

## Review Article

# Overview on Cigarettes and Other Tobacco Products Act and its implementation: current update

Dhwanit Thakore<sup>1\*</sup>, Mahesh Chavda<sup>2</sup>, Girish Parmar<sup>3</sup>, Tejal Sheth<sup>4</sup>

<sup>1</sup>PhD Scholar, Gujarat University, Gujarat, India

<sup>2</sup>Department of Periodontology, Government Dental College, Ahmedabad, Gujarat, India

<sup>3</sup>Department of Conservative Dentistry and Endodontics, Government Dental College, Ahmedabad, Gujarat, India

<sup>4</sup>Department of Periodontology, Ahmedabad Dental College and Hospital, Gandhinagar, Gujarat, India

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### \*Correspondence:

Dr. Dhwanit Thakore,

E-mail: [dhwanit.thakore@gmail.com](mailto:dhwanit.thakore@gmail.com)

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## ABSTRACT

Tobacco use- a major public health issue in India has an enormous effect on the lower SES population. . There is an evident link between tobacco use or consumption and poverty. The widespread use of almost all forms of tobacco among the Indian population can be attributed to the social and cultural acceptance in the country. Cigarette and Other Tobacco Products Act, 2003 (COTPA) is the legislation that regulates tobacco in India. The prime objective of this review is to compile the literature with information about the laws regulating tobacco use and the status of implementation of tobacco control provisions covered under COTPA. Since effective tobacco control measures involve multi-stakeholders i.e public health, law, trade and commerce, industry, consumer, human rights and child development, coordinated efforts are required to successful enforcement. The outcome of the current literature is bridging the gaps to make the tobacco control a very important public health goal and thereby protect the population from the consequent morbidity and mortality due to tobacco use.

**Keywords:** COTPA, Tobacco control laws, Tobacco control policies

## INTRODUCTION

Tobacco use- a major public health issue in India has an enormous effect on the lower Socio-Economic Status (SES) population. The widespread use of tobacco among the Indian population can be attributed to the social and cultural acceptance in the country. Also the dual use of tobacco i.e. both the smoking and smokeless forms are prevalent among the poor. There is an evident link between tobacco use or consumption and poverty. In our country where socio-economic and health inequalities are extensive, the vicious cycle between tobacco consumption among the poor and exacerbation of poverty due to tobacco consumption expenses and tobacco related diseases need to be disrupted.

The Government of India needs to make an active breakthrough by effective implementation of tobacco control laws and policies laid down to fulfil its commitments to meet the goals 2030 agenda of Sustainability Development Goal of poverty reduction and good health.<sup>1</sup> It is essential to assess the magnitude of tobacco use prevalence and evaluate the governing policies to accomplish the targeted intervention. The article highlights the review on available scientific literature on tobacco use in India and the tobacco control laws and policies in India.

Tobacco use is not restricted to individual's behaviour but is a multifaceted process contributed by a varied range of factors such as social, environmental, psychological and

the genetic factors which are linked to the tobacco use.<sup>2</sup> Tobacco control laws in India had started implemented since 1975, when the Cigarettes Act, 1975 was formed. However, the act had major limitations as it did not have any inclusion of Smoke-less Tobacco (SLT) products. Also the drafting of the act had lack of detailed description regarding marketing, monitoring and development of tobacco industry. Hence, in the year 2003, The Cigarettes and Other Tobacco Products Act (COTPA) was passed which has more comprehensive description on controlling tobacco use. The determinants associated with SLT consumption include gender, wealth index (inverse association) and association with scheduled tribe.<sup>3</sup> Other factors are parental use, peer usage, subjection to advertisements and furtherance of SLT. Lack of understanding of health hazards also contributes to higher SLT use risk. Awareness of SLT harms is higher in men, younger people, students, individuals with higher level of education and urban residence.<sup>4</sup>

### ***Timeline of tobacco control laws in India***

India has always played a leadership role in tobacco control on global platform. India became a party to the WHO Framework Convention on Tobacco Control on February 27th, 2005. With the growing evidence of harmful and hazardous effects of tobacco, the Government of India enacted various legislations and comprehensive tobacco control measures.<sup>5</sup>

The fight against Tobacco by the Government of India was initiated on 16th August 1975 by implementation of Cigarettes Act (Regulation of Production, Supply, and Distribution); an act to provide for certain restrictions in relation to trade and commerce in, and production, supply and distribution of, cigarettes with “specified warning”, the following warning namely, “Cigarette smoking is injurious to health.”<sup>6</sup> Through establishment of this law, tobacco smoking was prohibited in all health care establishments, educational institutions, and domestic flights, air-conditioned coaches in trains, suburban trains and air-conditioned buses. The failure to provide with clear guidelines and lack of awareness of the citizens to their right to smoke-free air, the effective implementation remained futile.

