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EDITORIAL VIEWPOINT

Should the Legal Age for the Purchase of Tobacco Be Increased to 21 Years?

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The tobacco epidemic may be declining in developed countries but is rising rapidly in developing countries, such as India. Effective policies to counter targeting of young people by the tobacco industry will be a key determinant of the magnitude of the epidemic over the coming decades. Many signatories to the Framework Convention for Tobacco Control (FCTC) have adopted recommendations of Article 16 and put in place policy that prescribes a legal age of purchase for tobacco of 18 years. This paper presents a case for increasing the legal age for sale for the purchase of tobacco to 21 years in India. We argue that this could be an effective tobacco-control measure, if complemented with other key enforcement measures, such as the licensing of tobacco vendors. National and state tobacco-control programs must conduct annual random compliance checks and back these with punitive measures as prescribed under the national tobacco-control law, which restricts access to minor. Additionally there should be a national, state, and district level strategy with a timeframe for achieving a target compliance rate.

HISTORY OF AGE OF PURCHASE RESTRICTIONS IN INDIA

The British introduced tobacco to India but also enacted several laws prohibiting sale and smoking by juveniles (anyone under 16 years) [1]. Several state-specific legislations protected young people through juvenile smoking acts that were introduced in Punjab (1918) followed by Bengal and Jammu and Kashmir (1929), among others (The Punjab Juvenile Smoking Act, 1918; the Bengal Juvenile Smoking Act, 1919; the Jammu and Kashmir Juvenile Smoking Act, 1929; The Bombay [District] Tobacco Act, 1933; Central Provinces and Berar Tobacco Act, 1939; the Punjab Tobacco Vend Fees Act, 1934). If vendors were found violating these rules, strict action was taken under state vending laws. These legislations ensured that restricted numbers of licenses were given to vendors (based on population of towns and cities), which regulated sales, made tax collection simpler, and kept tobacco prices high and out of reach of underage users. In effect, the impact of these tobacco-control laws was felt across the country, as the mean age of use in 1935 for smoking was estimated at 26 years, and 23 years for chewing, in men [2]. Post-independence, in 1952, the Himachal Pradesh government passed comprehensive rules to arrest the problem of smoking in youth [3]. However, the act was repealed in 1973, when the consultation for national tobacco-control legislation was being deliberated. In 1975, the Government of India produced weak legislation that contained statutory text warnings only for cigarette packets [4].

When India's new national tobacco-control legislation (The Cigarettes and Other Tobacco Products [Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution] Act, 2003) came into force in May 2003, it proffered two important provisions to protect minors from initiation. (The Juvenile Justice Act [2000] defines *juvenile* or *child* as a person

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Table 1. Mean age of smoking initiation by age group among 20- to 34-year-olds

Age of initiation in years	As a % of total current daily smokers (*n*)			As a % of total current less than daily smokers (*n*)			As a % of total former smokers (*n*)			As a % of total ever smokers (*n*)		
	M	F	T	M	F	T	M	F	T	M	F	T
<18	38.50 (743.74)	66.72 (64.97)	39.86 (808.71)	23.49 (26.14)	58.30 (13.82)	29.60 (39.96)	48.85 (57.14)	82.48 (9.92)	51.99 (67.07)	38.41 (829.25)	66.94 (89.730	40.08 (918.99)
18–21	39.20 (757.16)	18.88 (18.38)	38.22 (775.53)	50.89 (56.63)	23.95 (5.68)	46.16 (62.31)	39.63 (46.35)	0.46 (0.05)	35.97 (46.41)	39.82 (859.71)	17.78 (23.84)	38.53 (883.55)
>21	22.30 (430.72)	14.41 (14.03)	21.92 (444.74)	25.62 (28.52)	17.75 (4.21)	24.24 (32.72)	11.52 (13.47)	17.06 (2.05)	12.04 (15.53)	21.77 (469.98)	15.28 (29.47)	21.39 (490.46)
Total	100.00 (1931.62)	100.00 (97.38)	100.00 (2,029)	100.00 (111.29)	100.00 (23.71)	100.00 (135)	100.00 (116.97)	100.00 (12.03)	100.00 (129)	100.00 (2158.95)	100.00 (134.05)	100.00 (2293)

F, female respondent; M, male respondents; T, total respondents.

who has not completed the 18th year of age. A child or minor is defined as any person below the age of 18 in the Indian Majority Act [1875] and its amendment of 1999.) Consistent with the FCTC, it prescribes that there shall be no sale to and by minors (under 18 years) and there shall be no sale of tobacco product within 100 yards of an educational institution. The onus of the sale remains with the seller. In reality, because it is difficult for sellers to ascertain the age of a young person, underage users continue to buy tobacco products. It is also a common practice in India for children and youth to buy tobacco products for their parents, relatives, and older friends. Apart from such social constraints, the legal challenge of relocating tobacco vendors and kiosks from around educational institutions was challenged in the courts by vendors and the tobacco industry. This has proven to be a stumbling block for effective implementation of these provisions, which have been resolved partially after prolonged court battles in 2011, when courts directed the states of Maharashtra and Karnataka to make educational institutions tobacco-free and move tobacco vendors from 100 yards around educational schools (Writ Petition numbers 6151 and 8763 (2005), Public Interest Litigation number 62 (2008) in the Mumbai High Court (2009); Writ petition 17958 (2009) in Karnataka High Court decided on March 29, 2011).

