

Smoke-Free Index Myanmar:
Implementation of WHO FCTC Article 8
(Protection from exposure to tobacco smoke)
in Myanmar, 2022

**Ministry of Health and
People's Health Foundation**

**Yangon
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WHO Framework Convention on Tobacco Control (WHO FCTC)

WHO Framework Convention on Tobacco Control (WHO FCTC) Article 8.1 requires Parties to *“recognize that scientific evidence has unequivocally established that exposure to tobacco smoke causes death, disease and disability.”*

Article 8.2 requires Parties to *“adopt and implement in areas of existing national jurisdiction as determined by national law and actively promote at other jurisdictional levels the adoption and implementation of effective legislative, executive, administrative and/or other measures, providing for protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places.”*

In implementing the above Articles, the guidelines on the Article 8 of the WHO Framework Convention on Tobacco Control (WHO FCTC) emphasized that *“there is no safe level of exposure to tobacco smoke”* and called on each Party to *“strive to provide universal protection within five years of the WHO Framework Convention’s entry into force for that Party”*.

The five-year deadline for Myanmar was 27 February 2010. Myanmar enacted the national tobacco control law in May 2006 and thus, fulfilling this obligation.

FOREWORD

Myanmar is a signatory Party to the WHO Framework Convention on Tobacco Control (WHO FCTC), after its ratification in April 2004. Myanmar has tried its best to improve its legislative framework for the reduction of consumption of tobacco and tobacco products. Myanmar enacted the "Control of Smoking and Consumption of Tobacco Product Law" (referred later as national tobacco control law) on 4 May 2006, which came into effect in May, 2007.

WHO FCTC Article 8 relates to the "*Protection from exposure to tobacco smoke*". The guidelines on the Article 8 emphasized that "*there is no safe level of exposure to tobacco smoke*" and called on each Party to "*strive to provide universal protection within five years of the WHO Framework Convention's entry into force for that Party*". The five-year deadline for Myanmar was 27 February 2010. Myanmar enacted the national tobacco control law in May 2006, which have covered this Article, and thus, fulfilling this obligation.

One of the main objectives of the national tobacco control law is "***to protect from the danger which affects public health adversely by creating tobacco smoke-free environment***". It also stipulates that one of the functions and duties of the "Central Board of the Control of Smoking and Consumption of Tobacco Products" is "***to carry out measures to create tobacco smoke-free environment for protecting the public from the dangers of tobacco smoke***". Section 6 of the national tobacco control law, 2006 has defined the **Non-Smoking Areas**. The President Office in 2011 had also issued an instruction to all Ministries and Government Offices (Letter No.36(1)/7/President Office) on 15 June 2011, which prohibits smoking in premises of state-owned offices and buildings, prohibit chewing betel quid in premises of government offices and environs, and requiring mass cleaning of government offices before leaving office every Friday.

Section 7 of the national tobacco control law, 2006 had also listed places where smoking is banned, but could be arranged for the "**designated smoking areas (DSA)**". *Private offices and rooms are exempted from the smoking ban*. However, a new Order Stipulating the Requirements to be managed at the specific areas where smoking is allowed (MoH Notification No. 6/2014), requires that DSAs have to be outside the building (outdoor), be without a roof and wall, and be at least 10 metres away from the building entrances (doors/windows). There is an exception for trains and water transport, where stipulating DSA has different requirements. The notification by MoH with regard to the Order Stipulating the Caption, Sign and Marks Referring to the "No Smoking Area" (MoH Notification No. 5/2014) has specified the requirements for the "**No Smoking Area**" caption and signage; and the Order Stipulating the Requirements to be Managed at the Specific Area where Smoking is Allowed (MoH Notification No. 6/2014) specifies requirements for how "**designated smoking areas (DSA)**" are to be described. The law does not cover other important settings such as national heritage sites and tourism areas which are currently implemented as public areas for smoke-free.

It has been more than a decade of implementing establishment of smoke-free areas, establishing smoke-free cultural heritage sites, smoke-free universities and other educational institutions, etc. Appropriate preparation and communication in advance of implementation is necessary to make smoke free law for effective self-enforcing. A good strategy will enable successful enforcement with minimum resources.

The present paper contains the agreed statements of principles and definitions of the relevant terms as per the WHO FCTC Article 8 Guidelines, to make understanding of the implementers and the implementation partners; and also identifies the measures needed to achieve effective protection from the second-hand smoke.



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INTRODUCTION

WHO Framework Convention on Tobacco Control

The WHO Framework Convention on Tobacco Control (WHO FCTC)ⁱ, is the first international health treaty negotiated under the auspices of the World Health Organization. The WHO FCTC is an evidence-based treaty that reaffirms the right of all people to the highest standard of health. It is a legally-binding treaty designed to reduce deaths and diseases caused by tobacco use worldwide. From the first preamble paragraph, which states that the “Parties to this Convention [are] determined to give priority to their right to protect public health”, the WHO FCTC is a global trend-setter.

The WHO FCTC was adopted at the 56th World Health Assembly in May 2003. The treaty has 168 Signatories, including the European Community, which makes it the most widely embraced treaty in the history of United Nations and WHO. Member States that signed the Convention indicated that they will strive in good faith to ratify, accept, or approve it, and show political commitment not to undermine the objectives set out in it. The Convention entered into force on 27 February 2005, and to date, there are 182 Parties to the WHO FCTC, covering more than 90% of the World population.

The Union Republic of Myanmar started formulating its national tobacco legislation, while it was involved in the negotiation for the WHO FCTC since 2002. In October 2003, Myanmar became a signatory to the WHO FCTC, and later became a Party to the Convention, having ratified the treaty in April 2004. Myanmar enacted the “Control of Smoking and Consumption of Tobacco Product Law” (referred later as national tobacco control law) on 4 May 2006, which came into effect after a year.ⁱⁱ Under this law, the Government has established a “Central Board of the Control of Smoking and Consumption of Tobacco Products” with the Union Minister of Health as Chairperson, consisting of senior officials from related ministries and departments. The main role of the Board is for policy guidance, coordination, and adoption of rules and regulations.

WHO FCTC Article 8

WHO FCTC Article 8 relates to the “*Protection from exposure to tobacco smoke*”.

