



Signboards prohibiting tobacco sale within 100 yards of educational institutes: The appraisal of prohibition compliance and on-ground status of the COTPA Act, 2003 in Chanakyapuri Division of New Delhi Revenue District, the administrative precinct of India.

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Abstract

Cigarette smoking and use of tobacco poses threat to the health of young adults and adolescents. Availability of tobacco vendors near educational institutes means higher availability to vulnerable population. The Indian Government has enacted the Cigarettes and other Tobacco products (prohibition of advertisement and regulation of trade and commerce, production, supply and distribution) Act, 2003 or the COTPA Act, 2003 under a WHO resolution, which has further rules notified. Two important rules are prohibiting sale of tobacco products within 100 yards of educational institutes and installing a signboard stating prohibition to sell the same. Compliance of this was checked in 62 educational institutions in the administrative centre of India's capital, New Delhi. The compliance of both the points, especially something easy as installations of boards is poor and less than half of the institutions had implemented. Tobacco sellers within 100 yards were present. Beyond 100 yards, but within reach was also where tobacco sellers were present. To save young adults, the compliance of COTPA, 2003 must be made strict and offenders punished

severely.

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Background and Introduction:

The World Health Organisation, in its 39th World Health Assembly and in its fourteenth plenary meeting held on 15th May 1986 urged the member states to implement the measures to 'protect children and young people from being addicted to the use of tobacco' [1]. This concern was further reiterated by the 43rd World Health Assembly in 1990, where the member states were urged to consider their tobacco control strategies and plan for legislation and other effecton measures, for among other things, protecting children from involuntary exposure to tobacco smoke, and discourage use of tobacco, through al means of direct and indirect advertising.

India, as a member state, on 18th May 2003, enacted the Cigarettes and other Tobacco products (prohibition of advertisement and regulation of trade and commerce, production, supply and distribution) Act, 2003 [2] or the COTPA Act, 2003. This done as it was considered expedient to enact 'a comprehensive law on tobacco in the public interest and to protect the public health' and to 'prohibit the consumption of cigarettes and other tobacco products which are injurious to health with a view of achieving the public health in general as enjoined by article 47' of the Indian Constitution.

To quote the most specific provisions of the No person shall smoke in any public place with respect to prohibition of smoking in public places, the Section 4 of the Act states that:

'No person shall smoke in any public place'

This has been made to include all public places except places where there are designated smoking areas made and marked. But the most remarkable action of the Act has been the work done in order to reduce the smoking among young people, especially the ones studying in schools and colleges. The Section 6 of the Cigarettes and other Tobacco products (prohibition of advertisement and regulation of trade and commerce, production, supply and distribution) Act, 2003 states that:

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

In order to put part (a), ie, the prohibition to sell around educational institutes, into practice, the Central Government notified the in 2004 and made it further clearer, in the Cigarettes and other Tobacco Products (Display of Boards by Educational Institutions) Rules 2009 ^[3] which includes the following:

3. Display of Board by Educational Institutions.- (1) The owner or manager or any person incharge of affairs of the educational institution shall display and exhibit a board at a conspicuous place outside the premises, prominently stating that sale of cigarettes and other tobacco products in an area within a radius of one hundred yards of educational institution is strictly prohibited and that it is an offence under Section 24 of the Act with fine which may extent to two hundred rupees.'

The above act of the Central Government has also been complemented by the Government of National Capital Territory of Delhi's Act titled the The Delhi Prohibition of Smoking and Non-Smokers Health Protection Act, 1996 ^[4].

On the *prime facie* look of it, this legislative action seems to be an appropriate step as it is young children and young adults in and around educational institutes that need the maximum protection exposure to tobacco smoke and also access to easy tobacco in the form of cigarettes and other tobacco products.

This study looks into the compliance of the above mentioned statutory requirements.

Aims and Objectives:

1. To check the on ground compliance of Section 6(b) of the Cigarettes and other Tobacco products (prohibition of advertisement and regulation of trade and commerce, production, supply and distribution) Act, 2003 which deals with prohibition of sale of cigarettes and tobacco products an area within a radius of one hundred yards of any educational institution in the Chanakyapuri Division of the New Delhi District in the National Capital Territory of Delhi, India.
2. To check the on ground compliance of Section 3 (1) of the Cigarettes and other Tobacco Products (Display of Boards by Educational Institutions) Rules 2009 which deals with Display of Board by Educational Institutions prohibiting sale of cigarettes and tobacco products within 100 yards of the educational institutes in the Chanakyapuri Division of the New Delhi District in the National Capital Territory of Delhi, India.