The Railways Act, 1989 (3rd June, 1989) was implemented to regulate smoking on trains. It prohibited smoking if objected by another passenger and conferred authority on the railway administration to prohibit smoking in any train or a part of a train.<sup>7</sup>

Under the Prevention of Food Adulteration Act (PFA) (Amendment) 1990, statutory warnings regarding harmful health effects were made mandatory for paan masala and chewing tobacco.<sup>8</sup>

Ministry of Information Broadcasting Notification S.O. 836(E), Section 5B(2) Cinematograph Guidelines 1991,

December 6th issued pursuant to Section 5B(2) of the Cinematograph Act of 1952, the Guidelines required the Central Board of Film Certification to ensure that “scenes tending to encourage or glamorize consumption of tobacco or “smoking” do not appear in movies.<sup>9</sup>

The Cable Television Networks (Amendment) Act 2000 prohibited tobacco advertising in state-controlled electronic media and publications including cable television.<sup>10</sup> Under the Chairmanship of Shri Amal Datta, the 22nd Committee on Subordinate Legislation in November 1995 recommended to the Ministry of Health to enact legislation to protect non-smokers from second-hand smoke.<sup>11</sup> In addition, the committee recommended stronger warnings for tobacco users, stricter regulation of the electronic media and creating mass awareness programmes to warn people about the harms of tobacco. In a way, this Committee’s recommendation laid the foundation of developing the existing tobacco control legislation in the country.

Ministry of Health and Family Welfare: 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 legislation, clearly gave the signal for the Government of India to propose a comprehensive law for tobacco control.<sup>12</sup>

The Government enacted the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply, and Distribution) Act (COTPA), in 2003.<sup>13</sup> The provisions under the act included: prohibition of smoking in public places, prohibition of advertisements of tobacco products, prohibition on the sale of tobacco products to and by minors (persons below 18 years), ban on the sale of tobacco products within 100 yards of all educational institutions, mandatory display of pictorial health warnings on tobacco products packages, mandatory testing all tobacco products for their tar and nicotine content.

In 2004, the Government ratified the WHO Framework Convention on Tobacco Control (WHO FCTC), which enlists key strategies for reduction in demand and reduction in the supply of tobacco.<sup>14</sup> Some of the demand reduction strategies include price and tax measures and non-price measures (statutory warnings, comprehensive ban on advertisements, promotion, and sponsorship, tobacco product regulation etc). The supply reduction strategies include combating illicit trade, providing alternative livelihood to tobacco farmers and workers and regulating sale to and by minors. India has been at the forefront of negotiations under various Working Groups of the WHO FCTC and also played a leadership role in bringing region-specific issues e.g smokeless tobacco to global attention. India has actively contributed to the

drafting of guidelines as a member of the Inter-Government Negotiating Body (INB) to curb the illicit trade of tobacco products. India provided a valuable contribution to the development of guidelines for Article 9 and 10, 12, 13, 14, 17 and 18 of WHO FCTC.

Ministry of Health and Family Welfare Notification G.S.R. 345(E), 2005 COTPA amendment 2005 amends and adds definition of “indirect advertising”.<sup>15</sup>

Food Safety and Standards Act 2006 is momentous as it authorizes the Commissioner of Food Safety to prohibit the manufacture, storage, distribution or sale of smokeless tobacco.<sup>16</sup>

Ministry of Health and Family Welfare Notification G.S.R. 417(E), 2008 COTPA amendment<sup>17</sup> announces Prohibition of Smoking in Public Places Rules that imposes duties on owners, managers to ensure that smoke free policies are followed, ensure specific “smoking areas” in hotels, restaurants and airports, authorize officers to collect fines on violation of these smoke free rules.

