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Original Investigation

Exceeding WHO Framework Convention on Tobacco Control (FCTC) Obligations: Nepal Overcoming Tobacco Industry Interference to Enact a Comprehensive Tobacco Control Policy

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Abstract

Background: The tobacco industry works to block, delay, and weaken national tobacco control legislation to implement the WHO Framework Convention on Tobacco Control (FCTC). This article reviews how Nepal overcame industry opposition and to a comprehensive tobacco control law implementing the FCTC.

Methods: We triangulated newspaper articles and policy documents with key informant interviews.

Results: With the support of international health groups, local tobacco control advocates worked with policymakers in Nepal to pass a comprehensive tobacco control law that exceeded FCTC obligations. The tobacco industry exploited a time of political transition to block consideration by Parliament, arranged and sponsored foreign tours for legislators, made death threats to tobacco control advocates and their families, and argued for the economic importance of tobacco farms. Despite strong interference from Health, and Law and Justice ministers, a 2009 Supreme Court ruling helped tobacco control advocates secure a comprehensive tobacco control law in 2011 that included rotating pictorial health warning labels covering 75% of both sides of cigarette packages, 100% smoke free public places and workplaces, private homes and vehicles, and a tobacco advertising, promotion, and sponsorship ban.

Conclusions: Advocates in developing countries should utilize Nepal's experience to reject tobacco industry offers of compromise and continue educating politicians and legislators to generate political support to pass a comprehensive tobacco control law. Technical and financial support from international agencies, and effective collaboration and coordination of civil societies, and utilization of domestic litigation are helpful in LMICs where governance is weak (the abstract in Nepali is available as a [Supplementary Material](#)).

Implications: The tobacco industry exploited a time of political transition in Nepal in its effort to block comprehensive tobacco control policy in Parliament by sponsoring foreign tours of legislatures, making death threats to tobacco control advocates and their families, and arguing for the economic importance of tobacco farms. Tobacco control advocates used litigation to raise awareness and educate legislators and promote strong legislation with the involvement of international health groups. Technical and financial support from international agencies, and effective collaboration and coordination of civil societies, and utilization of domestic litigation are helpful in LMICs where governance is weak.

Introduction

The WHO Framework Convention on Tobacco Control (FCTC), commits Parties to implement policies to reduce tobacco demand and supply.¹ The FCTC accelerated enactment of tobacco control laws, including health warning labels (HWL), marketing restrictions, protections against secondhand tobacco smoke, and tax increases.²⁻⁵ The tobacco industry responded to the FCTC with renewed efforts to oppose, delay, and weaken national tobacco control legislation, especially in low-and middle-income countries (LMICs),^{2,6-16} which tend to have weaker, less stable governments than high-income countries.^{2,15,16} FCTC Article 5.3 commits Parties to protect tobacco control policy from commercial and other vested interests of the tobacco industry^{1,17} that interfere with passage and enforcement of regulations.^{18,19} Nevertheless, the tobacco industry has remained a major obstacle to implementing the treaty.^{4,14,17} At the same time, the formation of a transnational tobacco control network, composed of local civil society groups, international organizations, philanthropy donors, and lawyers has played a significant role in enacting and implementing tobacco control laws.^{7,12,13,15,18,20-23}

Tobacco control advocates successfully sued the Nepal government to force implementation of tobacco control regulations, successfully pushing it to ratify the FCTC in 2006.²⁴⁻²⁶ Despite difficult political conditions in the country, in 2011 tobacco control advocates, with the help of political will and court support, secured strong FCTC implementing legislation that covered all tobacco products (cigarettes, bidi, and smokeless tobacco) requiring 100% smoke free public places and workplaces, private homes and vehicles; pictorial HWL covering 75% of both sides of the pack (Figure 1); a complete ban on tobacco advertising, promotion, and sponsorship (TAPS); a ban on sales to people under 18 years and to pregnant women; a sales and distribution license requirement; and a health tax on tobacco products.

In Nepal, 34% of men and 10% of women smoked tobacco in 2011,²⁷ which fell to 27% in men and 6% in women in 2016.²⁸ Smokeless tobacco was used by 35% of men and 5% of women in 2011,²⁷ and 40% of men and 3% of women in 2016.²⁸ The prevalence of any form of tobacco use declined for men from 66% in 2001 to 56% in 2016 and for women from 29% to 8.4%.²⁹ The 2017 WHO report on the global tobacco epidemic concluded that there was effective implementation of the tobacco control policy in Nepal.³⁰ Nepal is a case study with important lessons for other countries, particularly LMICs, trying to implement the FCTC amidst political instability and conflict.