Article 8.1 states that Parties “*recognize that scientific evidence has unequivocally established that exposure to tobacco smoke causes death, disease and disability.*”

Article 8.2 requires Parties to “*adopt and implement in areas of existing national jurisdiction as determined by national law and actively promote at other jurisdictional levels the adoption and implementation of effective legislative, executive, administrative and/or other measures, providing for protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places.*”

Article 8 has imposed specific obligations on all Parties to protect the populace from exposure to tobacco smoke. The Conference of Parties had developed the Article 8 Guidelinesⁱⁱⁱ for implementing national and sub-national legislative measures on the protection from exposure to tobacco smoke. The Guidelines provided the objective of -

- (a) to assist Parties in meeting their obligations under Article 8 of the WHO Framework Convention, in a manner consistent with the *scientific evidence regarding exposure to second-hand tobacco smoke and the best practice worldwide in the implementation of smoke free measures*, in order to establish a high

standard of accountability for treaty compliance and to assist the Parties in promoting the highest attainable standard of health, and

- (b) to identify the key elements of legislation necessary to effectively protect people from exposure to tobacco smoke, as required by Article 8.

The Guidelines emphasized that “*there is no safe level of exposure to tobacco smoke*”, and “*have an obligation to provide universal protection by ensuring that all indoor public places, all indoor workplaces, all public transport and possibly other (outdoor or quasi-outdoor) public places are free from exposure to **second-hand tobacco smoke***.”

Designated smoking rooms, ventilation schemes or any engineering approaches are proven to be *ineffective* in protecting the populace from exposure to second-hand tobacco smoke.

No exemptions are justified on the basis of health or law arguments. If exemptions must be considered on the basis of other arguments, these should be minimal. In addition, if a Party is unable to achieve universal coverage immediately, Article 8 creates a continuing obligation to move as quickly as possible to remove any exemptions and make the protection universal. Each Party should strive to provide universal protection within five years of the WHO FCTC’s entry into force for that Party. The five-year deadline for Myanmar was 27 February 2010. Myanmar enacted the national tobacco control law in May 2006 and thus, fulfilling this obligation. The law still needs to be strong (100% SF) and well implemented in order to fully comply with this obligation.

SMOKE-FREE INDEX

The Southeast Asia Tobacco Control Alliance (SEATCA) is a multi-sectoral non-governmental alliance promoting health and saving lives by supporting ASEAN countries to accelerate and effectively implement the evidence-based tobacco control measures contained in the WHO Framework Convention on Tobacco Control. The primary responsibility of the governments is to protect the people from exposure to tobacco smoke. Nine out of the TEN countries of ASEAN region are parties to the WHO FCTC and are expected to have smoke-free laws that are 100% compliant to the Article 8 Guidelines. SEATCA has been working closely with all Members of ASEAN to review and update the effective implementation on the WHO Article 8.

SEATCA has most recently reported the status of the implementation as of 2020.^{iv}

The “**Smoke-Free Index Myanmar: Implementation of WHO FCTC Article 8 (Protection from exposure to tobacco smoke) in Myanmar, 2022**” is intended to guide the implementers and the implementation partners; and to identify the measures needed to achieve effective protection from exposure to the second-hand smoke. It will also assist the Government in meeting their obligations under Article 8 of the WHO Framework Convention, and also to identify the key elements of legislation necessary to effectively protect people from exposure to tobacco smoke, as required by Article 8.

Existing legislative status

The three concerned pieces of legislation related to the WHO FCTC Article 8 in Myanmar are: (1) Control of Smoking and Consumption of Tobacco Product Law, 2006 (national tobacco control law); (2) Order Stipulating the Caption, Sign and Marks Referring to the “No Smoking Area” (MoH Notification No. 5/2014); and (3) Order

Stipulating the Requirements to be managed at the specific area where smoking is allowed (Designating specific smoking areas) (MoH Notification No. 6/2014).

One of the main objectives of the national tobacco control law is *“to protect from the danger which affects public health adversely by creating tobacco smoke-free environment”*.

One of the functions and duties of the “Central Board of the Control of Smoking and Consumption of Tobacco Products” is *“to carry out measures to create tobacco smoke-free environment for protecting the public from the dangers of tobacco smoke”*.

Section 6 of the national tobacco control law of 2006 defined the **Non-Smoking Areas** where smoking is banned, such as health care facilities, sports facilities, educational facilities, public transport, enclosed public places and other public places.

The President Office also issued an instruction to all Ministries and Government Offices (Letter No.36(1)/7/Republic Office) on 15 June 2011, that prohibit smoking in premises of state-owned offices and buildings, prohibit chewing betel quid in premises of government offices and environs, and requiring mass cleaning of government offices before leaving office every Friday.

Section 7 of the national tobacco control law of 2006 had also listed places where smoking is banned, but the **“designated smoking areas (DSA)”** could be arranged for *private offices and rooms*. The designated smoking areas may be arranged in the building of offices, factories, restaurants, hotels and other types of lodging, public transport terminals as well as trains and water transportation. However, Order Stipulating the Requirements to be managed at the specific area where smoking is allowed (MoH Notification No. 6/2014), requires that DSAs have to be outside the building (outdoor), be without a roof and wall, and be at least 10 meters away from the building entrances (doors/windows). There is an exception for trains and water transport, where stipulating DSA has different requirements.

The Order Stipulating the Caption, Sign and Marks Referring to the “No Smoking Area” (MoH Notification No. 5/2014) has specified the requirements for the **“No Smoking Area”** caption and signage; and the Order Stipulating the Requirements to be Managed at the Specific Area where Smoking is Allowed (MoH Notification No. 6/2014) specifies requirements for how **“designated smoking areas (DSA)”** are to be described.

The law does not cover other important settings such as national heritage sites and tourism areas which are implemented as smoke-free public places.

The amount of Myanmar Kyat (MMK) for fine-charges according to the law on the violators is too small (MMK 1000-5000.-) (USD 0.5-3.0) for the present income level of around MMK 4000.- (USD 2.2) per day.

Ministry of Health (MoH) is responsible for planning, coordination, training and research, public awareness campaigns, technical support, monitoring and evaluation. Region/State Governments are supposed to implement and supervise the smoke-free policy. Mayors of Yangon, Mandalay and Nay Pyi Taw, and the Ministers for Social Affairs at the regions/states who have the executive and administrative authority, should oversee and guide the overall process of implementation of smoke-free policy and legislation. Other relevant ministries and organizations are to take responsibility for creation of respective *smoke-free environments* at various public places, such as smoke-free universities, smoke-free public transport vehicles, smoke-free religious places, etc.