Methodology

1. A revenue district was selected in New Delhi. In the revenue district out of three division one of the divisions was selected. The District selected was New Delhi District and the Division selected was Chanakyapuri. (See Note 1)
2. The map of the New Delhi District with the Chanakyapuri Division^[5] marked was used as the guide to see the locations on google map with schools/colleges/educational institutes marked on the map. (See Note 2)
3. A visit was made and the perimeter of the premises was physically seen. The location of the area was marked. Photograph, wherever applicable of the board was taken.

4. The nearby vendors of tobacco around the perimeter of the educational institute were looked for and recorded if found. Their locations were marked using GPS coordinates of a smartphone. Photographs excluding the vendors, but including the tobacco products were taken wherever applicable. A general estimation of the 100 yards distance was made and the vendors recorded. (See Note 3)
5. The results are compiled and reported.

Note 1: The rationale behind choosing the Chanakyapuri Division in the New Delhi District was intentional. The Chanakyapuri Division of the New Delhi District is of symbolic importance as it contains the most important institutions of Legislature, Executive and Judiciary in the Country. This very division has the Parliament of India, the Prime Minister's official residence, the Central Secretariat, The President's House or the Rashtrapati Bhawan, the Supreme Court of India, the Delhi High Court, residences of most members of parliaments, government officials and other important institutes of national importance. Any compliance to any law should be first in this jurisdiction than any other place in the country.

Note 2: All the three categories of educational institutes, i.e, schools, colleges and institute of higher learning were included as defined in Section 2(b) of the Cigarettes and other Tobacco Products (Display of Boards by Educational Institutions) Rules 2009^[3] which states that:

*(b) "educational institution" means any place or centre where educational institutions are imparted according to the specific norms and include **any school/college and institution of higher learning** established or recognised by an appropriate authority;*

Note 3: The distance measurement was based on Section 3 (2) of the Cigarettes and other Tobacco Products (Display of Boards by Educational Institutions) Rules 2009 which states that:

3. (2) The distance of one hundred yards referred to in sub-rule (1), shall be measured radially starting from the outer limit of the boundary wall or fence, as the case may be, of the educational institution.

Also, to note is that this study involved no human participants and no linked identifiers to any individual and is exempt from any form of ethics requirements.



Figure 1: A typical board with the 100 yard requirement written in the form of 100 metres in a school. Source: Author.

Results and Analysis

Out of the 62 educational institutes mentioned in Table 1, only 27 had boards at conspicuous places outside of the premises/building which stated that the sale of cigarettes and other tobacco products in an area within a radius of one hundred yards of educational institution is strictly prohibited. This is 44.26 percent of educational institutes that are compliant with the Section 3 (1) of the Cigarettes and other Tobacco Products (Display of Boards by Educational Institutions) Rules 2009 which deals with Display of Board by Educational Institutions prohibiting sale of cigarettes and tobacco products within 100 yards of the educational institutes in the Chanakyapuri Division of the New Delhi District in the National Capital Territory of Delhi, India.

Table 1: List of Schools/Colleges/Higher Education Institutions that were checked under the study.

	Name of Institute
1	YWCA
2	YMCA
3	Atal Adarsh Vidyalaya, Hanuman Road

3	Atal Adarsh Vidyalaya, Nanamati Road
4	Morarji Desai National Institute of Yoga
5	Lady Irwin College
6	Modern School
7	Atal Adarsh Vidyalaya, Babar Road
8	Atal Adarsh Prathmik Vidyalaya
9	Bhavan's Mehta Vidyalaya
10	S.P. Jain Institute of Management and Research
11	Bhartiya Vidya Bhavan's Usha and Lakshmi Mittal institute of Management
12	Kerala School
13	Lady Irwin Senior Secondary School
14	Navyug Primary School, Pataudi House
15	NDMC School of Science & Humanities, Tughlak Road
16	Atal Adarsh Vidyalaya, Aurangzeb Lane
17	Mater Dei School
18	Sardar Patel Vidyalaya
19	Delhi Kannada Senior Secondary School
20	Vidya Bhawan Mahavidyalaya, Sr. Sec.School, Lodi Estate
21	Progress Public School
22	D.T.E.A Senior Secondary School, Lodi Estate
23	School of Foreign Languages, Government of India, Ministry of Defence
24	Shyama Prasad Vidyalaya
25	Dyal Singh College, University of Delhi
26	Atal Adarsh Vidyalaya, Lodhi Estate, New Delhi
27	Guru Harkrishan Public School, India Gate, New Delhi
28	Raghubir Singh Junior Modern School,
29	Nirmal Primary School, Pandara Market
30	Sarvodaya Kanya Vidyalaya, Pandara Road
31	Kendriya Vidyalaya, Lodhi colony
32	Govt. Boy's Sr. Secondary School, Pandara Road
33	Aanchal Special School, Kautilya Marg, Chanakyapuri
34	Atal Adarsh Vidyalaya, Kitchner Road
35	Sarvodaya Co-ed SR. SEC. School, Kitchner road
36	Carmel Convent School, Chanakyapuri
37	Atal Adarsh Vidyalaya, Bapu Dham
38	Jesus and Mary College
39	Maitreyi College
40	D.C. Arya Sr. Sec. School, Lodhi Colony
41	Lion's Vidya Mandir, Teen Murti
42	St. Columbia's School
43	R.M. Arya Girls Senior Secondary School