Methods

We reviewed 5000 media reports from Nexis Uni (<https://advance.lexis.com/>) and retrieved tobacco policy documents from the websites of the Health Ministry (MoH) Nepal (<http://www.mohp.gov.np/>), WHO FCTC, Campaign for Tobacco-Free Kids' (CTFK) Tobacco Control Laws (<http://www.tobaccocontrolaws.org/>), Supreme Court of Nepal (<http://supremecourt.gov.np/web/>), Nepal Law Paper (<http://nkp.gov.np/>) and news articles from Google (<https://www.google.com/>). We searched for relevant reports and articles published in English between 1986 and December 2018 using standard snowball techniques.³¹ We started the searches with “Nepal,” “tobacco control,” “tobacco industry interference,” “tobacco legislation,” “tobacco ban,” “tobacco advertisement,” “tobacco health warnings,” “tobacco policy” and “tobacco tax.” In

June and July 2018, we conducted nine key informant interviews (one Parliament member, two policymakers, three tobacco control advocates and three MoH officials). Interviews were recorded and transcribed. This study was approved by the UCSF Committee on Human Research.

Results

Advocacy for Comprehensive Tobacco Control Bill

After Nepal ratified the FCTC in November 2006, tobacco control advocates (Table 1) pressured Nepal's government to enact comprehensive tobacco control legislation through media advocacy and personal meetings with policymakers. After these efforts, in April 2007 the MoH started drafting tobacco control legislation (Table 2) through its National Health Education, Information and Communication Center (NHEICC).^{32,33} On World No Tobacco Day in May 2007, the Nepal Cancer Relief Society (NCRS), the Resource Center for Primary Health Care (RECPHEC), lawyers, health professionals and tobacco control advocates submitted 4 million signatures to the Prime Minister and organized public events for a week around Kathmandu demanding a comprehensive tobacco control bill that would ban all TAPS, production, sale, export and import of tobacco products. A key message of this public advocacy effort, which received national media coverage, was that tobacco revenue was not as important as public health.^{32,34}

In February 2008, the secretary of the Health Ministry, Dr. Dirgha Singh Bam, told tobacco control advocates from NCRS, RECPHEC, and the Non-Smokers' Rights Association of Nepal (NRSA) that Parliament would pass the MoH 2007 draft bill in 2008.⁴³ Before submitting the bill to Parliament, the health minister had to submit it to the Cabinet for approval but failed to do so.^{32,33,44} At the time (between April 2007 and April 2008) politicians and advocates were preoccupied with an upcoming election and the political parties were busy working out power-sharing agreements for the anticipated coalition government. As a result, policy work was not a priority.

The NGO Health and Environment Awareness Forum Nepal (HEAFON) organized meetings in February 2009 with lawyers, health professionals, members of Parliament (MP), and the union of hotel workers to pressure the government to approve the health ministry's 2007 tobacco control bill.⁴⁴

In May 2009, NCRS organized a meeting on World No Tobacco Day, at which representatives from RECPHEC, MoH officials and public health officers said that the government and MPs should play an active role in passing the bill. At the same meeting, the secretary of the MoH Dr. Dirgha Singh Bam said that unstable government was delaying the legislation and urged the media and civil society to pressure the government and Parliament.⁴⁵⁻⁴⁷

Tobacco Industry Violated Existing Regulations and Health Advocates Sue the Tobacco Industry and the Government

Surya Nepal Private Limited (SNPL, a subsidiary of ITC Limited, India which started operations in Nepal in 1986 and since 2000 was the largest private-sector enterprise in Nepal²⁴) sponsored several musical events that were broadcast on television in December, 2006 (Table 2).⁴⁸ In January 2007, SNPL made a 5-year deal worth US\$300 000 with the Cricket Association of Nepal.⁴⁸ These industry sponsorships defied a June 2006 Supreme Court ruling and 1998 executive order banning TAPS.²⁴



Figure 1. HWL covering 75% of the both side of packs required in Nepal after 2011.⁹⁶