Prior to 2003, only a few state legislations such as Sikkim, Himachal Pradesh, Goa, Assam, Delhi, and Meghalaya specified the age of sale (not use, all specified 18 years except Goa, which prescribed 21). Therefore, nationally, there was no provision that prevented tobacco sale to minors. Only Goa has maintained a legal age of purchase of 21 years and has the lowest adult tobacco use (8.8%) in India. Despite the higher legal age of purchase, youth in Goa are initiated into tobacco use at a slightly younger age (mean age of initiation of ever daily tobacco users aged 20–34 years = 17.5 years) than the youth in neighboring states (mean for Western region = 18.4 years, Southern region = 18.6 years) and youths nationally (17.8 years) (Table 1).

The tobacco industry in India has prima facie supported the ban on sales to minor [5,6]. In 1991, The Tobacco Institute of India, which has the four largest cigarette producers in India as its members, proposed a voluntary code of advertising and sale, and mentioned restricting sale to minors, even though there were no legal provisions to monitor and enforce these [7]. In 2004, globally there were more than 130 Youth Smoking Prevention (YSP) programs in more than 70 countries funded by the tobacco industry [8]. However, YSP programs positioned "adult messages" to soon-to-be-adults with the aim of recruiting the very large number of youth in developing countries into the habit. Youth in India are particularly targeted as the country is regarded as one of the last big untapped markets for multinational tobacco manufacturers [9].

THE CASE FOR INCREASING THE LEGAL AGE OF PURCHASE FOR TOBACCO TO 21 YEARS IN INDIA

Tobacco use is increasing among youth in India. Analysis of data from the second and third National Family Health Surveys found that the prevalence of smoking increased from 8.6% to 19.2% and chewing tobacco from 14.3% to 30% among men aged 15–24 years between 1998–1999 and 2005–2006 [N. Bhan, personal communication, May 2012]. The prevalence of smoking and chewing tobacco remained much the same among women over the period.

Table 2. Mean age of smokeless tobacco initiation by age group among 20- to 34-year-olds

Age of initiation in years	As a % of total current daily smokeless users (*n*)			As a % of total current less than daily smokeless users (*n*)			As a % of total former smokeless users (*n*)			As a % of total ever smokeless users (*n*)		
	M	F	T	M	F	T	M	F	T	M	F	T
<18	39.24 (1230.17)	49.97 (453.31)	41.65 (1683.48)	25.86 (45.19)	52.38 (55.12)	35.83 (100.31)	34.82 (39.57)	59.53 (40.10)	44.01 (79.66)	38.43 (1315.33)	50.83 (548.62)	41.40 (1863.96)
18–21	35.53 (1113.89)	20.65 (187.34)	32.19 (1301.23)	36.10 (63.09)	18.75 (19.73)	29.58 (82.82)	41.36 (47.01)	13.55 (9.13)	31.01 (56.14)	35.77 (1224.39)	20.00 (215.87)	31.99 (1440.25)
>21	25.23 (790.78)	29.38 (266.51)	26.16 (1057.28)	38.04 (66.48)	28.88 (30.39)	34.60 (96.87)	23.82 (27.07)	26.92 (18.13)	24.97 (45.20)	25.80 (882.99)	29.17 (314.80)	26.61 (1197.79)
Total	100.00 (3134.84)	100.00 (907.16)	100.00 (4,042)	100.00 (174.76)	100.00 (105.24)	100.00 (280)	100.00 (113.64)	100.00 (67.36)	100.00 (181)	100.00 (3422.71)	100.00 (1079.29)	100.00 (4,502)

Abbreviations as in Table 1.

Youth initiate tobacco use at an older age in India than in Europe and in North America. Data from the Global Adult Tobacco Survey (2009–2010) show that among the younger demographic (20- to 34-year-olds) almost two-thirds of ever tobacco users (of both smoked and smokeless products) initiated regular tobacco use above the age of 18 years. More than one-third of these users initiated regular tobacco use in the age group of 18–21 years. State-level analyses shows that 17 of 31 states and union territories had a mean age of initiation above 18 years. These data indicate that the existing legal age of tobacco purchase (18 years), even if enforced adequately, would have limited success in deterring regular tobacco-use initiation (Table 2).

These data suggest that smoking initiation occurs much later in India than in Europe and in North America. In the United Kingdom, two-thirds (66%) of regular smokers start before the age of 18 and two-fifths (39%) start before the age of 16. Nearly all regular smokers (95%) start before the age of 25 [10].

