

Observational Study to Assess Compliance of Section 5 & 6 of COTPA 2003 in Ahmedabad city¹

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Summary

Tobacco is the leading cause of death in the world. Globally, adolescents are the most vulnerable population, when it comes to initiation of tobacco consumption. Most adult users start tobacco consumption in their childhood or adolescence. To control the consumption of tobacco, India introduced The Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COTPA 2003), which was a welcome step.

To learn about the compliance of COTPA 2003, particularly section 5 which prohibits any kind of advertisement, brand promotion and sponsorship of Tobacco products & section 6 which has provisions to protect the sale of tobacco products to anyone below the age of 18 years, CHETNA undertook a cross sectional observational study of tobacco shops (297) of 3 wards of Ahmedabad city namely Vasna, Old Vadaj and New Vadaj. Out of t 297 only 50% shops were in shopping complexes. More than 70% shops are located on main road.

The study brought forward following observations which demands attention.

Violation of Section 5

- By promoting the tobacco products through indirect advertisements by displaying the board and/or products 34% tobacco vendors are violating Section 5 of the COTPA 2003.
- More than 30% vendors were practicing “Point of Sale” (PoS) advertisement of tobacco products through visual aids with the name of the shop.

Violation of Section 6

- Signage board i.e. “Selling of Tobacco Products to a Person who is under 18 years of age is Punishable Offence” was not displayed by 97% of tobacco vendors
- 12% tobacco shops are situated near educational institutions.

¹ The limitation can be purposive sampling; the results could not represent the actual percentage of COTPA implementation in Ahmedabad city.

To make sure that children do not get exposed to tobacco products, the Union Health Ministry in 2017, brought out an advisory that the state needs to develop a mechanism for authorization or to issue licenses to sell only tobacco and prohibiting them non selling any non-tobacco products. The present study brought forward the fact that all the shops were selling non tobacco product along with tobacco products. Usually the non tobacco products are displayed along with smokeless tobacco products.

To ensure that the youth is not tempted to buy cigarettes, the Indian government in 2015 banned sale of loose cigarettes. The present study observed that more than 95% tobacco vendors are selling loose cigarettes.

The person who chews tobacco needs to spit frequently and therefore provision of dustbin is required, so that spread of infections like flue, COVID 19, TB etc can be curtailed. Around 70% tobacco vendors have kept dustbins near their shops.

The study indicates as tobacco is rapidly becoming an issue of concern, especially among the youth, it is very essential for the legislation to strengthen and enforce the COTPA 2003 strictly in Ahmedabad city. Fine collected as a part of violation of the Act can be used to establish de-addiction centers. A strong monitoring of tobacco vendors will ensure that children and adolescents do not get addicted to tobacco products. Active involvement of different departments and stakeholders will play an important role towards sustaining tobacco free generation.

Introduction

The tobacco epidemic is one of the biggest public health threats in the world. Globally, each year more than 8 million people dies due to tobacco and 7 million of those deaths are the result of direct tobacco use. Tobacco use contributes to poverty by diverting household spending from basic needs such as food and shelter to tobacco.ⁱ Spitting of tobacco/tobacco products is a public health hazard, as it may lead to spread infectious diseases such as creating potential risk of transmission of COVID-19, tuberculosis, swine flu, pneumonia and gastro-intestinal diseases to the people in general.ⁱⁱ

Moreover, 1.2 million deaths are caused due to second-hand smoke exposure in the world. Nearly half of all children breathe air polluted by tobacco smoke and 65,000 children die each year due to illnesses related to Second-hand Smoke (SHS). Smoking while pregnant can lead to several life-long health conditions for babies.ⁱⁱⁱ Exposure to SHS or passive smoking causes numerous health problems in infants, children and adults including more frequent and severe asthma attacks, respiratory infections, ear infections, sudden infant death syndrome (SIDS), coronary heart disease, stroke, lung cancer etc.^{iv}

According to Global Adult Tobacco Survey-2 (GATS-2), 266.8 million people have addiction of tobacco in India. Every third adult (32.5%) from rural areas and every fifth adult (21.2%) from urban area reported use of tobacco currently.^v Approximately, every eight seconds one person dies due to tobacco,^{vi} Each year more than 900,000 (0.9 million) people die as a result of tobacco use in India, which translates to 2500 deaths every day.^{vii}

