

## COVID-19 and Tobacco Control

Written by Luciana Borges and Henrique Menezes

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LUCIANA BORGES AND HENRIQUE MENEZES, JUL 26 2020

The burden caused by COVID-19 has brought awareness towards the importance of healthier lives and healthy lungs. Given that prolonged tobacco smoking is a leading risk factor for several underlying medical conditions that increase the chances of developing severe illness from COVID-19, it becomes necessary to implement effective tobacco control policies. Thus, COVID-19 reaffirmed the importance of complying with the World Health Organization Framework Convention on Tobacco Control – WHO FCTC – (2003) to their fullest, as well as its Guidelines for Implementation (2013). WHO FCTC is the first evidence-based legally binding treaty in response to noncommunicable diseases. The FCTC tobacco control binding provisions and recommended measures are explained by the acronym MPOWER (Monitor the use and prevention policies; Protect the population from tobacco smoke; Offer help for smoking cessation; Warn of the dangers of tobacco; Enforce bans on advertising, promotion, and sponsorship; Raise taxes on tobacco). All of them are known to be efficient in reducing tobacco consumption, but 15 years after the convention came into force, they are in very different stages of implementation. The different levels of internalization are directly linked to the fact that the convention establishes only a minimum threshold of legal obligations.

This piece is centered in one specific recommended measure known as Plain Packaging, proclaimed by the Guidelines for Implementation of Articles 11 and 13. Plain Packaging emerged as a more advanced form of standardization of tobacco products' packaging, going beyond the minimum provisions established by the convention. The focus is justified by the fact that, despite they have been proven to be highly cost-effective and efficient, Plain Packaging measures are politically controversial and face numerous implementation constraints. To date, despite many countries have reached the highest possible stage of most of the MPOWER provisions and Guides for Implementation recommended measures, and even displayed pictogram health warning on tobacco products packages, no low and middle-income countries (LMIC), apart from Uruguay, have internalized Plain Packaging measures.

The tobacco industry is a pivotal stakeholder in the implementation process, as they have increased their efforts to resist, impede, and sabotage policies aimed at raising public awareness of tobacco harm. The strategies and lobbying are multiple, applied nationally and internationally, in diverse jurisdictions. As a result, governments face restraints to enact Plain Packaging policies, since its provisions apply a more restrictive regulation to trademarks. The tobacco industry claim that such policies breaches international investment clauses and intellectual property rules. To this end, the possibility of facing an international arbitration, or the national legal and economic costs of complying with the FCTC most extended version of package regulation, might be one of the main reasons for Low and Middle Income Countries (LMICs) to avoid the implementation of Plain Packaging policies.

Hence, the importance of implementing WHO FCTC has been emphasized for many years, as the convention is understood as the best tool to ensure that efforts to protect the policy space of the countries from commercial and other vested interests from the industry are holistic, from a multisector basis, and efficient. The 2030 Agenda for Sustainable Development, mainly Sustainable Development Goal 3.a, brought the urgency of fully complying with the FCTC back to the spotlight. Accordingly, governments must turn their attention to the increasing demand to fight tobacco smoking, to improve population health and well-being not only during the current pandemic, but in a long-term perspective.

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In this scenario of the health crisis caused by the novel coronavirus, it is crucial to clarify the correlation between long periods of tobacco smoking and COVID-19 complications and reinforce the potentiality of the FCTC measures, mainly Plain Packaging, to continue with the progress achieved towards reducing smoke prevalence. It is also essential to elucidate that the SDG can support countries, especially LMICs, to internalize cost-effective measures that strengthen their national plans towards fighting tobacco use.