Enforcement of and compliance of the smoke-free ban is generally limited in most of the settings. Local governments especially the region/state governments and respective ministries (health, education, hotel and tourism, general administration, etc.) must understand that one of their duties is to apply specific and strong enforcement measures. They may be concerned about the possible opposition from community and affected business groups like hospitality sector, but the evidences showed that smoke-free legislation has a neutral or positive impact on businesses. In most instances, majority of community including smokers have supported smoke-free policy.

Enforcement of and compliance on smoke-free environment is limited as enforcement authorities have constraints and penalties which do not have a deterrent effect. MoH, in collaboration with the People's Health Foundation (PHF), has in recent years, strengthened the smoke-free city network which Yangon and Mandalay Regions are part of, smoke-free heritage sites such as those in Bagan, Inle, Mandalay, Magway, Shan, Mon and others, and smoke free universities, colleges and basic education schools. The Tobacco Control Teams at State/Region levels and below worked with the School Health Department and the Ministry of Education, to create smoke-free schools. Under the global healthy city partnerships programme, financed by the Bloomberg Philanthropies, Yangon City has participated to make the *Smoke-free City* within 5 years from 2019. Mass Media campaign on protection from second-hand smoke was launched in 2019.

Except in a few cities, smoke-free policy has not been properly implemented. Smoke-free policy has received little attention for effective implementation in most States/Regions. Coordination between central and district and township implementation levels needs to be strengthened. Community and owners or persons-in-charge of the businesses and organizations are not quite aware of the law and hazards of exposure to tobacco smoke.

According to the *“Report on National Survey of Diabetes Mellitus and Risk Factors for Non-communicable Diseases in Myanmar, 2014”*, mostly known as STEPS 2014,^v about a quarter of adults reported exposure in workplaces and slightly more than a third at home. According to the *Report of Fifth Global Youth Tobacco Survey (GYTS), Myanmar, 2016, known as GYTS 2016*^{vi}, more than a quarter of youth were exposed to second-hand smoke in indoor public places and a third at home. The *“Report of the second Global School-based Student Health Survey in Myanmar, 2016”*, also known as GSHS 2016^{vii} had reported that 72.7% of students aged 13-15 years were being exposed to second-hand smoke in the past week.

With appropriate preparation and communication in advance of implementation, smoke free law will usually become self-enforcing. But enforcement strategy is needed to implement the law to deter potential violators. A good strategy will enable successful enforcement with minimum resources.

The present paper contains the agreed statements of principles and definitions of the relevant terms as per the WHO FCTC Article 8 Guidelines, reviewing them and also identifying measures needed to achieve effective protection from second-hand smoke.

IMPLEMENTING THE SEVEN PRINCIPLES OF ARTICLE 8

As noted in Article 4 of the WHO FCTC, strong political commitment is necessary to take measures to protect all persons from exposure to tobacco smoke.

The following principles had been agreed upon to guide the implementation of Article 8 of the Convention.

Principle 1

Effective measures to provide protection from exposure to tobacco smoke, as envisioned by the Article 8 of the WHO Framework Convention, require the total elimination of smoking and tobacco smoke in a particular space or environment in order to create a 100% smoke free environment. *There is no safe level of exposure to tobacco smoke*, and notions such as a threshold value for toxicity from second-hand smoke should be rejected, as they are contradicted by scientific evidence.

Approaches other than 100% smoke free environments, including ventilation, air filtration and the use of **designated smoking areas** (DSA) (whether with separate ventilation systems or not), have repeatedly been shown to be **ineffective**, and there is conclusive evidence, scientific and otherwise, that engineering approaches do not protect against exposure to tobacco smoke.

According to Section 6 of the national tobacco control law of 2016, the following compounds (premises), buildings, rooms and places are **non-smoking areas**:

- (a) hospital buildings, offices, compounds and other buildings in the compound **except staff quarters**;
- (b) houses and apartments in the hospital compound;
- (c) medical treatment centres and clinics;
- (d) stadium and indoor playing fields;
- (e) children drill sheds and playgrounds;
- (f) teaching buildings, classrooms, offices, compounds and other buildings in the compound (premises) **except staff houses and apartments in the school compound**;
- (g) teaching buildings of universities, degree colleges, colleges and institutes, classrooms and offices;
- (h) opera houses, cinema halls, video halls and other buildings of entertainment;
- (i) marts, department stores, stores and market sheds;
- (j) museums, archives, public libraries and reading rooms;
- (k) elevators and escalators;
- (l) motor vehicles and aircrafts for passenger transport;
- (m) air-conditioned public rooms;
- (n) public auditoriums;
- (o) teaching buildings and classrooms of private tuition classes and training schools;
- (p) other public compounds, buildings and places prescribed through notification by the Ministry of Health.

According to Section 7 of the national tobacco control law of 2016, the following compounds, buildings, rooms and places are **non-smoking areas**, but allowed to establish the **designated smoking areas (DSA)** within them.

- Places to which the public have access in the following buildings, vehicles and crafts are **non-smoking areas except the private offices and rooms**. However, specific places, where smoking is allowed, shall be arranged in such areas:
 - (a) buildings of offices and departments;
 - (b) buildings of factories and workshops;
 - (c) buildings of hotels, motels, guest houses and lodging houses;
 - (d) buildings of railway stations, airports, ports and highway bus terminals;
 - (e) restaurants;
 - (f) trains and vessels for passenger transport;
 - (g) other public buildings, rooms and places prescribed through notification by the Ministry of Health.

WHO FCTC Article 8.2 clearly states that the Government should *actively promote at other jurisdictional levels the adoption and implementation of effective legislative, executive, administrative and/or other measures, providing for protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places.*

There may be a need to identify the different indoor workplaces and indoor public places, as it has confused to the public and enforcement authorities.

Effective measures to provide protection from exposure to tobacco smoke, as envisioned by the Article 8 of the WHO Framework Convention, require the total elimination of smoking and tobacco smoke in a particular space or environment in order to create a 100% smoke-free environment. There is no safe level of exposure to tobacco smoke.

The national law is not all-encompassing and allows exemptions for private offices and rooms, but "private" is not also defined in the law. Article 8 guidelines say that the definition of "public place" should "cover all places accessible to the general public or places for collective use, regardless of ownership or right to access." It is recommended to strengthen the law to require all public places to be 100% smoke-free.

Principle 2

All people should be protected from exposure to tobacco smoke. All indoor workplaces and indoor public places should be smoke free.

Myanmar national tobacco control law of 2006 and subsequent notifications and ministerial orders include measures to promote 100% smoke-free indoor workplaces,

indoor public places, public transportation and other public places where possible. However, the law has some exemptions. Designated smoking areas (DSA) are allowed in public trains and public water transportation under the national law, but the Ministerial Notifications (2014) prohibits smoking in those forms of transportation. Similarly, smoking rooms are still existed in some airports of major cities.

