

A Review of Tobacco Taxation and Packaging Laws in Sri Lanka: Suggestions for Development

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Abstract - Tobacco products are consumed in a large scale in Sri Lanka. Cigarettes and Beedis are the most consumed tobacco products by the Sri Lankans. Over 80 percent smokers use cigarettes and 10 percent use beedis in Sri Lanka. The Sri Lankan Government has imposed laws to govern the tobacco industry. Act No. 27 of 2006 on National Authority on Tobacco and Alcohol is the first legislation which regulates the industry and tobacco consumption. 80 percent of pictorial health warnings have been introduced under this Act. Tobacco Tax Act was imposed in 1999 and the tobacco tax was extended to include manufactured tobacco such as cigarettes, cigars, I. beedis and piped tobacco. Sri Lanka also imposed over 60 percent taxes on cigarettes. The Government earned Rs.32 billion as tax income from the tobacco industry in 2020. As a consequence, cigarette prices increased substantially too. High prices can benefit smokers who desire to quit, reduce the overall consumption of tobacco, and put smoking cessation on their radar for those who continue to smoke. Increased taxes also have a positive impact on non-smokers as it reduces the possibility of their being passive smokers, by reducing their exposure to second-hand smoke. High prices of cigarettes might influence the smokers to find some alternatives. The data on the increase of beedi consumption and illicit cigarette manufacturing provide sufficient evidence to support that assumption. Now it is time for the Government to identify lacunas in laws and develop Sri Lankan laws related to tobacco control.

Keywords— *tobacco taxes, cigarette, Beedi*

I. INTRODUCTION

Globally, tobacco is the reason for more than 15 percent of deaths among men and 7 percent of deaths among woman (ADIC,2017). In Sri Lanka, it was 10 percent from the total deaths per year (WHO,2018). According to the Alcohol and Drug Information Center Sri Lanka (ADIC), cigarette covers 88.3 percent in the tobacco market. Not only cigarettes,

but also *beedi* is consumed in Sri Lanka and that is 10.1percent in the market. Ceylon Tobacco Company PLC (CTC) holds the monopoly of cigarette manufacturing in Sri Lanka. In 1999, Sri Lankan Government imposed Tobacco Tax Act to regulate taxes of the industry. Act no 27 of 2006 on National Authority on Tobacco and Alcohol is the first legislation which regulates the tobacco industry. Accordingly, the objective of this research is to analyze the impact of existing tobacco taxation and packaging laws through tobacco industry factors.

II. METHODOLOGY

This research is conducted referring to secondary sources by an extensive review of literature. This research referred the 1978 Constitution of the Democratic Socialist Republic of Sri Lanka, Acts and other regulations related to tobacco industry and the surveys done by reputed institutions regarding tobacco usage. This research used Annual Reports of CTC, Ministry of Finance and Sri Lanka Customs support the conclusion. This research further referred relevant journal articles and published research on tobacco industry in drawing conclusions.

III. RESULT AND DISCUSSION

A. Tobacco Consumption And Health Problems

Around 20,000 Sri Lankan citizens die every year due to tobacco related health complications. Among smokers, 88.3 percent smoke cigarettes and 10.1percent use beedi. 1.6 percent use Cigars. (ADIC,2020)

Cigarette consumers in Sri Lanka as an age group is as follows.

Table 1- Age groups and Cigarette consumption percentage – 2016 to 2018

Age group / Year	2016	2017	2018
15-24	29percent	18.3percent	21.5percent
25-39	38.4percent	23.9percent	28.6percent
Over 40	32.6percent	26.7percent	31.9percent

Source - TOBACCO FACT SHEET 2018 – ADIC SRI LANKA

Table 1 highlights the rate of current consumers, which has increased in 2018 compared to 2017. However, 2018's increased rate was lower than the increased rate in 2016.