## **Risk factors of tobacco smoking and COVID-19**

Noncommunicable diseases are becoming increasingly more relevant to Global Health. Notably, diseases associated with tobacco consumption have raised concerns not only due to the large number of tobacco-related deaths, but also in response to their social toll. According to the latest evidence-based studies by the WHO, an annual 8 million deaths are linked to tobacco use, and 80 percent of smokers live in LMICs (Framework Convention Alliance, 2020). The harm caused by tobacco consumption has thus seen a growing presence in the Global Health agenda proportional to the number of publications proving that smoking is a risk factor for several noncommunicable diseases. Precisely, as reported by the WHO, tobacco use and its externalities are related to 16 different types of cancer and are the leading risk factor for various chronic respiratory diseases, including lung cancer, chronic obstructive pulmonary disease (COPD), tuberculosis (TB) and asthma. Smoking also causes hypertension and cardiac problems and is an independent risk factor for type 2 diabetes (NHS UK, 2020).

It is to be noted that people with any of the above-mentioned diseases face a higher risk of severe illness when contaminated by the novel coronavirus, as these pre-existing conditions are proved to raise COVID-19 mortality rates. This being the case, the burden of tobacco smoke became further evidenced in the course of the ongoing pandemic. In addition, tobacco use affects the function of lungs, as it causes inflammation of the airways. Thus, even in cases in which such comorbidities have not been developed, prolonged use of tobacco might worsen the condition developed by the novel coronavirus infection and make individuals more vulnerable to the disease. Beyond that, smoking is detrimental to the immune system, limiting the chances of patients recovering. Therefore, the evidence available shows that smokers are more likely to develop complications as a result of their compromised lung health (WHO, 2020a).

A recent meta-analysis report (Patanavanich and Glantz, 2020) and WHO statements (WHO, 2020b) clarify that the risk of COVID-19-related complications for those who smoke is nearly double that of non-smokers. It is also stated that when the condition worsens, smokers are at a higher risk of death when compared to non-smokers. The conclusion of several studies using different methodologies indicate that although more research is needed as new studies emerge and the evidence increases, with the available data, it is possible to ensure that smoking is associated with negative progression and adverse results of COVID-19 (Alqahtani et al., 2020; Guo, 2020; Mehra et al., 2020; Vardavas and Nikitara, 2020; Zhao et al., 2020). It is interesting to note that smokers also had higher mortality in the previous MERS-CoV outbreak (Park, Jung and Kim, 2018). Considering these previous conclusions, it becomes clear that tobacco smoking is associated with the risk of COVID-19 progressing. The critical situation imposed by the current pandemic opens the opportunity for a global mobilization for the adoption of stronger tobacco control policies. In this regard, the FCTC secretariat affirms the need to strengthen international cooperation to reduce tobacco consumption and build a healthier world.

## **The role played by Plain Packaging measures**

The outbreak of the novel coronavirus has raised the alarm about the necessity of improving tobacco control measures, reinforcing the centrality of the FCTC in regards to such policy implementation. Since the approval of the FCTC, other legal documents have emphasized the need for further progress with tobacco packaging policies, mainly the complementary documents entitled Guidelines for Implementation. Still, even though remarkable progress has been achieved through the convention's tools and provisions, there has been some difficulty in internalizing the measures from the Guidelines for Implementation at their highest levels of achievement, especially when regarding LMICs.

One measure in particular, internationally addressed as Plain Packaging, has not been implemented by any

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developing country apart from Uruguay (Burkina Faso and Georgia are moving in this direction). The Plain packaging measure restricts or prohibits “the use of logos, colors, brand images or promotional information on packaging other than brand names and product names displayed in a standard color and font style”. The Plain Packaging is consolidated as the new benchmark for tobacco packaging measures, as its provisions are proven to (1) reduce the attractiveness of tobacco products; (2) eliminate the effects of tobacco packaging as a form of advertising and promotion; (3) minimizes misleading product descriptor language; and (4) increase how noticeable and efficient health warnings are. In keeping with the latest studies (WHO, 2019) only by implementing Plain Packaging policies would LMICs effectively act towards controlling tobacco use and second-hand smoke harm.