The summary of smoke-free settings among States/Regions (Table 1 next page) is based primarily on the reports submitted by respective States/Regions.


Following the initiatives taken by the MoH and PHF, State and Regional Health Departments began to carry out the measures necessary for setting up various smoke-free places in their respective places since 2018. Measures taken included awareness raising, advocacy, setting up committees for implementation and supervision social mobilization campaigns and trainings for townships.

Summary of the achievements made are shown in the Table (2), based on reports made during a virtual evaluation meeting in December 2020. Their activities are hampered by the COVID 19 in 2020-2022. Challenges commonly encountered are lack of community and stakeholders' involvement and sectoral coordination and need of financial and material support. Cultural practices and language barriers are also identified as factors hindering setting up of smoke-free areas in some States.

Table (1) Summary of the smoke-free Settings (indoor) by State/Region based on National Law

	Ayeyarwady	Bago	Chin	Kachin	Kayar	Kavin	Magway	Mandalay	Mon	Nay Pyi Taw	Rakhine	Sagaing	Shan (East)	Shan (North)	Shan (South)	Tanintharyi	Yangon
Airport (Waiting areas)*																	
Bars & Pubs																	
Educational Facilities																	
Healthcare Facilities																	
Hotels																	
Places of Worship (Premises)																	
Restaurants																	
Shops & Shopping Complexes (Mart, Department store, Store, Market shed)																	
Transport Terminals (Waiting Areas)																	
Universities																	
Workplaces/Offices																	

Legend:

 Smoke free indoor With Outdoor designated smoking area but Smoking is allowed in Private Office and private room inside the building

 100% Smoke Free / No Smoking room

*Smoking room present inside the building in Yangon Mingaladon Airport, Mandalay & Nay Pyi Taw Airports

Table (2) Implementation of smoke-free Settings by States and Regions, 2021

State/Region	Townships declared Smoke Free	Campus declared Smoke Free	Temples declared Smoke Free	Others
Ayeyarwady	Nil	Nil	Nil	*
Bago	Nil	Bago University Bago Region Education office	Shwe Maw Daw Shwe Thar Lyaung	Smoke Free declared in -Regional health department -Bago Hospital - Sport and Physical education department - Kanbawza Thardi Palace
Chin	Nil	Nil	Nil	*
Kachin	Nil	Myitkyina University	Nil	*
Kayah	Loikaw	Nil	Nil	*
Kayin	Nil	Hpa An University Hpa An Education College Hpa An Technical University Hpa An Computer University	Nil	*
Magway	Nil	Magway Medical University University of Community Health	Nil	*
Mandalay	Bagan Heritage Area; Pyin Oo Lwin; Cultural heritage places at Mandalay City	University of Medicine Mandalay, University of Traditional Medicine, University of Dental Medicine Mandalay, University of Nursing Mandalay, University of Medical Technology Mandalay, University of Pharmacy Mandalay	Nil	*
Mon	Nil	Nil	Kyaik Htee Yoe	*
Nay Pyi Taw	Nil	Nil	Nil	*
Sagaing		All Universities, colleges, training schools and basic education schools in Sagaing and Monywa	All famous pagodas in Sagaing and Monywa	*
Shan (E)	Nil	Nil	Nil	*
Shan (N)	Nil	Nil	Yan Daing Aung Myo Oo pagoda, Man Hsu pagoda Lashio	Sport events like cycling, mini-marathon held in Lashio, Thipaw, Kwon Long, Naung Khio, Mabein,

State/Region	Townships declared Smoke Free	Campus declared Smoke Free	Temples declared Smoke Free	Others
Shan (S)	Nil	Nil	Taunggyi-Sula Muni, Shwe Phone Pyi, Mya Sein Taung, Mwe Taw Kakku, Pindaya- cave, Konlon Temple, Nyaung Shwe-Inle Phaung Daw Oo pagoda	SF Bird sanctuary Taunggyi Sporting events like mass walking, mini-marathon Taunggyi, Moe Ne, Kong Heng, Pin Laung,
Tanintharyi	Nil	Dawei University	Nil	*
Yangon	Kyauktada Expansion to other four townships in progress	University of Medicine I Yangon, University of Public Health, University of Dental Medicine Yangon, University of Nursing Yangon, University of Medical Technology Yangon, University of Pharmacy Yangon, University of Yangon (Kamayut and Hlaing)	Those situated in Kyauktada township	

* Identified and planned places to be made Smoke Free and some preliminary steps (poster, sign, sticker, awareness, coordination meeting, and committee formation).

Principle 3

Legislation is necessary to protect people from exposure to tobacco smoke. Voluntary smoke free policies have repeatedly been shown to be ineffective and do not provide adequate protection. In order to be effective, legislation should be simple, clear and enforceable.

Myanmar national tobacco control law of 2006 and its related notifications and ministerial orders cover measures to promote 100% smoke-free indoor workplaces, indoor public places, public transportation and other public places where possible. However, Myanmar still has grey areas subject to different interpretations.

The law should be accompanied with By-Law or Notifications, so that there is less conflicts on interpretation. This would strengthen an effective implementation and enforcement. (See details in the section on definitions of key terms)

Principle 4

Good planning and adequate resources are essential for successful implementation and enforcement of smoke free legislation.

Following the adoption of the national tobacco control law of 2006, Myanmar developed the National Tobacco Control Policy (NTCP) and within it, the National Plan of Action for the period 2006-2010. The

national policy was based on the national tobacco control law of 2006, delineating

measures to be taken, including legislation, implementation arrangements, to make tobacco control comprehensive and in line with WHO FCTC.

Tobacco control is also recognized and taken into consideration in the Myanmar National Health Plan (NHP) for 2017–2021, which aims to strengthen Myanmar’s health system and improve equitable access to quality essential health services and interventions for the entire population and expressed the need for the Ministry of Health (MoH), to work closely with the Ministry of Planning, Finance and Industry (MoPFI), for better financing of tobacco control. The National Strategic Action Plan on Prevention and Control of Non-communicable Diseases (2017–2021) also highlighted the need to monitor the prevalence of tobacco use and the determinants of risk exposure such as marketing.