Gujarat is one of the leading industrialized states in India having nearly one fourth population (25%) addicted of to any form of tobacco. The commonly used tobacco products in Gujarat are gutkha, pan-masala, mava, betel nut, and bidis.^{viii}

India signed Framework Convention on Tobacco Control (WHO-FCTC, 2005) in the year 2005 and enacted the Cigarettes and Other Tobacco Products Act (COTPA) to regulate and control tobacco in 2003 (MOHFW, 2003). Further, the Ministry of Health and Family Welfare, Government of India, took a step towards translating the law into practice and adopted the National Tobacco Control Programme (NTCP) under the 11 Five Year Plan of 2007-12.^{ix}

This COTPA 2003 was intended to protect and promote public health, promote evidence-based strategies to reduce tobacco consumption, and impose penalties to the violators. It is to prevent the present and future generations from the adverse effects of tobacco use by forestalling youth. The major provisions of the act are that of banning of direct and indirect advertisements of tobacco products, prohibition of smoking in public places, sale of tobacco to minors, and tobacco selling within a radius of 100 yards of educational institutions. Even with the presence of Act and penalty for violations, the tobacco consumption is increasing in India, which is indicative of the fact that the Act is being grossly violated. Ironically even today after 17 years of Act being in place, citizens are unaware of the provisions of the Act and whom to inform if they observe the violation of the Act. A successful implementation of the Act is non negotiable as it is

an important strategy to prevent the tobacco related deaths and to improve the productivity of the country. There is a need to have strict monitoring strategy in place to ensure implementation of the COTPA 2003.

Objective of the Study

- To assess the compliance of section-5 and section-6 of COTPA act by tobacco vendors in three urban wards of Ahmedabad city, Gujarat.

Methods and Materials

The observational study of tobacco vendors/shops was conducted in three wards of Ahmedabad city- Vasna, Old Vadaj and New Vadaj. Efforts are made to cover all the tobacco vendors of these areas. The survey was done during the month of June 2020 a period of COVID 19 Pandemic. All vendors' identity was kept confidential, and no information regarding the vendor's identity will be shared with others.

Ahmedabad city is divided in 6 zones and 64 wards. A purposive sampling technique was used to select the study areas. Therefore the results could not represent the actual percentage of COTPA implementation in Ahmedabad city.

Following aspects of Section 5 and 6 of COTPA 2003 were observed.

Section 5

- Direct or indirect advertisement of tobacco products or company
- Presence of hoarding, illuminated, backlit, frames, stickers larger than (60 cm × 45 cm) of any tobacco products/company at Point of Sale (PoS) and more than one board at PoS.

Section 6

- Sale of any tobacco products by any person who is under 18 years of age
- Display of signage board with the message "Prohibition on sale of cigarette or other tobacco products to a person below the age of eighteen years" in the fixed size (60 cm × 30 cm) board
- Sale of any tobacco products within the radius of 100 yards of any educational institutions.

Results

General information of the ward, tobacco shops and vendors

The present study was done in three wards of Ahmedabad city namely Vasna, Old Vadaj and New Vadaj having around 61,000 household and 2.75 lakhs population. Out of 297 tobacco shops observed, 129 were from Vasna and 80 and 88 were from Old Vadaj and New Vadaj respectively. More than 50% shops were of cement concrete structure, 30% shops were of metal/wood roof and rest of the vendors (nearly 9%) sell tobacco products on footpath with temporary setups. 78% shops were on the main road of city area. In all the three wards 95% tobacco vendors were selling both smokeless and smoking tobacco products. Most of the shopkeepers were male (94%). Having a female tobacco vendor can be a future threat as it will make easy access to tobacco for adolescent girls. For details please refer Table 1.