44	The Union Academy Sr. Sec. School
45	Vidya Public School
46	Convent of Jesus and Mary Khrist Raja Sec. School
47	Convent of Jesus and Mary
48	Sanskriti School, Chanakyapuri
49	Kendriya Vidyalaya, Gole Market
50	Harcourt Butler SR. SEC. School, Mandir Marg
51	Navyug School, Mandir Marg
52	DTEA Senior Secondary School, Mandir Marg
53	Atal Adarsh Bal Vidyalaya, Mandir Marg
54	Raisina Bengali School, Mandir Marg, New Delhi
55	Dayanand Model School, Mandir Marg
56	St. Thomas' Girls SR. SEC. School, Mandir Marg
57	Atal Adarsh Vidyalaya, Balmiki Basti, Panchkuian Road
58	Navyug School, Peshwa Road
59	Atal Adarsh Vidyalaya, Tilak Marg
60	Indian Law Institute
61	National Defence College
62	Bharti Vidya Bhawan College, KG Marg

With respect to the sale of cigarettes and tobacco products within 100 yards of the educational institutions, it was found that 4 institutions had tobacco and/or cigarette sellers within 100 yards of the school. This is 6.5 percent school where there was a violation of Section 6(b) of the Cigarettes and other Tobacco products (prohibition of advertisement and regulation of trade and commerce, production, supply and distribution) Act, 2003 which deals with prohibition of sale of cigarettes and tobacco products an area within a radius of one hundred yards of any educational institution in the Chanakyapuri Division of the New Delhi District in the National Capital Territory of Delhi, India. There were an additional 9 where the seller was beyond 100 yards but well within easy reach.

There were some other educational institutes which did not put the board as specified in Section 6(b) of the Cigarettes and other Tobacco products (prohibition of advertisement and regulation of trade and commerce, production, supply and distribution) Act, 2003 which deals with prohibition of sale of cigarettes and tobacco products an area within a radius of one hundred yards. But, they did put boards which stated 'No Smoking' or 'Tobacco Free Zone'. Having 'No smoking' boards are in compliance to Section 3 (b) of the Prohibition of Smoking in Public Places Rules, 2008. This study has not done an intentional analysis of the presence of the boards, but found that 11 institutions had boards of the nature 'No Smoking' or 'Smoking Prohibited' or 'Tobacco Free Zone' etc, but the exact statutory requirement spelling out the prohibition of sale within 100 yards was not put up. (See Figure 2)



Figure 2: In some cases, there was a board prohibiting smoking, but did not carry the statutory requirement of prohibition of sale within 100 yards of educational institution. Source: Author

It must also be noted that there were multiple cases where metres was used instead of yards, or both were interchangeable. 100 yards is around 91 metres. This may not be much of a difference, but it can lead to some deadlocks where the 9 metres can be a matter of dispute. (See Figure 1)

Another observable feature was the sale of tobacco products in shacks in stead of permanent shops and kiosks (See Figure 3)

Discussion

This paper has studied the compliance of law with respect to the selling of tobacco within 100 yards of educational institutes and whether schools have put a board on their premises or not. This study is not the first of its sort in India. Similar studies have been performed in India in other cities like Ahmedabad, ^[6] Mumbai, ^[7] ^[8] Bengaluru, ^[9] as well as a three geography study done in Mohali (Punjab), Vadodara (Gujarat) and Chennai City ^[10]. In another study which was performed in 19 school of Delhi, 15 schools were found to be compliant to tobacco guidelines. This study used reporting by teachers, parents and students. But the sample size was only ten percent of the reported schools in Delhi. The schools

were also selected randomly ^[11]. Another study was repeated in hospitals as institutions, which found that within 100 yards, 77% of places around hospital buildings (as institutions) there was presence of tobacco sellers. ^[12] Another important study was performed in Mumbai. This study (26 institutions and 1533 students surveyed) created co-relation between presence of tobacco vendors and tobacco advertisements in the proximity of educational institutes. It states that bans on sale within 100 yards of educational institutes will be effective in reducing tobacco risk in high school students. It went on further to state that further studies should be performed to consider increasing the banned area beyond 100 metres. This is because tobacco vendor density with 200-500m of schools consistently increased student tobacco use risk. ^[13] The relation of educational institutes, especially schools is very crucial as stated earlier as the students are more prone to experimentation. Another study undertaking survey of 500 students of schools, had 82 students who were tobacco users (16.4%). It was found that for the 82 students, the most used space for tobacco use was outside school premises. ^[14] The above studies highlight the seriousness of the issue and the interest of public health experts on this matter. The current study is unique as it is performed in the heart of India's capital, at the centre of its administration to check the state of compliance with respect to the education.