The Joint Mission of WHO FCTC Convention Secretariat (consisting of representatives from the Convention Secretariat, WHO, UNDP, WHO FCTC Knowledge Hub, and others) in May 2018 identified gaps on the implementation of tobacco control in Myanmar, and recommended to review and update the National Tobacco Control Policy and Plan of Action in Myanmar, to be more comprehensive, multisectoral, and relevant to cover the obligations as far as possible. Existing national tobacco control policies have been reviewed and revised and a strategic framework for implementation of plans of action for the next five years has been drafted.^{viii}

Principle 5

Civil society has a central role in building support for and ensuring compliance with smoke-free measures, and should be included as an active partner in the process of developing, implementing and enforcing legislation.

Civil Society has a definite role in building support for and ensuring compliance with smoke-free measures. They are to be included as active partners in the process of development of policies, planning and

implementation, as well as in monitoring and evaluation for support of enforcement of legislation.

While there are thousands of NGOs registered with the Union Ministry of Home Affairs, most of them are working at the level of States/Regions and Townships. There are hundreds of national and international NGOs registered with the Union Ministry of Health. Several of them work in limited programme areas or limited geographical areas. People’s Health Foundation, as major NGO, works with the Union Ministry of Health for policy and programme development, resource mobilization, joint planning and implementation and enforcing legislation on tobacco control.

Principle 6

The implementation of smoke free legislation, its enforcement and its impact should all be monitored and evaluated. This should include monitoring and responding to tobacco industry activities that undermine the implementation and enforcement of the legislation, as specified in Article 20.4 of the WHO FCTC.

Based on the ASEAN countries’ experiences, smoke-free compliance is not regularly monitored. There are some countries where monitoring and evaluation is done at sub-national levels or by local government units. Some research papers have been published. Due to limited

financial and human resources, it is still difficult.

According to the result of second-round study on compliance of smoke-free places in Kyauk-tada carried out by PHF in October 2019, compliance was around 75.6%. Discussions have been held in December 2019 with Yangon City Authority to have a notification on smoke-free with enforcement actions.

According to the results of pre-launch studies on compliance of smoke-free places in expanded townships in Yangon City, which were carried out during October-December 2019, the compliance rates on smoke-free places on average is around 47.9%. (See Table 3)

Table (3) Compliance of smoke-free places by Townships

	Township	Total inspected	No. complied	Percent
1.	Pabedan	173	54	31.2
2.	Pazuntaung	158	57	36.1
3.	Botataung	113	73	64.6
4.	Latha	145	91	62.8
5.	Lanmadaw	137	73	53.3
Total		726	348	47.9

Source: Compliance surveys, Yangon City Smoke-free Project

Principle 7

The protection of people from exposure to tobacco smoke should be strengthened and expanded, if necessary; such action may include new or amended legislation, improved enforcement and other measures to reflect new scientific evidence and case-study experiences.

Most ASEAN countries have updated or amended their legislation relating to protection of people from exposure to tobacco smoke. Myanmar added two notifications in 2014 and also issued ministerial orders to expand smoke-free coverage.

Since there could be different interpretations on key terms and dispute in implementing existing national tobacco control law, especially on enforcement, Myanmar is preparing new comprehensive tobacco control legislation, to strengthen the current smoke-free provisions.

DEFINITION OF TERMS

In order to prevent confusion when enforced, the national policy or legislation on smoke-free needs to carefully define key terms from the very beginning. WHO FCTC Article 8 and its implementation guidelines have provided the “**Definitions of key terms**” related to smoke-free policy and the Parties have to consider these definitions in their amendments or new legislations to make them more enforceable.

Tobacco product (s)

Analysis

According to the national tobacco law, “tobacco product” means any material prepared for the purpose of smoking or consumption of the whole or part of the tobacco plant, leaf or stalk of the same.

FCTC-Based Definition:

The “tobacco product” means any product entirely or partly made of the leaf tobacco as raw material which are manufactured to be used for smoking, sucking, chewing or snuffing (FCTC Part 1 Article 1 (f))

The definition of “tobacco product” of the national tobacco law captures the main elements of the FCTC definition. However, this definition has not covered for the new tobacco and non-tobacco smoking products.

Second-hand smoke

Analysis

According to of the national tobacco law of 2006, “Cigar” means any cigarette, cheroot, cigar, smoking pipe and any other similar material prepared by any means for inhalation of smoke emitted from the burning of tobacco product. “Cigar smoke” means smoke emitted from the burning of cigar or smoke emitted from smoking, exhaling or inhaling of cigar.

National tobacco control law does not use the term "**second-hand smoke**".

FCTC-Based Definition:

Several alternative terms are commonly used to describe the type of smoke addressed by Article 8 of the WHO Framework Convention. These include “**second-hand smoke**”, “environmental tobacco smoke”, and “other people’s smoke”. Terms such as “passive smoking” and “involuntary exposure to tobacco smoke” should be avoided, as experience in France and elsewhere suggests that the tobacco industry may use these terms to support a position that “voluntary” exposure is acceptable.

“**Second-hand tobacco smoke**” can be defined as “the smoke emitted from the burning end of a cigarette or from other tobacco products usually in combination with the smoke exhaled by the smoker”. (FCTC Art. 8 Guidelines para. 15)

“Smoke free air” is air that is 100% smoke free. This definition includes, but is not limited to, air in which tobacco smoke cannot be seen, smelled, sensed or measured.

Smoking

Analysis

According to the national tobacco control law under Section 17, whoever commits *smoking or holding lighted cigar in any non-smoking area* under sections 6 and 7, except places prescribed in sub-sections (e), (f) and (n) of section 6 shall, on conviction, be punished with a fine from a minimum of Myanmar Kyat (MMK) 1,000.- (USD 0.5) to a maximum of MMK 5,000.- (USD 3.0).

This is in line with the WHO FCTC (FCTC Art. 8 Guidelines para. 17), *being in possession or control of a lit tobacco product regardless of whether the smoke is being actively inhaled or exhaled.*

However, no definition for this key term “smoking” in the national law could limit application of the smoking ban. A definition of “smoking” should be provided in accordance with the FCTC Art. 8 Guidelines.

Indoor or enclosed

Analysis

Having no definition for this key term in the national tobacco control law makes interpretation of many provisions difficult. This can hamper application and implementation of FCTC Art. 8 and the FCTC Art. 8 Guidelines.

A definition of “indoor” or “enclosed” should be provided in accordance with the FCTC Art. 8 Guidelines. The definition should be as inclusive and as clear as possible and care should be taken in the definition to avoid **creating lists** that may be interpreted as excluding potentially relevant “indoor” areas, e.g., national heritage sites, religious places, exhibitions, fairs and festivals, etc.