In response, on February 9 and 21, 2007 the NRSA filed two cases in the Supreme Court against SNPL, Cricket Association of Nepal and the government requesting that the deal with Cricket Association of Nepal be voided and that the government enforce Nepal's ban on TAPS.²⁶ The NRSA argued that both the tobacco industry and the government were in breach of the 2006 Supreme Court order and previous executive orders.²⁴

In October 2009, as it did in 2006, the Supreme Court ordered the government to ban smoking in public places, to prohibit all kinds of TAPS, and to enact a tobacco control law^{24,49} (The 1990 Constitution of Nepal permits the Supreme Court to order the government to enact a law under the extraordinary jurisdiction power). In addition, it ordered the government to submit an implementation plan to the Supreme Court within 3 months (by January 2010).^{26,32,33,50} We were unable to determine if this report was submitted to the court. Despite the order, the tobacco companies immediately sponsored more musical events, all broadcast on television in December 2009 (Table 2).²⁶

In February 2010, the Forum for Protection of Public Interest (PROPUBLIC) filed another Supreme Court case against the government and the tobacco industry (Gorkha Lahari & Philip Morris International, SNPL, Perfect Blends and KT&G) demanding that a

penalty be charged for violating the Supreme Court orders of 2006⁴⁹ and 2009.^{25,26} The Court did not hear the case until December 2013. Normally the Court would hear a public interest case sooner, but key informants reported that the tobacco industry's monetary influence delayed the Court.^{33,44,51} In December 2013, the Court ruled that the issue was already addressed by the government legislation and there was no need to reach a separate decision.^{52,53}

Tobacco Industry Financial Contributions to Interfere With Tobacco Control Policy

Between February 2007 and April 2008, the tobacco industry provided campaign contributions to candidates representing different political parties in their campaigns for a Constitution Assembly election on April 10, 2008.^{26,32,33,54} The industry made these contributions to block, weaken and delay the tobacco control bill MoH had drafted in 2007 (Table 3).^{26,32,33,54} In addition, the industry arranged and sponsored foreign trips for several MPs and political leaders.^{32,33,44}

Regional Meetings Push for Tobacco Control Bill

During the 61st Session of the Regional Committee of South East Asian Region (SEAR), the 26th meeting of the Ministers of Health,

Table 1. Key Players and Their Roles in Tobacco Control in Nepal (2006–2011)

Government organizations	Role
Health Ministry, National Health Education, Information and Communication Center (NHEICC). Funded by CTFK/Bloomberg (2010–2012) to establish a tobacco control program and secure passage of policy by the Parliament.	Develop, implement, and monitor tobacco control policy and programs. Nepal government liaison office for tobacco control.
Non-government organizations Nepal Cancer Relief Society (NCRS), Funded by different international organizations. Forum for Protection of Public Interest (PROPUBLIC) Mr. Prakash Mani Sharma (Chairman)	Advocacy for tobacco control policy and programs from 1982 onward. Advocacy for tobacco control policy from 1998 onward, case filed in the Supreme Court against violation of Supreme Court orders and ban on smoking in public places, and Tobacco advertising, promotion, sponsorship (TAPS).
Non-Smokers' Rights Association of Nepal	Advocacy for tobacco control act and program from 2000 to 2010, case file in the Supreme court against tobacco sponsorship and advertisement in 2007
Health and Environment Awareness Forum Nepal (HEAFON) Mr. Tika Prasad Kandel (Chairman), Funded by Nepal National Health Fund, and WHO.	Advocacy for tobacco control policy from 2007 to 2014. HEAFON is a non-government organization founded in 2008 with the aim of creating awareness of public health environment conservation, water, sanitation, hygiene, and air pollution, implementing action against smoking and drug addiction in Nepal.
Resource Centre for Primary Health Care (RECPHEC) Mr. Shanta Lal Mulmi (Chairman) Funded by CTFK/Bloomberg (2007–2010) for policy advocacy and other agencies	Advocacy for tobacco control policy and programs from 1991 onward.
Action Nepal Ananda Bahadur Chand (Chairman), Funded by different agencies.	Advocacy for tobacco control policy from 2008 onward.
International organizations The Union/International Union against Tuberculosis and Lung Disease ⁹⁷ World Health Organization ⁹⁸ CTFK/Bloomberg Philanthropies (Bloomberg Initiative Grant) ^{98,99}	Technical support to Health & Population Ministry Technical support to Health & Population Ministry Financial support to MoH and other NGOs to develop and implement tobacco control policy and programs (2007–2020)
Tobacco industry Surya Nepal Private Limited (SNPL) (before Surya Tobacco Company Pvt. Ltd.(STC) Seti Cigarette Factory Ltd Perfect Blends Nepal Pvt Ltd (PBNPL) Gorkha Lahari Pvt. Ltd.	Violating existing rules and interfere comprehensive policy. Violating existing rules and interfere comprehensive policy. Violating existing rules and interfere comprehensive policy. Violating existing rules and interfere comprehensive policy.