However, LMICs face multiple strategies applied both nationally and internationally by the tobacco industry to resist and impede Plain Packaging policy internalization (Hawkins, Holden and Mackinder, 2019). At the domestic level, the tobacco industry uses marketing and lobby to delay or block policy proposals aimed at controlling and fighting tobacco consumption. At the international level, claims initiated by tobacco companies based on international investment agreements and the WTO Dispute Settlement Body have produced delays, alterations or cancellations in the internalization of anti-smoking regulation in developed and developing countries – a phenomenon addressed by the literature as “chilling effect”.

Despite the initial costs produced by this regulatory chill, recent studies (Borges, Menezes and Souza, 2020) contend that the rulings by arbitration courts and the WTO consolidated the understanding of the legality and effectiveness of policies that adopt the Plain Packaging standard, restricting the burden caused by this chilling effect. While writing this piece, the WTO Appellate Body published the report for the case “Australia – Certain Measures Concerning Trademarks, Geographical Indications and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging” (DS435 and DS441), rejecting the claims made by Honduras and the Dominican Republic regarding the Plain Packaging policy implemented by Australia. Thus, considering that the International Law apparatus have secured a pro-health stance and that the COVID-19 public health emergency has emphasized the need to reduce tobacco use, it is time to strengthen the process of internalizing WHO FCTC measures.

### **SDG 3.a. as a strategy to overcome policy implementation challenges**

The 2030 Agenda for Sustainable Development proposes the interconnection of the social, economic and environmental dimensions to promote sustainable development. Its fulfilment relies on the achievement of 17 goals, based on established targets and measured by assigned indicators. Further, it demands a cross-sectorial holistic approach, aiming at implementing structural level initiatives and policies. The Goal 3 focuses on ensuring healthy lives and promoting well-being, the strengthening of health systems, and the fight against infectious and noncommunicable diseases. Target 3.a enforces the importance of the FCTC full implementation as a mean for achieving good health and well-being. It also reconfirms the centrality of the convention on the fight against the burden of tobacco use by stating the urge to “strengthen implementation of the WHO FCTC in all countries as appropriate”. Since the consequences of tobacco smoking to sustainable development are strongly emphasized, strategies grounded in its provisions can support and strengthen states’ initiatives towards complying with Plain Packaging policies.

Accordingly, the SDGs can help LMICs coordinate their responses towards fighting the tobacco epidemic, as its targets are framed on a holistic and multidimensional perspective, becoming a guide to the formulation of robust, multi-sectoral policies towards tobacco control. The agenda may also be the springboard for international cooperation, aiding and funding that subsidizes policy implementation, as well as function as an arena to facilitate the support of civil society and other stakeholders in the fight to decrease tobacco use. It is also a political and legal protection against the commercial and other vested interests of tobacco companies, since the lack of adequate coordination makes governments even more vulnerable to lobbying from the tobacco industry. Therefore, states must respond promptly to the alarm sounded by the novel coronavirus outbreak and implement tobacco control policies already tried and tested, such as the Plain Packaging, if they are to make progress regarding tobacco prevalence. The FCTC represents the most efficient legal apparatus and mechanism to boost the chances of achieving the established tobacco control goals.

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## Conclusion

This scenario of serious alert sounded by the novel coronavirus, together with the support offered by the 2030 Agenda for Sustainable Development and the recent pro-health legal rulings, favors the implementation of Plain Packaging measures by LMICs. This public policy instrument is proven to be efficient in reducing the demand for tobacco products, despite the strategies adopted by tobacco companies to maintain their production and sales. Accordingly, the internalization of such measures by these countries is crucial to decrease the adverse effects of the current pandemic, but also to diminish the deep and widespread social toll that results from tobacco usage and build a sustainable and healthier society. Thus, the FCTC and the SDGs should not be relegated as the world urge to respond to COVID-19, since the convention represents the most efficient legal apparatus and mechanism to boost the chances of progressing in the fight against tobacco usage. For the world to take deeper breaths, the fight against tobacco use must not be sidelined under any global health circumstances, as it constitutes one of the greatest public health challenges. In the same vein, 2030 Agenda is an important catalyst and instrument to improve international cooperation towards building a healthier international community.

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