According to the World Health Organization (WHO), tobacco attributed death rate is 10 percent from all other deaths per year in Sri Lanka. Among those deaths 53 percent are cerebrovascular diseases. 13 percent are chronic respiratory diseases and 11 percent are cancers. (WHO, 2018) The risk of having lung cancer is ninety five percent higher in people who smoke 100 cigarettes in an year than people who smoke 100 or less cigarettes in the same time period. (Chulasiri et.al, 2017)

The productivity of those with tobacco-related illnesses is low and they are either absent from the labour market or leave the labour market early due to health issues. They also tend to be a threat on non-smokers by second-hand smoking. Further, the tobacco users, their families and friends are affected by economic consequences in addition to the health consequences. Hence, tobacco course huge cost on individual or domestic income in south Asia. Because money spend to tobacco, should be spend for basic necessity, food, shelter or for the education. (Wijesinghe, 2019)

B. Tobacco Products Market In Sri Lanka

In the British colonial era, the British American Tobacco, one of the world's leading multinational company established a subsidiary in Sri Lanka in 1906. Ceylon Tobacco Company PLC (CTC) was established in Sri Lanka in 1932. It is operating as a subsidiary of British American Tobacco which owned 84.13percent of shares in 2020 and Philip Morris brands SARL held 8.32percent (CTC,2020).

It can be observed that two largest tobacco companies in the world have owned 90 percent of shares of the CTC. According to the Tobacco atlas, "the combined revenues of the world's six largest tobacco companies in 2016 was worth more than USD 346 Billion, and their revenue is 338 percent

larger than the Gross National Income (GNI) of Sri Lanka. The industry is a powerful force that does not fear the actions of nation-states because of their extensive resources and financial and global market power." (Tobacco Atlas, n.d.)

CTC holds the monopoly of cigarette manufacturing in the country. According to the Annual reports published revenue and other operational details are as follows.

Table 2: Turnover, Operating Profits and Cigarette sticks sold of last 5 years of CTC

Year	Turnover Rs.Million	Operating Profit Rs. Million	Accounted Government levies and income tax Rs.Million	Cigarette sticks sold Billion
2016	121,525	20,369	98,437	3.9
2017	138,539	23,066	117,371	3.15
2018	145,298	25,904	122,839	3.15
2019	141,342	27,057	117,250	2.6
2020	132,149	24,671	109,931	2.3

Source: CTC ANNUAL REPORTS 2016 TO 2020

Table 2 shows increase of cigarette sticks sold in 2017 remains stable in 2018. However, turnover and operating profit has increased over time. The reasons for that increase could not be identified in the existing data. In 2019, it showed a decrease in turnover and cigarette quantity sold. However, operating profit has increased compared to the three years before. In 2020 it shows a decrease in Cigarette sticks sold, turnover and operating profits.

According to the CTC, the legal sales of cigarettes have declined. However, the illicit sales and the sales of *beedi* has significantly increased. The reasons for this situation are the price differences between legal and illegal products and frequent excise-led price increases have resulted in price hikes of legal products. (CTC, 2020)

Beedi is popular among the people having low-income in rural areas in Sri Lanka. *beedi* is manufactured by wrapping crushed dry tobacco leaves in a special type of paper imported from India or bidi leaf called Tendu. In 1995 to 1999 annual *beedi* sticks production is about 3 billion. In 2007, the estimated *beedi* production decreased to 1.14 billion sticks, but in 2009-2013 it returned to the annual level of 3 billion sticks. (ADIC, 2014)

C. Tobacco Governing Laws and their Functions

1) Tobacco based tax law

In Sri Lanka Tobacco has been taxed since 1953. In 1999 the government passed Tobacco Tax Act and it has been amended in 2004. From 1999, tobacco tax was extended to include manufactured tobacco such as cigarettes, cigars, beedis and piped-tobacco. Sri Lanka levies a mixture of taxes on tobacco. Such as Excise special provision tax, Value added tax, Nation Building tax, and Tobacco tax. Not only those taxes but also income tax and custom duties for imports are applicable. The Minister in charge was given authority to change the tax rates by an order published in a gazette.