In Canada, most smokers begin daily smoking in their teens. In 1994–1995, 16% reported that their initiation to smoking started at age 13 or younger; 55% reported ages 14–17; and 15%, ages 18 or 19. Just 14% had started daily smoking at age 20 or older [11]. By 2005, the proportions had not changed significantly. For nearly 36.5% of current smokers, the age of initiation was between 5 and 14 years; 47.5% were initiated between 15 and 19 years; and nearly 13.5% started smoking at age 20 years and older [12].

Evidence that age restrictions decrease underage access and tobacco use. Calls to increase the legal age for the purchase of tobacco pre-date the FCTC in many countries. For example, in the United States, this was proposed in the Surgeon General's 1994 report, although implementation was inconsistent [13]. The first comprehensive evidence came from Canada in 1998 and showed that increasing the age of purchase was associated with delayed initiation, resulting in less-dependent smokers who were more likely to quit as adults [11]. Evidence from the United Kingdom has found that legislation implemented in 2007 to increase the age of purchase from 16 to 18 years was associated with significant additional reductions in youth smoking, in both poor and affluent groups [14]. An analysis from the United States suggests that even if increasing the age of purchase can reduce youth tobacco use by only 5%, it is likely to be as cost-effective as other prevention activities [15].

Despite this evidence, there remains debate about the role that age restrictions should play in a comprehensive tobacco-control policy [16]. Some tobacco-control experts consider that restricting underage access should not be a major part of tobacco-control efforts [17], whereas others argue that they are important in changing social norms and should remain part of a comprehensive tobacco-control programs [18–20]. A major point of departure for these two schools of thought is whether restricting access sends important messages about the community's disapproval of underage tobacco use [21,22], or whether such measures reinforce the tobacco industry's "smoking is a way to look adult" message [23].

CHALLENGES WITH IMPLEMENTATION

Most studies that review the effectiveness of programs and legislation that address underage access are entirely based on data from just four countries: the United States, the United Kingdom, Canada, and Australia [24]. All have mature

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tobacco-control programs backed with strong legislation and enforcement. There are also few channels of informal sales as sales are tightly regulated locally. More importantly, there is widespread awareness within the community about the harms of tobacco, and there is sufficient support for tobacco control. This is not the case in most high-burden developing countries such as India, China, Russia, Indonesia, Bangladesh, among others. In many developing countries, tobacco products are sold through unlicensed outlets and informal markets, often by children themselves.

In reality, in most developing countries, enforcement of access rules is weak or negligible, and violations of sale to minors are huge. Enforcement may fail because profits from sales far outweigh the fines and punitive action against vendors. Going by estimates made by the Global Adult Tobacco Survey, every day, at least 99 million underage users buy tobacco products in India; yet until 2011, there has not been a single prosecution for illegal sale to minors. More than 76% of all tobacco sales happen through illegal, unlicensed vendors and kiosks [25], which makes enforcement difficult. Findings from the Global Youth Tobacco Survey show that India highlight the ease with which youths can purchase tobacco and the ineffectiveness of legislation introduced in February 2004 that increased the legal age of purchase to 18 years. The survey found that 61.8% (in 2006) and 70.1% (in 2009) of 13- to 15-year-olds were able to purchase tobacco products in shops [26]. This is especially alarming because the Global Youth Tobacco Survey only includes a narrow age band of 13–15 years and excludes out-of-school youths, or nearly 42% of children in this range.

Despite administrative apathy and poor enforcement of the existing age bar in India (18 years), raising the age bar to 21 years should be considered. Even if partially enforced, such an initiative can make it easier for retailers to spot underage tobacco users. It will also help eliminate confusion among retailers and by bringing the legal age for the purchase of tobacco in line with that of alcohol it may reinforce the dangers of smoking to young people.

The effect of raising the age bar to 21 years will effectively complement existing strategies such as raising taxes, smoke-free initiatives, pack warnings, curtailing depiction of smoking in movies, and advertising bans; these should be deployed complementarily in the fight against tobacco. Additional measures are also needed such as a ban on the sale of single cigarette, licensing vendors, and kiosks to restrict access and bring greater controls on sales of tobacco products. India and its states could consider bringing in provisions that deter use as opposed to current provisions that only restrict purchase. Mandatory signage for vendors that announce that sale to minors is prohibited are seen only sparingly in Delhi and Chandigarh within India. State and local administration will have greater control in regulating the age bar. Like smoke-free policies, which are gaining acceptance in India [27], sale to underage youth should be self-enforcing through community-based policing. Social campaigns such as parents and teachers boycotting outlets that sell tobacco to their children may be a solution [28]. Sustaining price increase through taxes and making access more difficult together can be effective strategies to reduce youth uptake.

CONCLUSIONS

Tobacco use in India is rising rapidly and current strategies must work cohesively to reduce prevalence. Literature from select developed countries suggests increasing the age of purchase may reduce tobacco use among youth. Increasing the legal age of purchase to 21 years may be justified in India, given that youth initiate at an older age there than in Western countries. With careful implementation, this should lower initiation rates and eventually lead to a decline in overall adult prevalence and produce substantial long-term health and economic benefits.

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