Ministry of Health and Family Welfare Notification G.S.R. 693(E), 2008 COTPA amendment states that packaging should contain health warnings in substitute language on retail packaging and warnings to be printed on external packaging such as cartons too.<sup>18</sup>

Cable Television Networks (Amendment) Rules G.S.R. 138 (E) 2009, prohibits indirect advertisement and brand stretching such as surrogate advertising under certain circumstances.<sup>19</sup>

Ministry of Health and Family Welfare Notification G.S.R. 680 (E), Prohibition of Smoking in Public Rules 2009 amendment adds list of additional persons authorized to collect fines for the violation of specified smoke free rules.<sup>20</sup>

Ministry of Health and Family Welfare Notification G.S.R. 985 (E), 2010 COTPA amendment contains substitute language on the issue of rotation, requiring to rotate health warnings every 24 months instead of 1 year. Also, the health warning should ensure that pictures of X-ray and diseased lungs should be continued to be displayed on the smoked tobacco package and picture of scorpion continues to be displayed on smokeless tobacco products.<sup>21</sup>

Food Safety and Standards (Prohibition and Restrictions on Sales) Regulations 2011 prohibited tobacco and nicotine from being used in any food products. Judicial system of many states have imposed ban on manufacture, distribution and sale of “gutkha” or “pan masala” following this Act.<sup>22</sup>

Ministry of Health and Family Welfare Notification G.S.R. 786 (E), 2011 COTPA amendment established

rules for television and films including prohibition on tobacco product placement and requirement of health warnings when tobacco products or their use are displayed.<sup>23</sup> For print and outdoor media, this amendment required cropping or masking brand names and logos of tobacco products.

Ministry of Health and Family Welfare Notification G.S.R. 739 (E), 2015 COTPA amendment established April 1, 2016 as implementation date of October 2014 health warning rules that stated that new health warnings should cover 85% of the front and back of tobacco product packaging.<sup>24</sup>

Ministry of Health and Family Welfare Notification G.S.R. 500 (E), 2017 announces the Prohibition in Public Places Rules amendment prohibiting servicing in any smoking area and requiring signage with health warnings.<sup>25</sup>

Ministry of Health and Family Welfare Advisory on Electronic Nicotine Delivery Systems (ENDS) including e-Cigarettes, Heat-Not-Burn devices, Vape, e-Sheesha, e-Nicotine Flavoured Hookah and the like products issued to states and union territories that these products should not be sold (including online sale), manufactured, distributed, traded or advertised in their jurisdiction.<sup>26</sup>

Ministry of Health and Family Welfare Notification G.S.R. 331 (E), 2018 COTPA amendment stated that the new health warning should also include a quit line phone number.<sup>27</sup>

The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, distribution, Storage and Advertisement) Act 2019 bans sale and advertising of e-cigarettes and e-cigarette components.<sup>28</sup>

## DISCUSSION

The Indian law for Tobacco Control gives priority to protection of public health and requires effective steps for its implementation to meet the different objectives. According to Global Adult Tobacco Survey (GATS), from GATS-1 (2009-2010) to Gats-2 (2016-2017), the prevalence of tobacco use has reduced by six percentage points. The number of tobacco users has reduced by about 81 lakhs. Moreover, As a part of successful implementation of COTPA laws and Tobacco Control Policies, the National Health Policy 2017 of Government of India has set the target of “relative reduction in prevalence of current tobacco use by 15% by 2020 and 30% by 2025”.<sup>29</sup>

COTPA follows to encompass almost all the aspects: Protection from Exposure to Tobacco Smoke, Tobacco Advertising, promotion and sponsorship, Sales of Tobacco Products To and By Minors, Packaging and Labelling of Tobacco Products. However, the successful

implementation would also depend on whether other multi-stakeholders of tobacco use are doing enough to support such a movement. In addition to the tobacco control legislations, efforts should be made to curb the demand of tobacco use though increasing tax on all tobacco products, closing all advertising avenues and creation of a robust mechanism and infrastructure for enforcement of the laws. Besides, the policy makers and health professionals must work together for achieving a smoke-free society. The role of health professionals is significant to this cause as they can make use of every opportunity to discourage tobacco use. All health professionals should possess the skill to counsel and help people quit tobacco and they need to lead by example. The Need of the hour is to integrate and strengthen the efforts toward enforcement of legislation, public health awareness, and promoting tobacco cessation clinics. The prevalent pattern of tobacco consumption and socioeconomic diversity clearly indicates a need to advocate more stringent anti-tobacco norms, and to reinforce the efforts towards the rural and semi-urban population. It is essential that the policies and programs are followed in practice not only at the national level but at the state (provincial) and local levels as well.

## CONCLUSION

Though a lot of challenges are faced by the Government due to high prevalence of tobacco in the country, it has made reasonable efforts by attempting to mainstream the Tobacco Control Program and integrating it into National Rural Health Mission. Also, the initiation of community-levels initiatives for tobacco control have been perceived by various states. For effective Tobacco Control in the country, there requires a balanced implementation of demand and supply reduction strategies by the Government and inter-sectoral coordination involving stakeholder departments and ministries. The implementation of the Government policies, synergized with tobacco control initiatives by the civil society and community is pivotal in reducing the prevalence of tobacco use in the country.

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