and the SEAR workshop on illicit trade in tobacco in September 2008, the SEAR Director and WHO experts asked regional health ministers to enact and implement tobacco control policies, driving countries to act.⁵⁵

In December 2009, RECPHEC and the Framework Convention Alliance (established in 2003, an association of more than 500 organizations from over 100 countries to advocate for the FCTC and its implementation¹⁸) organized a 3-day SEAR Conference on FCTC guidelines implementation in Kathmandu with 11 Asian countries including Nepal. Meeting participants encouraged Nepal's government to pass the tobacco control bill by February 2010.^{32,56,57}

The FCTC Conference of the Parties and the Intergovernmental Negotiating Body on a protocol to eliminate illicit trade were held from March 14–21, 2010 in Geneva. FCTC Parties, including Nepal, were required to present their progress reports on implementing the FCTC.³⁷

Tobacco Control Bill Submitted to Parliament

The government, apparently accepting the tobacco industry's claim that tobacco was a major source of revenue, appeared reluctant to endorse the tobacco control bill drafted in 2007 by the MoH^{32,33,54}

(in fiscal year 2008/2009 tobacco contributed 3.2% of Nepal's federal tax revenue⁵⁸). However, after strong national and international advocacy (including the regional meetings and the conference discussed above, with technical and financial support provided by CTFK/Bloomberg and the Union/International Union against Tuberculosis and Lung Disease (Union), as well as previous court orders) the Cabinet approved the 2007 draft as the Tobacco Product (Control and Regulatory) Act in December 2009 (Table 3)⁵⁷ and submitted it to Parliament on January 3, 2010.^{35,36} Key provisions were pictorial HWLs covering 30% of the total area of packs, a ban on smoking in some public places, a prohibition of sales to children (without specifying how to implement the ban and what age children were covered), and a ban on TAPS. The MoH 2007 draft bill was considered weak, and the tobacco industry supported it because it did not include key tobacco control components, such as 100% smoke-free public places (Table 3).

Advocacy for a Strong Bill in Parliament

In February 2010, tobacco control activist Tika Kandel from HEAFON organized a meeting with Yashoda Subedi Gurung, the Chair of Legislation Committee of Parliament (CLCP), and

Table 2. Timeline of Tobacco Control Actions by Government and Advocates and Including Tobacco Industry's Actions

