

FOR YOUR INFORMATION



The Socio-Legal Myth of smokeless tobacco

MD. ISHTIAQ AHMED

ONE of the worst forms of addiction that silently destroys human body is tobacco. Use of tobacco is such type of addiction that it is difficult for the user to restrain himself from using it. What is the characterization of tobacco in reality? What are its impact on the society and human body? In order to unearth the answer, let us see what tobacco or tobacco products are in the first place.

Tobacco is nothing but a plant of *Nicotima Bistica*. Article 4(2)(b) of the Framework Convention on Tobacco Control (FCTC) specifically puts obligation on the state party to take measures to prevent the initiation, to promote and support cessation and to decrease the consumption of tobacco products in any form. According to FCTC, tobacco product means:

"products entirely or partly made of the leaf tobacco as raw material which is manufactured to be used for smoking, sucking, chewing or snuffing".

Bangladesh is one of the early signatories of the FCTC. In Bangladesh, the only law that governs tobacco use is the Smoking and Using of Tobacco Product (Control) Act, 2005. This act provides a very narrow definition of tobacco products. According to this definition:

"tobacco product means anything made from tobacco which can be inhaled through smoking, and also includes Biri, Cigarette, Cheroot, Cigar and mixture used by pipe".

It is stated that the definition of tobacco product under our law deals with only one element of the entire tobacco products, which is the tobacco used for smoking. But the idea of smokeless tobacco is neglected in Bangladeshi law.

Smokeless tobacco is spit tobacco, chewing tobacco, chew, chaw, dip, plug, and probably a few other things, which come in two forms: snuff and chewing tobacco. Use of Smokeless tobacco is very common in our country, mostly among women. As a matter of fact, the use of smokeless tobacco among the women

is higher than the men.

According to the survey conducted by Global Adult Tobacco Survey Bangladesh, 2009, the percentage of tobacco use has been increasing in Bangladesh over the years. In Bangladesh 43.3% of adults (41.3 million) currently use tobacco, whether, in smoking or smokeless form. 27.2% of the overall tobacco users i.e. 25.9 million of adults currently use smokeless tobacco. Among them, 26.4% are men and 27.9% are women.

It is stated that a high rate of such non-

have them. Consequences of chewing and spitting tobacco products include:

- cracking and bleeding lips and gums;
- receding gums, which can eventually make your teeth fall out
- increased heart rate, high blood pressure, and irregular heartbeats, all leading to a greater risk of heart attacks and brain damage (from a stroke); and
- cancers including oral cancer.

It has been medically proven that long-time use of chewing tobacco can lead to cancer. It is however important to note that cancer from chewing tobacco products does not just occur in the mouth; some of the cancer-causing agents in the chewing tobacco products can get into the lining of one's stomach, esophagus, and even into the bladder.

Due to its harmful impact, non-smoking tobacco usage must be restricted in our society. Very often we fail to appreciate the fact that the non-smoking tobacco usage silently destroys the social norms and values in our society. Children of non-smoking tobacco user mother get easily familiar with such tobacco product. These kids do not learn to understand that even non-smoking tobacco

products are bad for health. It can also lead them to think that smokeless tobacco products are for the girls and smoking tobacco products are for boys.

In conclusion, the fake concept of smokeless tobacco products needs to be wiped down. Though the impact of both tobacco products is more or less same but the law of our country only deals with smoking tobacco products. No single provision related to smokeless tobacco products exists in the law. Hence, the law needs to be amended and implemented properly. Bangladesh must comply with the FCTC provisions and related guidelines.

The author is a researcher of the LawDev (Bangladesh).



ST/ TODAY

smoking tobacco usage in Bangladesh could have resulted from the definitional deficiency of legislative provisions. In essence, the law in Bangladesh only deals with smoking tobacco products and remains silent about the smokeless tobacco product. In other words, the law in Bangladesh impliedly agrees to the use of non-smoking tobacco. This is a clear violation of FCTC provisions.

Apart from discussing legal provisions related to smokeless tobacco products, it must be mentioned that the impact of smokeless tobacco product on human body is same as the smoking tobacco product. The more immediate effects can disrupt one's social life, creating bad breath and yellowish-brown stains on user's teeth. User will also get mouth sores; about 70% of spit tobacco users



RIGHTS CORNER

The invisibility of domestic workers

MANY people who migrate for employment undergo very difficult situations. What is particularly striking about domestic workers is their invisibility. Once they come to the country, they disappear into people's homes.