FCTC-Based Definition:

Any space covered by a roof or enclosed by one or more walls or sides, regardless of the type of material used for the roof, walls or sides, and regardless of whether the structure is permanent or temporary. (FCTC Art. 8 Guidelines para. 19)

Public place (area)

Analysis

Having no definition for this key term in the national tobacco control law makes interpretation of many provisions difficult. Because this can hamper application and implementation of FCTC Art. 8 and the FCTC Art. 8 Guidelines, a definition of “public place” should be provided in accordance with the FCTC Art. 8 Guidelines. While the precise definition of “public places” will vary between jurisdictions, it is important that legislation define this term as broadly as possible.

FCTC-Based Definition:

An area, permanent or temporary, that is accessible to the general public or places for collective use by the general public regardless of ownership or right to access. (FCTC Art. 8 Guidelines para. 18)

Workplace

Analysis

Similarly having no definition for this key term makes interpretation of many provisions difficult. Because this can hamper application and implementation of FCTC Art. 8 and the FCTC Art. 8 Guidelines, a definition of “workplace” should be provided in accordance with the FCTC Art. 8 Guidelines.

FCTC-Based Definition:

A “workplace” should be defined broadly as “any place used by people during their employment or work”. This should include not only work done for compensation, but also voluntary work, if it is of the type for which compensation is normally paid.

In addition, “workplaces” include not only those places at which work is performed, but also all attached or associated places commonly used by the workers in the course of their employment, including, for example, corridors, lifts, stairwells, lobbies, joint facilities, cafeterias, toilets, lounges, lunchrooms and also outbuildings such as sheds and huts. Vehicles used in the course of work are workplaces and should be specifically identified as such. (FCTC Art. 8 Guidelines para. 20)

Public transport

Analysis

Having no definition for this key term makes interpretation of many provisions difficult. This could hamper application and implementation of FCTC Art. 8 and the FCTC Art. 8 Guidelines, and a definition of “public transport” should be provided in accordance with the FCTC Art. 8 Guidelines.

FCTC-Based Definition:

Public transport should be defined to include any vehicle used for the carriage of members of the public, usually for reward or commercial gain. This would include taxis (FCTC Art. 8 Guidelines para. 22)

Protection should be provided in all indoor or enclosed workplaces, including motor vehicles used as places of work (for example, taxis, ambulances or delivery vehicles).

OUTDOOR SMOKE-FREE SETTINGS

The WHO FCTC Article 8 requires the adoption of effective measures to protect people from exposure to tobacco smoke in: (1) indoor workplaces, (2) indoor public places, (3) public transport, and (4) “as appropriate” in “other public places”. The language of the treaty requires protective measures not only in all “indoor” public places, but also in those “other” (that is, outdoor or quasi-outdoor) public places where “appropriate”.

The national tobacco control law of 2006 under its Sections 6 and 7 covers the ban on smoking at outdoor places in the educational and health care institutions.

According to the summary of the Smoke-free Settings (Outdoor) based on the national law of ASEAN countries, most (if not all) countries support the non-smoking policies in educational and health care facilities, including premises of universities.

ENFORCEMENT

Duty of Compliance

According to the Article 8 Guidelines, effective legislation should impose legal responsibilities for compliance on both affected business establishments and individual smokers, and should provide penalties for violations, which should apply to businesses and, possibly, smokers. Enforcement should ordinarily focus on business establishments.

The legislation should place the responsibility for compliance on the owner, manager or other person in charge of the premises, and should clearly identify the actions he or she is required to take. These duties should include:

- a) a duty to post clear signs at entrances and other appropriate locations indicating that smoking is not permitted. The format and content of these signs should be determined by health authorities or other agencies of the government and may identify a telephone number or other mechanisms for the public to report violations and the name of the person within the premises to whom complaints should be directed;

- b) a duty to remove any ashtrays from the premises;
- c) a duty to supervise the observance of rules;
- d) a duty to take reasonable specified steps to discourage individuals from smoking on the premises. These steps could include asking the person not to smoke, discontinuing service, asking the person to leave the premises and contacting a law enforcement agency or other authority.

The national tobacco control law, under Section 9, stipulates that the **person-in-charge** shall:

- a) Keep the caption and mark referring that it is a non-smoking area at the place mentioned in section 6 in accordance with the stipulations.
- b) Arrange the specific place where smoking is allowed as mentioned in section 7, and keep the caption and mark also referring that it is a specific place where smoking is allowed, in accordance with the stipulations.
- c) Supervise and carry out measures so that no one shall smoke at the non-smoking area.
- d) Accept the inspection when the supervisory body comes to the place for which he is responsible.

According to the law, the **person-in-charge** means the owner or person who administers the places designated in Sections 6 and 7. This expression also includes a person who has been assigned duty by the said owner or person.

Compliance surveys done in Yangon City showed the compliance rates ranged from 50% to 80%. The main reasons indicated that the persons-in-charge of the facilities do not know their responsibilities clear enough as per the Law, and just blame the persons who smoked.

They are supposed to supervise and carry out measures so that no one shall smoke at the non-smoking area. The law does not clearly specify the duty to take reasonable specified steps to discourage individuals from smoking on the premises. These steps include asking the person not to smoke, discontinuing service, asking the person to leave the premises and contacting a law enforcement agency or other authority.

Penalties

According to the Article 8 Guidelines, the effective legislation should impose legal responsibilities for compliance on both affected business establishments and individual smokers, and should provide penalties for violations, which should apply to businesses and, possibly, smokers.

The legislation should specify fines or other monetary penalties for violations. While the size of these penalties will necessarily reflect the specific practices and customs of each country, several principles should guide the decision. Most importantly, penalties should be sufficiently large to deter violations or else they may be ignored by violators or treated as mere costs of doing business. Larger penalties are required to deter business violators than to deter violations by individual smokers, who usually have fewer resources. Penalties should increase for repeated violations and should be consistent with a country's treatment of other, equally serious offences.

In addition to monetary penalties, the legislation may also allow for administrative sanctions, such as the suspension of business licenses, consistent with the country's practice and legal system. These "sanctions of last resort" are rarely used, but are very

important for enforcing the law against any businesses that choose to defy the law repeatedly. Criminal penalties for violations may be considered for inclusion, if appropriate within a country's legal and cultural context.

Table (9) shows the differences on stipulating penalties for violating the prohibition of smoking in each State and Region.