Date	Political actions (including by the government)	Tobacco control actions	Tobacco industry action
February 2007 ²⁶		Non-smokers' Rights Association of Nepal sued the government and tobacco industry to enforce implementation of existing regulation.	Ignored the regulations.
April 2007 ³⁵	MoH drafted tobacco control bill	Advocated for strong bill against the weak bill	Tobacco industry supported, lobby to prevent the bill in the ministry.
May 2007 ³⁴		Nationwide signature campaign for tobacco policy and 4 000 000 signatures collected by NCRS and other NGOs submitted to prime minister.	Increased tobacco advertising, promotion, sponsorship (TAPS) activities. Musical events: Surya Lights Rhythm Nights on December 1, 2006 at Hotel Yak and Yeti Kathmandu and on December 2, 2006 at Hotel Shangri-La, Pokhara. Surya Lights Bollywood Temptations: Freedom of Lights Musical Broadway show on December 31, 2006 at Hotel Hyatt Regency, Rox Bar, Kathmandu. Surya Lights Nights on New Year Fiesta on December 31, 2006 at Liquid Lounge, Lazimpat, Kathmandu
October 2009 ²⁶	Supreme Court of Nepal issued an order to enforce implementation of regulation.		Ignored regulations. Sponsored different musical events: Gorkha Lahari & Philip Morris International's Action Kings cigarette brand sponsored Live NEFTA KTV film award in Kantipur Television, SNPL's Surya Lights Cigarette Brand sponsored Rhythm Nights, and Perfect Blends Nepal Pvt. Ltd. & KT&G's Josh cigarette sponsored concert.
January 2010 ³⁶	Tobacco control policy submitted to parliament by MoH.	Advocated for strong bill. Drafted a model strong bill and distributed to the MPs.	Lobbied politician, legislature, bureaucrats to block the bill.
February 2010 ²⁶		Forum for Protection of Public Interest sued the tobacco industry against violating Supreme Court orders	
February 2010 ^{37,38}	Parliament forwarded bill to the Legislation Committee of Parliament.	Lobbied to the key MPs, political leaders, chair of the Legislation Committee of the Parliament for strong bill.	Lobbied politician, legislature, bureaucrats to prevent the bill.
March 2010 ³⁹	Legislation Committee of parliament formed subcommittee. Subcommittee submitted bill to the Legislation Committee with strong recommendation.	Lobby for strong bill and supported strong recommendation.	Lobbied politician, legislature, bureaucrats to prevent the bill.
April 2010 ³⁹	Discussion on legislation committee after subcommittee recommendation.	Advocated to pass with Subcommittee recommendation.	Lobbied chair of the Legislation Committee, politician, legislature, bureaucrats to prevent the bill. Threats to advocates.
April 2010 ³⁹	Health minister, Law and Justice minister, Finance minister and officials from Finance Ministry, legal officer of Agriculture Ministry obstructed the policy in legislation committee and helped tobacco industry.	Lobbied Chief Whips of the different political parties, key political leaders to support to pass the bill that recommended by the Legislation Committee.	Lobbied Speaker of the Parliament, Prime Minister, politician, legislature, bureaucrats to prevent the bill. Sponsored aboard tour for MPs.
May 2010 ⁴⁰		Marched in different cities against tobacco industry interference on anti-tobacco policy organized by NCRS and RECPHEC.	
April 2011 ⁴¹	Parliament passed the tobacco control bill (Tobacco Product (Control and Regulatory) Act 2010	Supported the bill	Lobbied key politicians to block bill getting signed from the president.
May 2011 ⁴²	President Dr. Ram Baran Yadav signed the policy.	Supported the bill.	

Table 3. Tobacco Control Legislation Drafts and 2011 Law in Nepal

	Tobacco control bill drafted in 2007 (submitted to Parliament in 2010)	Civil society proposal in March 2010	Legislation Committee and subcommittee recommendation in May 2010	Tobacco Product (Control and Regulatory) Act 2010, passed in April 2011
Smoke-free environment	Ban in public places and head of the public places may restrict tobacco use.	100% smoke-free all public places, work places (indoor and outdoor), private homes and vehicles.	100% smoke-free all public places, work places (indoor and outdoor), private homes and vehicles.	100% smoke-free all public places, work places (indoor and outdoor), private homes and vehicles.
Trademark	Registered trademark should be used. Amount of nicotine should report.		Registered trademark should be used, same trademark should not use by more than one industry.	Same trademark should not use by more than one industry. Nicotine, hazardous constituents and other necessary information required to report to health ministry.
Health Warning Label (HWL)	30% total area of the packs	90%	75% on both sides of the packs.	75% on both sides of the packs.
Tobacco advertising, promotion, sponsorship (TAPS)	Ban all types TAPS	Ban all types TAPS	Ban all types TAPS	Ban all types TAPS
Prohibit in sale, distribution and display	Prohibited to sell or gift to any children. Ban to sell nearby education and health institutions, and child care home.	Ban to sell bellow 18 years and pregnant women. Ban to sell within the span of 500 meters distance from all public places.	Ban to sell bellow 18 years and pregnant women. Ban to sell within the span of 100 meters distance from all public places. Prohibit to gift tobacco products. Required license to retailers and ban attractive decoration.	Ban to sell bellow 18 years and pregnant women. Ban to sell within the span of 100 meters distance from all public places. Prohibit to gift tobacco products. Required license to retailers and ban attractive decoration.
Penalties Finance and tax	USD 1 to 5000	Should be maximum Tobacco tax should be included in the bill.	USD 1 to 5000 Health tax on tobacco. Prohibited to provide loans to tobacco industry.	USD 1 to 1000 Health tax on tobacco. Prohibited to provide loans to tobacco industry.

