has probably had little real impact — the key problem being lack of manpower to enforce the law.

Other states too have enacted bans on public smoking. Between 1997 and 2001, several litigations e.g K Ramakrishnan and Anr. Vs State of Kerala and others (AIR 1999 Ker 385) and Murli Deora vs Union of India (2001 8 SCC 765) were filed for individual's right to smoke-free air and five states

responding with smoke-free and tobacco control legislations, clearly gave the signal for the Government of India to propose a comprehensive law for tobacco control. Intense lobby from pro-tobacco groups the final legislation was a diluted version of the original bill, but did maintain an important provision that banned smoking in public places. Spitting of residues from chewing tobacco in public places was also prohibited by the legislation. The states of Tamil Nadu and Andhra Pradesh have banned the marketing and sales of guthka.

In February 2001, Indian Prime Minister Vajpayee's Union Cabinet introduced the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Bill, a multifaceted anti-tobacco legislation to replace the Cigarettes Act of 1975 (30). Smoking in public places would be outlawed, the sale of tobacco to persons below 18 years of age would be prohibited, and tobacco packages would be required to have warnings the same size as that of the largest text in English or the local language. The proposed national Bill would prohibit tobacco companies from advertising and sponsoring sports and cultural events. Significantly, this Bill covers most tobacco products including not only cigarettes, but also cigars, bidis, cheroots, cigarette tobacco, pipe tobacco, hookah tobacco, chewing tobacco, pan masala, and guthka.

India and FCTC

In response to the globalization of the tobacco epidemic, the World Health Organization (WHO) led the negotiation of

the Framework Convention on Tobacco Control (FCTC), the world's first public health treaty. The FCTC was unanimously adopted by the World Health Assembly in May 2003 and India, acknowledging the undisputed peril of tobacco in the country, signed the FCTC on September 10, 2003 and ratified it on February 4, 2004.

Efforts to control tobacco use in India antedate its ratification of the FCTC. That experience is relevant to identifying potential obstacles as India implements the FCTC. Early efforts date to 1975 with the 'Cigarettes (Regulation of Production, Supply and Distribution) Act'. This legislation placed health warnings on cigarettes alone and was consequently largely ineffective. Over the following 30 years, the Indian legislature passed a series of bills that added little to the tobacco control arsenal. It was not until 2003 with the 'Cigarettes and Other Tobacco Products Act' that India took a more aggressive stance in tobacco control. The bill offered comprehensive legislation for all tobacco products, developed after expert consultants identified tobacco as a "demerit commodity" in India. Despite this advance, implementation was a struggle. The law called for the community to be aware of what defined violations, and it necessitated the presence of a regulatory agency to monitor and enforce the legislation. Although the bill called for

graphic warnings, these were not implemented until 2009 after many delays and following an order of the Indian Supreme Court. However, litigation continues.

The WHO Framework Convention on Tobacco Control (FCTC) was a response to the global tobacco epidemic. It is an all-powerful global instrument that contains binding provisions on member countries. The FCTC provided a comprehensive direction for tobacco control at all levels and has become one of the most widely ratified treaties, covering more than 87.8% of the world's population with 175 countries as signatories. It focuses on both demand reduction strategies and supply side issues, including regulation of trade and commerce (WHO FCTC, 2003). To counter the pandemic of tobacco, even before and parallel to the FCTC, the government of India notified a comprehensive tobacco control legislation titled "The Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act in 2003. Though the national law came into force on May 1, 2004 and the Treaty obligations became effective from February 27, 2005. COTPA like FCTC gives priority to protection of public health and requires effective steps for its implementation to meet different objectives⁽⁹⁾

Fctc and cotpa – an analysis⁽¹⁰⁾

Focus area	FCTC	PROVISION IN COTPA
Lobbying	ARTICLE 5.3 requires Parties to protect their public health policies from commercial and other vested interests of the tobacco industry.	

Demand reduction	ARTICLE 6 encourages — while taking account of national health objectives related to tobacco control — price and tax measures to reduce the demand for tobacco, which may include prohibiting or restricting sales to or importations of duty-free tobacco products.	The price and tax measures in india are governd by the finance act, i.e the union budget. There has been an increase in the price and taxes on tobacco with a particular focus on cigarattes.
Passive smoking	ARTICLE 8 requires Parties to adopt effective national legislation, and actively promote effective sub-national legislation (where possible), that requires 100% smoke-free environments in all indoor public places, indoor workplaces, on all means of public transport, and, as appropriate, other public places.	The section 4 of cotpa prescribes that no person shall smoke in any public place. The governemtn of india also passed rules for effective realization of the objectives of smoke free environements as stipulated under the law
Regulation	ARTICLE 9 and ARTICLE 10 require Parties to regulate the contents and emissions of tobacco products, tobacco product disclosures, and the methods by which they are tested and measured.	
Packaging and labeling	ARTICLE 11 requires Parties, within three years after entry into force of the FCTC for that Party, to adopt and implement effective measures to: 1) prohibit misleading tobacco packaging and labeling; 2) ensure that tobacco product packages carry large, clear, rotating health warnings and messages that cover 50% or more, but not less than 30%, of principal display areas and that are in the Parties' principal language(s); and 3) ensure that that packages contain prescribed information on the tobacco products' constituents and emissions.	COTPA section 7, 8, 9 COTPA stipulates prominent health warnings including pictorial messages. The rules notified on March 15, 2008 prescribe that the tobacco products sold in India shall display one of the three (two for smoking and one for chewing or smokeless forms) pictorial health warning message. The warning covers 40% of the front panel of the principal display area with additional health information printed on the pack. These warnings are in place since May 31, 2009.
	ARTICLE 12 provides for education, communication, training, and public awareness measures	
Tobacco advertising	Article 13 The Convention obligates its Parties to implement, within five years, a comprehensive ban on tobacco	COTPA SECTION 5 The Indian law prescribes for a complete ban on all forms of tobacco advertisements,

	<p>advertisement, promotion and sponsorship including cross-border advertising. It also requires depiction of health warnings on all permitted advertising and disclosure of such expenditure by the tobacco industry on advertising, which may be made available for general information of the public.</p>	<p>promotions and sponsorships. However, in and on pack advertisements and point of sale (POS) advertisements are still permitted - with some restrictions.</p>
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The National Tobacco Control Program (NTCP)

The NTCP in India was conceived keeping in view the provisions under Cigarettes and Other Tobacco Products Act, 2003 and the spirit of WHO FCTC, by bringing together appropriate and effective tobacco control strategies. The main objective was to bring about greater awareness regarding harmful effects of tobacco, and institute a regulatory mechanism including laboratory facility, effective monitoring and implementation of anti-tobacco initiatives at state/district level.

The program was launched at the beginning of the 11th 5 years plan in 2007-2008 in 9 states and 18 districts. At present, the program is under implementation in 21 states/union territories in the country. The implementation of NTCP was a major leap forward for India. For the first time

dedicated funds were made available to implement tobacco control strategies at the central, state and sub state level. ⁽³⁾

CONCLUSION

In view of tobacco control being a major public health challenge in India, the Government has enacted and implemented various tobacco control policies at national and sub national level. The states have implemented the tobacco control policies and programmes with a mixture of

levels of success. efficient tobacco control is dependent on balanced implementation of demand and supply reduction strategies by the Government and intersectoral coordination involving stakeholder departments and ministries. The implementation of the Government

policies, synergized with tobacco control initiatives by the civil society and community are pivotal in reducing prevalence of tobacco use in the country.

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