Table (9) Penalties at different jurisdictions for violating the Prohibition of Smoking based on National Law

States/Regions	PENTALTIES		
	Smokers	Establishments	
		First Offense	Subsequent Offense
Kachin	1000-5000 Kyats (0.66 USD)	1000-3000 Kyats (0.66-1.98 USD)	3000-10,000 Kyats (1.98-6.60 USD)
Kayah	1000-5000 Kyats (0.66 USD)	1000-3000 Kyats (0.66-1.98 USD)	3000-10,000 Kyats (1.98-6.60 USD)
Kayin	1000-5000 Kyats (0.66 USD)	1000-3000 Kyats (0.66-1.98 USD)	3000-10,000 Kyats (1.98-6.60 USD)
Chin	1000-5000 Kyats (0.66 USD)	1000-3000 Kyats (0.66-1.98 USD)	3000-10,000 Kyats (1.98-6.60 USD)
Sagaing	1000-5000 Kyats (0.66 USD)	1000-3000 Kyats (0.66-1.98 USD)	3000-10,000 Kyats (1.98-6.60 USD)
Tanintharyi	1000-5000 Kyats (0.66 USD)	1000-3000 Kyats (0.66-1.98 USD)	3000-10,000 Kyats (1.98-6.60 USD)
Nay Pyi Taw*		(a) Warning; (b) Minimum fine of 10,000 Kyats (6.67 USD); (c) Temporary suspension of license/permit; (d) Revocation of license/permit	
Bago	1000-5000 Kyats (0.66 USD)	1000-3000 Kyats (0.66-1.98 USD)	3000-10,000 Kyats (1.98-6.60 USD)
Magway	1000-5000 Kyats (0.66 USD)	1000-3000 Kyats (0.66-1.98 USD)	3000-10,000 Kyats (1.98-6.60 USD)
Mandalay	1000-5000 Kyats (0.66 USD)	1000-3000 Kyats (0.66-1.98 USD)	3000-10,000 Kyats (1.98-6.60 USD)
Mon	1000-5000 Kyats (0.66 USD)	1000-3000 Kyats (0.66-1.98 USD)	3000-10,000 Kyats (1.98-6.60 USD)
Yangon	1000-5000 Kyats (0.66 USD)	1000-3000 Kyats (0.66-1.98 USD)	3000-10,000 Kyats (1.98-6.60 USD)
Shan South**	5000 Kyats (3.3 USD)	20,000 Kyats (13.3 USD)	
Shan North	1000-5000 Kyats (0.66 USD)	1000-3000 Kyats (0.66-1.98 USD)	3000-10,000 Kyats (1.98-6.60 USD)
Shan East	1000-5000 Kyats (0.66 USD)	1000-3000 Kyats (0.66-1.98 USD)	3000-10,000 Kyats (1.98-6.60 USD)
Ayeyawady	1000-5000 Kyats (0.66 USD)	1000-3000 Kyats (0.66-1.98 USD)	3000-10,000 Kyats (1.98-6.60 USD)
Rakhine	1000-5000 Kyats (0.66 USD)	1000-3000 Kyats (0.66-1.98 USD)	3000-10,000 Kyats (1.98-6.60 SD)

* Nay Pyi Taw Development Law; ** State Government order

Enforcement Infrastructure

According to the Article 8 Guidelines (para 35-40), the national legislation should identify the authority or authorities responsible for enforcement, and should include a system both for monitoring compliance and for prosecuting violators. Monitoring should include a process for inspection of businesses for compliance.

It is seldom necessary to create a new inspection system for enforcement of smoke free legislation. Instead, compliance can ordinarily be monitored using one or more of the mechanisms already in place for inspecting business premises and workplaces. A variety of options usually exists for this purpose. In many countries, compliance inspections may be integrated into business licensing inspections, health and sanitation inspections, inspections for workplace health and safety, fire safety inspections or similar programmes. It may be valuable to use several such sources of information gathering simultaneously.

Where possible, the use of inspectors or enforcement agents at the local level is recommended; this is likely to increase the enforcement resources available and the level of compliance. This approach requires the establishment of a national coordinating mechanism to ensure a consistent approach nationwide.

Regardless of the mechanism used, monitoring should be based on an overall enforcement plan, and should include a process for effective training of inspectors. Effective monitoring may combine regular inspections with unscheduled, surprise inspections, as well as visits made in response to complaint. Such visits may well be educative in the early period after the law takes effect, as most breaches are likely to be inadvertent. The legislation should authorize inspectors to enter premises subject to the law and to collect samples and gather evidence, if these powers are not already established by existing law. Similarly, the legislation should prohibit businesses from obstructing the inspectors in their work.

The cost of effective monitoring is not excessive. It is not necessary to hire large numbers of inspectors, because inspections can be accomplished using existing programmes and personnel, and because experience shows that smoke free legislation quickly becomes self-enforcing (that is, predominantly enforced by the public). Only a few prosecutions may be necessary if the legislation is implemented carefully and active efforts are made to educate businesses and the public.

Although these programmes are not expensive, resources are needed to educate businesses, train inspectors, coordinate the inspection process and compensate personnel for inspections of businesses outside of normal working hours. A funding mechanism should be identified for this purpose. Effective monitoring programmes have used a variety of funding sources, including dedicated tax revenues, business licensing fees and dedicated revenues from fines paid by violators.

Table (10) shows the differences in enforcement infrastructure at the national level. There may be some different sub-national laws, and also States/Regions differ in determining who should be responsible for enforcement. The usual enforcers aside from the task force or working group are the police and the health/sanitation inspectors.

Table 10. Enforcement Infrastructure at the Regional/State Level

Components of the enforcement infrastructure that should be included in the law	Kachin	Kayah	Kayin	Chin	Sagaing	Taninthayi	Nay Pyi Taw	Bago	Magwe	Mandalay**	Mon	Yangon*	Shan South**	Shan North	Shan East	Ayeyarwady	Rakhine
Authorities responsible for enforcement	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial
System for monitoring compliance and for prosecuting violations	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial
Process for inspection of businesses for compliance	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial
States/Regions coordinating mechanism to ensure a consistent approach on monitoring States/Regions wide	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial
Overall Enforcement Plan	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial
Regular Inspections	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial
Authorizes inspectors to enter the premises and to collect samples and gather evidence	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial	Partial
Prohibits businesses from obstructing the inspectors in their work	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Funding Mechanism	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No

* only some townships ** Bagan, Pyin Oo Lwin, some areas of Mandalay City and Shan South

LEGEND ■ Yes ■ Partial ■ No

Enforcement Strategies

According to the Article 8 Guidelines (para 35-40), the strategic approaches to enforcement can maximize compliance, simplify the implementation of legislation and reduce the level of enforcement resources needed. In particular, enforcement activities in the period immediately following the law's entrance into force are critical to the law's success and to the success of future monitoring and enforcement. Many jurisdictions recommend an initial period of soft enforcement, during which violators are cautioned but not penalized. This approach should be combined with an active campaign to educate business owners about their responsibilities under the law, and businesses should understand that the initial grace period or phase-in period will be followed by more rigorous enforcement.