Sri Lanka Government only has power to set the cigarette tax, however, not the Cigarette price. Usually the tobacco tax is revising by the Government annually. Cigarette prices depend on the taxes imposed. As an Example, tax was revised on two occasions in 2016 and as a result Cigarette prices had increased rapidly. The price of John player Gold Life brand increased from LKR 32 to LKR 55 (171.88percent) because of the tax revision. (TobaccoUnmasked, n.d)

According to the WHO's Global Tobacco Report, total government tax percentage takes 62.15 percent in 2017. In 2018 it increased up to 66.2 percent (WHO, 2019). Entities that manufacture and sell tobacco products pay 40 percent income tax to the government. Sri Lankan Government charge 85 percent tax on imported cigarettes.

Table 3 - Sri Lanka Government Tax income from Cigarette and tobacco.

Year	Domestic consumption base / Excise tax (Rs. Million)	Total Tobacco tax revenue (Rs. Million)
2020	94,345	32,801,536
2019	87,367	38,565,392
2018	92,198	45,749,663
2017	86,002	45,367,003
2016	88,792	39,819,451
2015	80,015	34,049,349

Source: ANNUAL REPORTS OF MINISTRY OF FINANCE 2015 TO 2020

Article 6 of the WHO Framework Convention on Tobacco Control (WHO FCTC) says "Price and Tax Measures to Reduce the Demand for Tobacco". WHO FCTC Article 6 recognizes the importance of high tax policy of the government. The high cost of tobacco

may not be attractive for new users. It reduces consumption of current users, and discourages people who have quit smoking from restarting. Children and youth, particularly, respond positively to the price increases.

On the other hand, the disadvantage of high cigarette prices may increase the consumption of *beedi* and other illegal substances. They may be harmful to one's health than legal cigarettes. Smuggling is the main source of illicit cigarette trade in both large and small scales. A government may lose tax income and illicit cigarettes flourishes in the market. Following table shows the excise duty revenue earned by Sri Lanka Customs and values of imported tobacco products forfeited in 2017 to 2019.

Table 4- Excise duty revenue earned by Sri Lanka Customs and values of imported tobacco products forfeited in 2017 to 2019.

year	Custom duties on imported Cigarettes (Rs. Million)	Value of Tobacco products forfeited (Rs. Million)
2019	87,547	89,834,900 (Sticks 1,690,000)
2018	92,198	61,931,300
2017	85,956	64,849,008

Source: SRI LANKA CUSTOMS: ANNUAL PERFORMANCE REPORTS 2017-2019

It can be observed the value of forfeited tobacco product is higher than the duties charged on imported cigarettes. Value forfeited tobacco products have increased over 30 percent more than in 2017.

Beedi industry thrives in the shadows and remains unchecked through regulation or taxation. Tobacco taxation Act provides no provisions relating to Excise taxes being levied on the final *beedi* products. The only taxes levied on *beedi* are on the tendu wrapper, which is imported from India. This regulation imposed by the Gazette no 2069/2 dated 01.05.2018. This regulation comes under the No 19 of 1962 Revenue protection Act. Not the Tobacco Tax Act.

2) National Authority on Tobacco and Alcohol Act

The National Authority on Tobacco and Alcohol Act No 27 of 2006 is the law which governs tobacco in Sri Lanka. It imposed restrictions to smoking in public places, Tobacco products packaging and labeling requirements, advertising, promotion and sponsorships. National Authority on Tobacco and

Alcohol was established under this Act. The Act also authorizes the Minister of Health to issue regulations under the law. Under the section 30 and 34 of this Act an extraordinary gazette Notification No. 1770/15 dated 8th August 2012 had been issued by the minister. This specific regulation introduced pictorial health warnings for the first time in Sri Lanka, stipulating that not less than 80percent of the packaging of every cigarette, parcel or light cardboard box containing cigarettes must be printed on the surface. CTC filed a writ petition before the Court of Appeal against the publication of this gazette notification. (*Ceylon Tobacco Company PLC V Hon Maithripala Sirisena, Minister of Health and others, [2012]*) The Court of appeal gave the decision to display pictorial health warnings 50 percent-60 percent of the surface and 40 percent to trade mark. After this case the regulation has been amended by gazette number 1797/22 and 1864/32. The Amendment to the Act was passed in March 2015. It increased the size of pictorial health warnings to 80percent. In September 2016, Minister issued Gazette no 1982/33 prohibiting the manufacture, importation, and sale of smokeless tobacco products, e-cigarettes containing tobacco, and cigarettes that are flavored, colored, or sweetened.