with key political leaders in Parliament to discuss the benefits of the tobacco control bill and to prevent tobacco industry interference.⁴⁴ LCP is the House of Representatives committee that considers legislation; it has the sole right to discuss and make revisions, recommendations, and amendments to any laws before being submitted to the full Parliament. The CLCP agreed to accelerate the bill's discussion within 3 days. In February 2010, the Speaker of the Parliament forwarded the bill to the LCP for discussion.^{37,38}

In March 2010, HEAFON found that the tobacco industry supported the MoH bill that had been submitted to Parliament by the Cabinet (Table 3). In response,⁴⁴ HEAFON drafted a stronger bill, with support from the Union, including a 90% HWL requirement (exceeding the FCTC minimum of 30%); a ban on smoking in all public places, workplaces, public toilets, parks, transportation, private houses and vehicles; a restriction on sales to minors (less than 18 years) and pregnant women; penalties for violators; a complete ban on TAPS; and adoption of a tobacco tax. HEAFON distributed its draft bill to several MPs and political leaders.⁴⁴

HEAFON and RECPHEC developed a list of 40 key MPs, 20 members of the LCP, 15 political leaders, and 5 ministers who were directly and indirectly linked to the tobacco control legislative process. HEAFON and RECPHEC conducted informal meetings with them to discuss the benefits of the stronger bill, tobacco industry interference, and the role of MPs in Parliament, and ask for support of their draft bill.^{32,33,44}

Tobacco Control Bill Discussion in the LCP

The LCP formed a subcommittee (appointing one coordinator and four members) on March 10, 2010 to make recommendations on the 2007 MoH bill that had been sent to Parliament by the Cabinet. The subcommittee met seven times between March 14 and April 19 and submitted its recommendations to the LCP on April 2010 (Supplementary Table S1).³⁹ The subcommittee's recommendations included adding more public places to the smoking ban, prohibiting smoking in homes and personal vehicles, prohibiting the manufacture of any non-tobacco product which looks similar to tobacco

products, prohibiting the tobacco industry from using another industry trademark on their products, requiring HWLs cover at least 75% of the total space of the tobacco packets (Figure 1), be colorful and feature Nepali text, prohibiting sales to minors younger than 18 years and to pregnant mothers, prohibiting smoking within 100 meters of the perimeter of public places, and requiring formation of a tobacco product control and regulation committee in coordination with the health ministry, which tobacco control advocates supported (Table 3).³⁹

Several meetings conducted by tobacco control advocates helped secure the subcommittee's recommendations. In April 2010, HEAFON organized a meeting with the head of the Maoist party (Puspa Kamal Dahal), CLCP, key MPs, key members of the LCP, and key political leaders requesting support to pass the bill with the recommended changes from the LCP.^{33,44,59,60} After these meetings, the LCP informed tobacco control advocates that the bill would be discussed in April 2010.^{61,62} After dozens of meetings and discussions among committee members, in May 2010, 72 out of 75 LCP members agreed to pass the strengthened bill to the full Parliament for approval.⁶³⁻⁶⁵

Ministers Supported Tobacco Industry

Key informants^{33,44,59,65} reported that most MPs representing different political parties agreed with the 90% HWLs. Afterwards, however, most of the LCP members said that the 90% HWLs would be difficult to implement in the beginning and ministers (Health, and Law and Justice), advocated for 30%, which led to a final agreement of 75% of the area on both sides.⁴⁴ Several MPs including Khagaraj Adhikari and Gagan Kumar Thapa played an active role in the Parliament to secure 75% HWLs.^{33,65} Law and Justice Minister Prem Bahadur Singh, a few MPs, officials from the Agriculture, Finance and Industry ministries, and the Health Minister Uma Kanta Chaudhary advocated for weak legislation when the bill was under discussion in the Legislation Committee of the Parliament (Supplementary Table S1).^{40,63,66} Ministers Chaudhary and Singh advocated to keep 30–50% HWLs while other committee members agreed on 75%.^{32,33,44,54,65,67} Chaudhary argued that it would be difficult to implement if higher percent HWLs were required because India required only 40% on the front side (average 20% front/back), thus Nepal should not require a larger size than India or other countries.^{32,33,44} Other MPs replied to Chaudhary that they were making this policy to eliminate Nepal's tobacco problem and that Chaudhary should not worry about other countries.⁴⁴ At the same time, the tobacco industry argued that HWLs already existed, thus the new bill should not include HWLs.⁵⁰ A key informant reported that Minister Singh told tobacco control advocates that he had already promised 30% HWLs to the tobacco industry.³³