Table 1 General information of the ward, tobacco shops and vendors

Information	Vasna N= 129	Old Vadaj N= 80	New Vadaj N=88	Total N=297
Type of shops				
Cement concrete	64% (82)	53% (42)	49% (43)	56% (167)
Wooden/metal roof shop	23% (30)	33% (26)	38 % (33)	30 % (89)
Roadside in vehicle (Small tempo)	2 % (3)	4% (3)	8 % (7)	4% (13)
Unstructured on footpath	11% (14)	11% (9)	6 % (5)	9 % (28)
Types of tobacco products				
Only Smokeless tobacco products	(6)	(5)	(3)	5% (14)
Only Smoking tobacco products	0	0	0	0
Both	95% (123)	94% (75)	97% (85)	95% (283)
Location of the shops				
On main road	96% (124)	73% (58)	58% (51)	78% (233)
Gender of Shop keepers				
Male	94% (121)	93% (74)	97% (85)	94% (280)
Female	6% (8)	8% (6)	3% (3)	6% (17)

Note: Figures in parenthesis indicates numbers

Compliance of COTPA-2003 Section 5

Section 5 of COTPA 2003 is about Prohibition of Brand Promotion of All Tobacco products. It prohibits any kind of advertisement, brand promotion and sponsorship of Tobacco products. There is ban on both direct & indirect advertisement of tobacco products in all forms of audio, visual and print media. This also applies to distribution of handbills, putting up hoardings promoting / advertising tobacco products. Please refer Annexure 1 for details.

Table 2 Information about implementation of COTPA-2003 Section 5

Information	Vasna N= 129	Old Vadaj N= 80	New Vadaj N=88	Total N=297
Indirect Tobacco advertisement	35% (45)	33% (26)	35% (31)	34% (102)
Advertisement of smokeless products	10% (13)	13% (10)	9% (8)	10% (31)
Advertisement of smoking products	22% (28)	18% (14)	24% (21)	21% (63)
Both	(3)	(4)	(1)	(8)

Note: Figures in parenthesis indicates numbers

In the present study, 34% tobacco vendors are violating Section 5 of the COTPA 2003. They are promoting the tobacco products through indirect advertisements by displaying the board and/or products. In all the three wards more than 30% vendors were practicing “Point of Sale” (PoS) advertisement of tobacco products through visual aids with the name of the shop, out of which more than 20% vendors were promoting smoking tobacco products whereas 10% were promoting smokeless tobacco products. Also it was observed that smokeless tobacco products were hanged in the shops while smoking tobacco products were displayed in the glass covered or open rack.

The study on Point of Sale (PoS) of tobacco advertisements done in Mumbai in 2016 indicated that PoS of tobacco advertising remains prominent and highly visible to consumers in Mumbai, India.^x

Compliance of Section 6 A and B of COTPA 2003

As per COTPA-2003, Section-6, no person shall sell, offer for sale, or permit sale of, cigarette or any other tobacco product—

(a) to any person who is under eighteen years of age, and

(b) in an area within a radius of one hundred yards of any educational institution.

Table 3 Implementation of COTPA - 2003 section 6 A and B

	Vasna N= 129	Old Vadaj N= 80	New Vadaj N=88	Total N=297
Section 6 A				
Signage declaring that “sale of tobacco products to minors is prohibited” at point of sale.				
Yes	(3)	(2)	(3)	(8)
No	98%(126)	98%(78)	97%(85)	97%(289)
Size of board (30cm X 60cm)				
	N=3	N=2	N=3	N=8
Yes	(3)	(0)	(1)	(4)
No	(0)	(2)	(2)	(4)
Display of signage easily noticeable by customer				
Yes	(3)	(0)	(3)	(6)
No	(0)	(2)	(0)	(2)
Readability of signage board				
Yes	(2)	(1)	(3)	(6)
No	(1)	(1)	(0)	(2)
Section 6 B				
	Vasna N= 129	Old Vadaj N= 80	New Vadaj N=88	Total 297
Location of Tobacco shops within 100 yards of educational institute	18%(23)	4%(3)	13%(11)	12%(37)

As per CPTPA 2003, Section 6 A, signage board i.e. “Selling of Tobacco Products to a Person who is under 18 years of age is Punishable Offence” was not displayed by 97% of tobacco vendors, violating the Act. The 8 shops who have displayed the signage board, 6 shops were displayed at place where customers can read the notice easily. Only 4 shops have signage boards of size mentioned in the Act i.e. 30cmX60cm.