Liesl Gerntholtz, the Director of the Women's Rights Division of Human Rights Watch, says one of the major problems they have found in their latest research (mainly in Asia and the Middle East) is that labor law does not recognize domestic workers as workers, so they are therefore not well protected.

"More typically we find that they don't have days off they are not paid properly, they are forced to work very long hours and in unhealthy conditions. In South Africa the law does apply to domestic workers. They

Arab Emirates and Lebanon. After travelling many countries to find the truth and tell the story of this vulnerable group of women, Gerntholtz says that even though these women have come from many different places, they are all suffering the same violations and mistreatment.

"The thing that really struck me was it didn't seem to matter where the women came from or where they went, but the violations that they faced were very similar. Because they are such a vulnerable class of employees, employers were able to get away with appalling behaviour. Violations related to employment conditions. Women having no time off at all and working long hours like six until two in the morning. Sleeping in bad conditions, not having a bedroom, sleeping on the floor in the kitchen."

"We also came across some serious physical violations including rape, sexual assault, and physical violence. And what struck me most when I met workers in Lebanon was that many knew of women who had worked as domestic workers and had committed suicide because their situation was so unbearable."

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A lot of the women leave their countries to earn more money and give their children a better life. Some of these women were not allowed to go back home. Their employers would take their passports so they couldn't leave. A painful thing for Gerntholtz to hear, and the fact that "they were also not able to have contact with their families, some had not spoken to their children in two or three years." They were literally being held prisoner.

Many people who migrate for employment undergo very difficult situations. What is

particularly striking about domestic workers is their invisibility. Once they come to the country, they disappear into people's homes. If they can't leave the homes, they can't seek out resources to help them, find out if there are shelters, or talk to their embassies about leaving the country.

Even though they face a tough road, Gerntholtz says there is hope: "What is also good to say at this point on having worked on these issues for so long is that there has been progress. The convention is the climax of a lot of advocacy and activism that has happened in Asia and Latin America, and to a lesser extent in Africa. We have also seen a growth of movements of former domestic workers, human rights NGOs taking up these issues as part of their activism and we see increasingly that governments are taking protections for their citizens much more seriously. For example, Sri Lanka has built two shelters in Riyadh.

Many Middle East countries have a lot of migrant domestic workers from Asia. There is a huge appetite for domestic workers in the Middle East. The migrants come in legally but they often come from rural areas so they don't speak the language of the country they are going to which is a huge barrier for them. Gerntholtz says they are often poorly educated and vulnerable, driven to take these jobs and seek out these opportunities through poverty. "They are women that cannot survive in their own countries and have heard that you can make good money doing domestic work in these countries (Middle East)."

"It is a huge business both in terms of the money that is made in sending these women out and very importantly the money that the women send back home. The women who are being paid send a huge amount of money back home every year to support their families."

Hopefully all the research and findings will be adopted into law and domestic workers worldwide can enjoy the rights that are entitled to all workers. All humans have rights and they should be protected.

Source: Human Rights Watch.

LAW WEEK

No arrest in a week: HC

The High Court on 7 May 2012 ordered police not to arrest within a week around 30 opposition leaders, including BNP acting secretary general Mirza Fakhru Islam Alamgir, who are accused in two cases over hartal violence. The ruling came as a two-member HC bench delivered dissenting orders on seven separate bail petitions by the accused in the cases, filed for blasts and arson during the April 29 shutdown.

Justice Moyeenul Islam Chowdhury, the senior judge of the bench, granted anticipatory bail to the accused petitioners till submission of police reports in the cases. He also issued seven separate rules upon the government to explain in four weeks why the petitioners should not be granted regular bail. Justice Md Nazrul Islam Alamgir, the other judge, however, directed the accused politicians to surrender before the magistrate's court concerned within seven days and ordered law enforcers not to harass or arrest them during that period. -*The Daily Star online edition May 08 2012.*

High Court again asks SEC to explain shareholding notice

The High Court on 7 May 2012 again asked the stockmarket regulator to explain within two weeks why a directive for directors to hold individually at least 2 percent stakes in companies should not be declared illegal. The HC rule came after a writ petition was filed by Abul Bashar, a director of Popular Life Insurance Company. Earlier, the Securities and Exchange Commission had made it compulsory for sponsors, directors and promoters of listed companies to hold at least 2 percent stakes individually in their own companies. Along with the SEC, the court also directed a share investors' association to explain as to why the directive will not be declared illegal. A bench of Justice Farid Ahmed and Justice Sheikh Hassan Arif issued the rule after hearing the petition. -*The Daily Star online edition May 08 2012.*

High Court stays BTCL bidding for seven days

The High Court on 9 May 2012 stayed a procurement plan by Bangladesh Telecommunications Company Ltd for seven days, after an aggrieved bidder filed a writ petition alleging the state-run company disobeyed a decision by the purchase review panel. BTCL sought bids for the job of building an optical fibre transmission network.