Chaudhary lobbied the MPs representing the *terai* region (where tobacco is grown), which was also his region, to oppose tobacco control legislation in Parliament.⁴⁴ These MPs, including Chaudhary, argued that tobacco agriculture is the main occupation in the *terai* region, farmers earn money from their tobacco farms, and if this business stops, farmers will have no food and it will struggle to survive; therefore, it was necessary to stop the bill from passing in Parliament⁴⁴ (only 0.04% of agricultural land is devoted to tobacco cultivation in Nepal⁶⁸). Between June 2010 and February 2011 political parties were engaged in making a coalition government which affected the parliamentary process. Due to the changes in the

coalition government on June 30, 2010, Chaudhary lost his post and lost his power to influence policy before the law passed.

In addition, the tobacco industry lobbied Prime Minister Madhab Kumar Nepal to reduce the HWLs to 30% and delay the process in Parliament.⁵⁴ A key informant⁶⁵ reported that the tobacco industry also lobbied the Speaker of the Parliament to delay the process. The Parliamentary process was ultimately delayed for 1 year, from May 2010 to April 2011.

Tobacco Industry Threatens Health Advocates

In May 2010, as the bill was sent for approval to Parliament, tobacco industry representatives arranged a meeting with tobacco control advocates, offered money and other support (whatever they liked), and requested that they remain inactive in the policy making process.^{32,33,44} According to a key informant, the tobacco industry made similar offers to the CLCP.⁴⁴ In addition, representatives from SNPL met the CLCP and Tika Prasad Kandel and argued: (1) that tobacco control policy has not been successful in other countries and would not be successful in Nepal either; (2) if Nepal passes the tobacco control law, the country will lose a lot of revenue and employment opportunities, tobacco farmers will become poor and die, creating a huge loss for the country; and (3) if a law must pass and the process cannot be stopped, the weaker 2007 MoH bill supported by the tobacco industry was preferable.^{32,33,44,59} Tobacco control advocates and the CLCP rejected the industry's offers.^{32,33,44} Key informants reported that in June 2010 tobacco industry representatives made death threats to tobacco control advocates and their families by telephone and SMS text messages.^{32,33,44}

Parliament Passes the Tobacco Control Bill

On 24 May 2010, HEAFON organized a meeting with the Chief Whips of each political party (Nepali Congress, Maoist, United Communist Party of Nepal) and key politicians to secure support to pass the bill and with LCP amendments requiring 75% HWLs and other strengthening public health amendments (Table 3).^{33,44} In January 2011, HEAFON organized another meeting with key leaders from different political parties, MPs, lawyers, and MoH officers to pressure Parliament to pass the bill.⁴⁴ In March 2011, MPs including Khagaraj Adhikari and Gagan Thapa, met with the Speaker of the Parliament and discussed the pending tobacco policy, advocating for the parliamentary procedure to continue, and the Speaker agreed to initiate the process.^{32,33,44,65} In March 2011, HEAFON organized meetings with key leaders and Krishna Bahadur Mahara, an MP and Deputy Prime Minister and Minister of Home Affairs to create a supportive environment in Parliament to pass the bill.^{33,44,50,54,59} In April 2011, Minister Mahara met with the Speaker to discuss the bill submitted by the LCP, and the Speaker agreed to put the bill on the floor for discussion. Mahara presented the bill which was submitted by LCP in April 11, 2011 and the Speaker put the bill on the floor of the House for discussion and vote on April 11, 2011. Nearly 95% of the 601 MPs (exact count is not available) voted for it; the Speaker certified that the Tobacco Product (Control and Regulatory) Act 2010 passed on April 11, 2011 and sent it to the President for approval.⁴¹

President Dr. Ram Baran Yadav signed the Act on May 9, 2011,⁴² to take effect starting August 7, 2011 (90 days after being signed by the President). The legislation's 75% HWLs entered effect beginning November 4, 2011 (180 days after signed).⁴¹ The Ministry of Health was assigned responsibility for enforcing this national law.