Other issues are also discussed. It is important to note that there is also a positive relation between young age and higher chance of tobacco exposure due to easy availability. This has been shown in multiple studies. A cross sectional study done in Delhi with 3422 children in the age group of 10-18 years. The study stated that nearly 55% of the children initiated tobacco consumption before the age of 13 years. The study further concluded that the consumption of tobacco during adolescent was the major contributor of the habit of tobacco consumption. It went on to further suggest that interventions during these formative years are the most amenable for modifications in behaviour and in adopting good habits. ^[15] In a study done in Central Delhi, it was found that the median age of children and adolescents visiting the tobacco shops was 11.83 years with the minimum age being 8 years. ^[16] Another study reported this age of initiation to be around 12.14 +/- 1.34 years. ^[14]

Another issue is the sale of tobacco products in temporary shacks which may not always come under no building regulation as such and are also may not be under business registration (See Figure 3). This makes these difficult to regulate through law. This was also shown in another study which instead of the non permanent (unlike shop, kiosk or counter), used movable Points of Sale for Tobacco was under study. The Persons using wheelchair selling tobacco products was surveyed and after studying 200 such Points of sale, it was found that 6 percent of the points of sale were within 100 metres of educational institutions. ^[17] The role of vendors is also crucial as they cannot sell tobacco products to people below 18 years of age as per the section 6 of the Cigarettes and other Tobacco products (prohibition of advertisement and regulation of trade and commerce, production, supply and distribution) Act, 2003. From the point of view of tobacco vendors, a study in Delhi found that out of 60 vendors surveyed in Central Delhi, 41 (68.3%) did not ask the age of children and adolescents before selling. ^[16] The Indian Parliament has taken a further stand in this matter and stated that any one gives, or causes to be given, to any child any intoxicating liquor or any narcotic drug or tobacco products or psychotropic substance, shall be punished with a penalty of 100000 rupees and rigorous imprisonment of seven years. This is under the Section 77 of the The Juvenile Justice (Care and Protection of Children) Act, 2015. ^[18]

Cigarettes and tobacco products are a leading cause of cancer. Their use at an early age is not only an impediment for quitting at an early age^[19] but also affects lung health at later age^[20]. A study has shown the high risks of smoking and concluded as follows:

Cigarette smoking is associated with increased overall morbidity and mortality. Smoking is a cause of cancer of the lung, oral cavity, larynx, bladder, and renal pelvis and a contributing factor in the development of cancer of the pancreas, stomach, cervix, liver, penis, and rectum. Smokers are at greater risk for coronary artery disease, cerebrovascular disease, and atherosclerotic peripheral vascular disease^[21].

Conclusion

This paper set out to study the compliance of two sections related to the Anti Tobacco law in India, in the Chanakyapuri division of the New Delhi District of India's national capital Delhi. The first

was to check whether educational institutes have a board prohibiting sale of tobacco products within 100 yards of the premises. The results show that far from being universal, it is less than half of all the educational institutes which have out something as simple as a board prohibiting smoking within 100 yards. The second issue at hand is the sale of cigarettes and tobacco products within the 100 yards of school premises. In this regard too, the compliance is not universal and there is availability of cigarettes and tobacco for school and college students in the heart of New Delhi, in its democratic and administrative centre.

The seriousness of cigarette smoking, especially by students should be realised. The implementation of the already enacted Cigarettes and other Tobacco products (prohibition of advertisement and regulation of trade and commerce, production, supply and distribution) Act, 2003 or COTPA Act should be given the seriousness of a criminal offence and the law enforcement agencies, educational institutes and all other stakeholders must play an active role to protect the health of young Indians studying in schools and colleges. The COTPA Act, 2003 should be amended to increase the punishment and serve a deterrent just as in the Juvenile Justice Act of 2015. Cigarettes and tobacco products should be regulated just as much as liquor in New Delhi to make availability difficult. Sale to minors should be as serious as any crime which shakes the conscious of the society. Educational institutes should be checked regularly for compliance and the role played by educational institutions must be doubled and absence of compliance should be strictly penalised.

Conflict of Interest



Figure 3: A temporary shack opposite an educational institute.

Note the absence of any formal or permanent arrangement.

Source: Author

The author reports no conflict of interest.

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