The court has issued the rule against BTCL asking why it did not follow the decision of the review panel, said Barrister Rumeen Farhana, a lawyer for the writ petitioner. BTCL will have to respond in seven days. The bidding process will be on hold until then, she added. -*The Daily Star online edition May 10 2012.*

Arrest order for ex-BOU VC

A Dhaka court on 9 May 2012 issued an arrest warrant against Ershadul Bari, former vice chancellor of Bangladesh Open University (BOU), in connection with a charge of distorting Liberation War history. The court also directed officer-in-charges of Alamnagar Police Station in Rangpur and Gazipur Police Station to submit a report by June 14 on the execution of arrest warrant. -*The Daily Star*



YOUR ADVOCATE

This week Your Advocate is Barrister Omar Khan Joy, Advocate, Supreme Court of Bangladesh. He is the head of the chambers of a renowned law firm, namely, 'Legal Counsel', which has expertise mainly in commercial law, corporate law, family law, employment and labor law, land law, banking law, constitutional law, criminal law, IPR and in conducting litigations before courts of different hierarchies. Our civil and criminal law experts from reputed law chambers will provide the legal summary advice.

Query

We purchased a piece of land sixteen years back in the year 1996 from one Rowshan Ara Begum of Mouja Karamtala under Tongi P.S, district Gazipur and we are in the position of the land since then. For last few years we tried to change the name of the ownership of the land in our name as per the deed. But the local land office continuously refusing to do so saying that the land is marked as "vested property". It has been seen in R.S Porcha that the property belonged to some Hindu who left Bangladesh before independence. Now we come to know that in the last session of our parliament a bill under the title 'Vested Property Return Bill' has been passed. Before we purchased the land the same had undergone many hands, that we are not the person to purchase the land first. As per the new law how we can claim the ownership of the land and bring it in our name as we purchased the same by saf kabala deed and we are in possession of the same for last sixteen years without any obstruction and nobody approached us claiming the ownership so far. Can it be called a 'Khas land'? We shall be grateful if you please give us an advise as to how we can get this problem solved.

Alhaji AB Mannan Howlader
444/1, Shaheenbag, Tejgaon, Dhaka-1215

Dear Reader,

Thank you for your query. Yes, you are right in saying that the Parliament has passed a new Act. However, unless your property is listed as a vested property, you need not worry about the new Act. Furthermore, inclusion of some properties in the list of vested property may also be done improv-

erly. Hence, even if the property is so listed, the same may be challenged. If you have sufficient proof, then the court may instruct the property to be delisted from the list of vested property.

In the said circumstances, you should first check whether the property in issue is so listed and if so, you are strongly advised to physically meet a lawyer with all the papers related to the land to see whether the same has been listed lawfully. If the lawyer, after perusal



of the document is of the prima facie opinion that the listing is illegal, then you may proceed with filing of a writ petition. The fact that you have purchased the land and are in peaceful possession of the same for 16 years will certainly boost up your case on a factual ground.

I am not inclined to advice here in a very specific manner, without being able to peruse the documents. Property issues are getting more important day by day because of the dramatic increase of price of landed properties. You are, therefore, requested not to waste further time and immediately consult a lawyer.

For detailed query contact:
omar@legalcounselbd.com.

Dear reader,

You may send your daily life legal problems including family, financial, land or any other issues. Legal experts will answer those. Please send your mails, queries, and opinions to: Law Desk, 64-65, Kazi Nazrul Islam Avenue, Dhaka-1215; Tel:



FACEBOOK

are entitled to leave, a minimum wage, a number of protections all workers have. That is why I say South Africa is ahead of the curve we just hope they will take a leadership role on the convention. And encourage their allies to do the same."

In a very thorough and insightful report, HRW - who has been doing research on the issue of domestic workers for the last seven years - looked specifically at women who migrated from Cambodia, Indonesia, the Philippines, and Sri Lanka to the United