Table (11). Strategies for Enforcement

	Kachin	Kayah	Kayin	Chin	Sagaing	Taninthayi	Nay Pyi Taw	Bago	Magwe	Mandalay**	Mon	Yangon*	Shan South**	Shan North	Shan East	Ayeyawady	Rakhine	
Soft enforcement upon the law's entrance into force	Red	Yellow	Yellow	Red	Yellow	Yellow	Dark Blue	Yellow	Yellow	Dark Blue	Yellow	Dark Blue	Dark Blue	Yellow	Yellow	Yellow	Yellow	Red
Information drive for business establishments	Red	Yellow	Yellow	Red	Yellow	Yellow	Dark Blue	Yellow	Yellow	Dark Blue	Yellow	Dark Blue	Dark Blue	Yellow	Yellow	Yellow	Yellow	Red
Swift & decisive action to penalize violators	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red	Red

* only some townships ** Bagan, Pyin Oo Lwin, some areas of Mandalay City and Shan South

LEGEND Yes Partial No

When active enforcement begins, many jurisdictions recommend the use of high-profile prosecutions to enhance deterrence. By identifying prominent violators who have actively defied the law or who are well known in the community, by taking firm and swift action and by seeking maximum public awareness of these activities, authorities are able to demonstrate their resolve and the seriousness of the law. This increases voluntary compliance and reduces the resources needed for future monitoring and enforcement.

While smoke free laws quickly become self-enforcing, it is nevertheless essential that authorities be prepared to respond swiftly and decisively to any isolated instances of outright defiance. Particularly when a law first comes into force, there may be an occasional violator who makes a public display of contempt for the law. Strong responses in these cases set an expectation of compliance that will ease future efforts, while indecisiveness can rapidly lead to widespread violations.

Mobilize and involve the community

The effectiveness of a monitoring-and-enforcement programme is enhanced by involving the community in the programme. Engaging the support of the community and encouraging members of the community to monitor compliance and report violations greatly extends the reach of enforcement agencies and reduces the resources needed to achieve compliance. In fact, in many jurisdictions, community compliant are the primary means of ensuring compliance.

Table (12) System for community involvement

System for community involvement	Kachin	Kayah	Kayin	Chin	Sagaing	Taninthayi	Nay Pyi Taw	Bago	Magwe	Mandalay**	Mon	Yangon*	Shan South**	Shan North	Shan East	Ayeyawady	Rakhine
Public may initiate complaint	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Authorize any person to initiate action to compel compliance	No	No	No	No	No	No	No	No	No	Partial	No	No	No	No	No	No	No
Government toll-free telephone compliant hotline or similar system to report violations	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

* only some townships ** Bagan, Pyin Oo Lwin, some areas of Mandalay City and Shan South

LEGEND  Yes  Partial  No

For this reason, smoke free legislation should specify that members of the public may initiate complaint and should authorize any person or nongovernmental organization to initiate action to compel compliance with measures regulating exposure to second-hand smoke. The enforcement programme should include a toll-free telephone compliant hotline or a similar system to encourage the public to report violations.

MONITORING AND EVALUATION OF MEASURES

Monitoring and evaluation of measures to reduce exposure to tobacco smoke are important for several reasons, for example:

- (a) to increase political and public support for strengthening and extending legislative provisions;
- (b) to document successes that will inform and assist the efforts of other countries;
- (c) to identify and publicize the efforts made by the tobacco industry to undermine the implementation measures.

The extent and complexity of monitoring and evaluation will vary among jurisdictions, depending on available expertise and resources. However, it is important to evaluate the outcome of the measures implemented, in particular, on the key indicator of exposure to second-hand smoke in workplaces and public places. There may be cost-effective ways to achieve this, for example through the use of data or information collected through routine activities such as workplace inspections.

The Article 8 Guidelines recommend EIGHT key process and outcome indicators that should be considered.

Processes

- 1) Knowledge, attitudes and support for smoke free policies among the general population and possibly specific groups, for example, bar workers;
- 2) enforcement of and compliance with smoke free policies;

Outcomes

- 3) Reduction in exposure of employees to second-hand tobacco smoke in workplaces and public places;
- 4) Reduction in content of second-hand tobacco smoke in the air in workplaces (particularly in restaurants) and public places;
- 5) Reduction in mortality and morbidity from exposure to second-hand tobacco smoke;
- 6) Reduction in exposure to second-hand tobacco smoke in private homes;
- 7) Changes in smoking prevalence and smoking-related behaviours;
- 8) Economic impacts.

The purpose of monitoring and evaluation is to assess the progress, effectiveness and efficiency of the national tobacco control legislation and national programme. If there is a need to expand the provisions of the Law or the Policy or the Programme to achieve the goals of tobacco control, including 100% smoke-free environment, this is to be done on regular basis. Majority of ASEAN countries including Myanmar have participated in the global efforts for monitoring and evaluation, such as the Global Adult Tobacco Survey, Global Youth Tobacco Survey, etc., on every 2-4 years period. Some countries like Thailand and Indonesia had conducted national surveys every 2 years.

There is a need to have standardized monitoring and evaluation tools and conduct the activities regularly.

RECOMMENDATIONS

- 1) Developing new law and ministerial notifications in line with the WHO FCTC Article 8 guidelines;
- 2) Raising awareness among general population as well as owners of the restaurant and hotels about the law and risks of second-hand smoke exposure through ongoing public media campaigns;
- 3) Conducting advocacy for political leaders and high-level administrators to get support and extend further coordination;
- 4) Conducting training for implementing enforcement;
- 5) Implementing and strengthening monitoring and enforcement measures related to smoke-free policies.

CONCLUSION

Parties to the WHO FCTC, under Article 8, are obligated *in areas of existing national jurisdiction as determined by national law and actively promote at other jurisdictional levels the adoption and implementation of effective legislative, executive, administrative and/or other measures, providing for **protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places.***

The WHO FCTC Article 8 Guidelines is a useful tool to fully adopt and implement.

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