Discussion

Despite the tobacco industry's high-level political links and support, tobacco control advocates secured strong FCTC implementation legislation in Nepal. At the time of passage in 2011, Nepal's 75% HWLs were the second largest in South-East Asia and third highest in the world.⁶⁹ The FCTC implementing legislation also included 100% smoke-free public and workplaces, private homes and vehicles, and ban all type of TAPS.

The tobacco industry repeatedly used several political strategies, tactics, and arguments in Nepal, as they did elsewhere,^{6–8,70–72} to prevent or weaken tobacco control policy. The industry provided alternative weak draft legislation,^{73,74} spread misleading arguments about the economic impact of the proposed law^{11,13,15,16,22,75,76} and the proposed HWL.^{11,13,77–83} While the industry delayed the process in Nepal, it ultimately failed.

As in other LMICs with corruption and weak institutional structures, the tobacco industry opposed tobacco control legislation with financial contributions to MPs, ministers, and politicians.^{2,73,76,84–88} As elsewhere, the tobacco industry offered payments to and threatened tobacco control advocates.⁸⁹

Inter-sectoral coordination between different ministries, especially among health, finance, trade, and agriculture is important to promote tobacco control.^{83,90} For example, only a small area of the agriculture land is utilized to cultivate tobacco and the Nepal government offered financial and technical support to the tobacco farmers for alternative farms. In Nepal, as in other countries, the tobacco industry tried to pit one ministry against another, but ultimately it failed, as it did elsewhere.^{82,90–95}

The tobacco industry failure in Nepal resulted from strong efforts by tobacco control advocates as well as financial and technical support from international funders and partners (Bloomberg, CTFK, The Union, WHO). These efforts included advocates' use of litigation, and subsequent Supreme Court decisions to maintain pressure and foster the political will of key MPs and political leaders in Nepal. Advocates also engaged with media and developed educational campaigns. As elsewhere,^{13,15,23,75} media advocacy and support from the international tobacco control network helped generate support for public health policies.^{75,82,90}

Nepal was in a political transition phase from 2006 to 2015 after experiencing long term political instability and conflict. Nepal's experience provides important lessons for other LMICs operating in an environment of political transition, instability, and conflict that are trying to pass a strong comprehensive tobacco control policy. Tobacco control advocates utilized a multi-sectoral approach to counter the tobacco industry's interference using effective coordination, education, communication and awareness as emphasized by FCTC Article 12¹⁹ (Education and Communication). Advocates utilized domestic litigation to make the tobacco industry responsible for their criminal and civil injustices and liable for compensation as reinforced by FCTC Article 19¹⁹ (Liability) and undermined the tobacco industry's vested interest in preventing and weakening tobacco policy as emphasized by FCTC Article 5.3. Tobacco advocates continued engagement, awareness, and education of policymakers with the help of global tobacco control community, ultimately succeeded in toppling the tobacco industry's challenges.

As in other LMICs, tobacco control efforts in Nepal are still under threat of being influenced by a politically and economically strong tobacco industry even after passing the comprehensive policy, as implementation could present additional challenges. Continuous financial and technical support and education for tobacco control

advocates are required in all LMICs to increase advocacy and defend against ongoing tobacco industry efforts to undermine the law.

Limitations

We collected publicly accessible and available information. Older government records were unavailable to verify some claims made by key informants. We used newspaper information to verify the key informants' material. Tobacco industry documents for this period (2006–2011) were not available in the Truth Tobacco Industry Documents Library to obtain detailed information on tobacco industry internal discussions.

Conclusion

Like other LMICs, tobacco industry interference and barriers remained after FCTC ratification in Nepal. Tobacco control advocates' efforts in Nepal secured a comprehensive tobacco control law in 2011, which has now been implemented.³⁰ The tobacco industry failed to block or weaken the law because of coordination among tobacco control advocates, politicians, legislatures, court, global tobacco control community, and media. In Nepal, tobacco control advocates worked successfully to raise awareness, motivate, and educate politicians and the legislature using media and litigation against tobacco industry activities. Advocates in developing countries should learn from Nepal's experience to defeat tobacco industry interference and barriers against tobacco control policy, and continue educating politicians and legislatures to gain political support. Technical and financial support from the global tobacco control community, and the effective collaboration and coordination of civil society, combined with the use of domestic litigation, would be helpful in other LMICs with weak and politically unstable governments.

Supplementary Material

Supplementary data are available at *Nicotine and Tobacco Research* online.

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Declaration of Interests

None declared.

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