COTPA Act-2003, Section 6-B is clause that “No person shall sell, offer for Sale or permit sale of, cigarettes or any other tobacco product- In an area within a radius of one hundred yards of any educational institution.

In the present study, out of 297 tobacco shops, more than 80% tobacco shops were located in public place. As per COTPA Act guidelines, ‘Public Place’ includes all places visited by general public namely auditorium, hospital building, railway waiting room, amusement centers, public offices, court buildings, educational institutions, libraries, coffee houses, canteens, banks, clubs and also open spaces surrounding hotels/restaurants etc.^{xi} Around 12% tobacco vendors were located within a radius of 100 yards of educational institutions. Here the majority educational institutions were either private coaching classes or private schools. Among these 37 shops (12%) which were within 100 yards of educational institutions all were selling loose cigarettes and 95% were selling chocolates.

This is a reality of many big cities. Salaam Bombay Foundation surveyed 200 government schools of Bombay Municipal Corporation. The result revealed that 307 shops were selling tobacco products operating within 100 yards of 122 municipal schools in 2012.^{xii}

Another study done in 2018 on compliance of COTPA Act among Tobacco Vendors, Educational Institutions, and Public Places in Bengaluru City revealed that Sixty-two percent of the educational institutions had tobacco vendors within 100 yards and 85% of educational institutions did not have boards, suggesting that tobacco use is prohibited within 100 yards.^{xiii}

These observations strongly suggest the need for sensitizing school authorities about COTPA 2003 and to make their schools tobacco free. The concerned government departments need to develop strong monitoring mechanism.

Sell of Tobacco and Non Tobacco Product

To make sure that children do not get exposed to tobacco products, the Union Health Ministry in 2017, brought out an advisory to the state needs to develop a mechanism for authorization or to obtain licenses to sell tobacco with a condition that they cannot sell any non-tobacco products. Many state governments have introduced the vendor licensing system. Tobacco license has become a mandatory in most of the states of our country to sell, manufacture, or import tobacco products.

Many state governments have introduced the vendor licensing system. However enrolling tobacco vendors involves a lot of complexities as there is a massive number of shops in India, of which some are being sold on footpaths in a temporary setup. Vendors need to ensure that they have got their shops and license authorized by the municipal authority before obtaining a tobacco license in India. Those vendors who are selling tobacco products must not keep non-tobacco products like biscuits, chocolates, soft drinks, etc. as these items will lure children of all age groups.

Table 4 Sell of Tobacco and Non Tobacco Product

	Vasna N= 129	Old Vadaj N= 80	New Vadaj N=88	Total 297
Non tobacco products sold along with tobacco products				
Chocolate	59% (76)	60% (48)	70% (62)	63% (186)
Biscuit and packaged food	57% (74)	58% (46)	57% (50)	57% (170)
Water bottle and cold drink	48% (62)	43% (34)	59% (52)	50% (148)
Hot tea, coffee	14% (18)	20% (16)	9% (8)	14% (42)
Hot fried snacks	4% (5)	5% (4)	0% (0)	3% (9)
Groceries	5% (7)	4% (3)	2% (2)	4% (12)
Stationary and mobile repairing	5% (6)	1% (1)	1% (1)	3% (8)
Cosmetic items	6% (8)	1% (1)	8% (7)	5% (16)

Note: Figures in parenthesis indicates numbers

In the present observational study, all the tobacco vendors were selling non tobacco products along with tobacco in all 3 wards. The tobacco products and non tobacco products were displayed together. Along with tobacco products, around 60% vendors were selling biscuits, chocolate/candy which usually attracts the attention of children. Sale of Chocolates was highest among tobacco vendors of New Vadaj (70%). Around 50% of the vendors were selling drinking water bottle and cold drinks. It is worth noting that as per data of Global Youth Tobacco Survey (GYTS-2009), in India; around 15% of students between the age group of 13-15 years consume tobacco in some form.

Selling of Loose Cigarette:

Sale of loose cigarettes are affordable therefore increases its prevalence of consumption among the youth. Loose cigarettes are sold without any specific health warnings, contravening India's Cigarettes and Other Tobacco Products Act (COTPA) 2003 section -7, which requires all tobacco products to have graphic health warnings. To ensure that the youth does not get attracted to buy cigarettes the Indian government in 2015 banned on sale of loose cigarettes.^{xiv}

Table 2 Information about selling of loose cigarette

Information	Vasna N= 129	Old Vadaj N= 80	New Vadaj N=88	Total N=297
Selling loose cigarette	96%	94%	97%	96%

In present study it was observed that more than 95% tobacco vendors were selling loose cigarette in all 3 wards.

Availability of Dustbin at the Tobacco Shop:

Usually the consumer of the chewing tobacco need to spit after consuming it therefore provision of dustbin for spitting is advisable which will also help to reduce the spread of infection like TB, flue etc. This aspect is particularly important during COVID-19 pandemic. 70% vendors have kept dustbin.

Table 3 Availability of dustbin near tobacco shops

Information	Vasna	Old Vadaj	New Vadaj	Total
Availability of dustbin	71%(92)	64% (51)	76%(67)	71%(210)

Recommendation

Present and future generations must be urgently protected from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke. Implementation of the COTPA-2003 across all the major cities should be checked, and a fool-proof strategy to overcome the pitfalls should be formulated.

- Mass awareness is required about provisions of COTPA 2003 and its implementation strategies.
- Teachers and school authorities need to be sensitized about provisions related to COTPA 2003. A mass campaign, to make the educational institutions tobacco free, need to be initiated. One of the 11 criteria of tobacco free educational institute is that - No person shall sell, offer for Sale or permit sale of, cigarettes or any other tobacco product- In an area within a radius of one hundred yards of any educational institution.
- Ward wise monitoring committee representatives, stakeholders from public (school teachers, NGO representatives etc.) can be formed to ensure implementation of COTPA 2003, who can report the appropriate authorities on regular bases to take necessary actions.
- The fine collected due to violation of COTPA 2003 need to be used for the establishment of de-addiction centers.

Tobacco control should be a top priority not only merely as a health issue but also as a poverty reduction mechanism. Effective implementation of tobacco control policies provides an opportunity for India to fulfill its commitments to meet the goals – 2030 agenda of Sustainability Development Goal of poverty reduction and good health.

Annexure 1

Details about Section 5 and 6 of COTPA 2003

Section 5: “(1) No person engaged in, or purported to be engaged in the production, supply or distribution of cigarettes or any other tobacco products shall advertise and no person having control over a medium shall cause to be advertised cigarettes or any other tobacco products through that medium and no person shall take part in any advertisement which directly or indirectly suggests or promotes the use or consumption of cigarettes or any other tobacco products. (2) No person, for any direct or indirect pecuniary benefit, shall- (a) Display, cause to display, or permit or authorize to display any advertisement of cigarettes or any other tobacco product; or (b) Sell or cause to sell, or permit or authorize to sell a film or video tape containing an advertisement of cigarettes or any other tobacco product display any advertisement of cigarettes (c) Distribute, cause to distribute, or permit or authorize to distribute to the public any leaflet, handbill or document which is or which contains an advertisement of cigarettes or any other tobacco product; or (d) Erect, exhibit, fix or retain upon or over any land, building, wall, hoarding, frame, post or structure or upon or in any vehicle or shall display in any manner what so ever in any place any advertisement of cigarettes or any other tobacco product: Provided that this subsection shall not apply in relation to – An advertisement of cigarettes or any other tobacco product in or on a package containing cigarettes or any other tobacco product; Advertisement of cigarettes or any other tobacco product which is displayed at the entrance or inside a warehouse or a shop where cigarettes and any other tobacco products are offered for distribution or sale. (3) No person, shall, under a contract or otherwise promote or agree to promote the use or consumption of a) Cigarettes or any other tobacco product; or b) Any trade mark or brand name of cigarettes or any other tobacco product in exchange for a sponsorship, gift, prize or scholarship given or agreed to be given by another person.”

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