The Chairman of NATA has been issued guidelines on the 1st of September 2020 to Medias to prohibit smoking scenes in television programs. By above mentioned laws the government has banned advertising and promoting tobacco products by domestic TV & Radio channels, Newspapers, Internet communications, outdoor advertisements, free distribution etc. It is allowed to sell direct person to person, brand sharing, retail incentive programmes and commentary against misleading promotions.

But one can observe the absence of a legal framework for the *beedi* industry. The lack of provisions for the *beedi* also means that *beedi* bundles being sold are not required to carry any form of health warning labels which cigarette packs must carry by law.

In March 2021, CTC has introduced a cinnamon cigarette to the market. Cinnamon is a spice and ayurvedic herbal which good for health. However, introducing cinnamon cigarettes seems to be a strategy to attract people to smoke. According to ADIC, tobacco companies trying to use loopholes of the laws to survive there losing market (ADIC, 2021).

IV. CONCLUSION AND SUGGESTIONS

Sri Lanka has made progress on tobacco control in recent years. However, people continue to die and become sick due to direct tobacco consumption and second-hand smoking. Government can still do more to make the proven tobacco control tools work for its citizens' wellbeing.

Tobacco companies are passing Tobacco taxes on to consumers by including same on and in cigarette prices. High prices can be recognized as one of effective strategies which discourage tobacco smoking. Taxes can benefit smokers who quit, reduce the overall consumption of tobacco, and put smoking cessation on their radar of those who continue to smoke. Increasing taxes also have a positive impact on non-smokers by reducing their exposure to second-hand smoke.

A regulated tobacco tax policy cannot be identified. However, due to high price of branded cigarettes might influence the smokers to find some alternatives which might be more dangerous. The rise in *beedi* consumption and illicit cigarettes provide ample evidence for that. Introducing regulated tobacco tax policy and apply equivalent taxes to all tobacco products to minimize the incentives for tobacco users to switch to cheaper brands or products in response to tax increases. Government should take necessary actions to establish more controls on illicit cigarettes and tobacco products which are imported to the country.

Majority of the smokers had apparently seen the Government warning on cigarette packages, however, there is no cogent evidence to show whether such warning labels were effective in changing the desires and intentions of smokers. As per the existing research, they only have seen the pictorial warnings. Government legislation of health warning on cigarette packages was not very much affected by the reduction of tobacco smoking. (Fernando et al., 2019) However, it is immature to argue that packaging labelling make no effect in reducing tobacco use prevalence without proper evidence. Therefore, there is need for adequate research on whether pictorial warnings are a factor in the decline in cigarette use. The legislators and relevant stakeholders should encourage conducting more tobacco research and to identify the most effective method to convey the end user about the government's message.

Prevention is more important than estimating the loss from the event. Awareness programs on smoking cessation can be carried out at the school and community level, targeting the youth community between the ages of 15 and 20. It is essential to be aware from the beginning so as not to fall prey to the machinations of the tobacco companies. Government should focus on *bedi* industry as well. It should be monitor under NATA and taxes should be apply on not only cigarette production. It is time that relevant Government entities identify and close the loopholes that exist in the legal system that allow *bedi*.

REFERENCES

- ADIC Sri Lanka 2021, Tobacco Fact Sheet 2020, Accessed 1 June 2021, <<https://adicsrilanka.org/tobacco-fact-sheet-2020/>>.
- ADIC Sri Lanka 2017, Facts on Tobacco – ADIC Sri Lanka, Accessed 2 June 2021, <<https://adicsrilanka.org/facts-on-tobacco/>>
- ADIC Sri Lanka 2021, “Cinnamon Cigarettes in Sri Lanka Are Severely Impacting Children and Young Generation as Well as Public Health.”, 23 Mar. 2021, Accessed 1 June 2021, <https://apps.who.int/iris/bitstream/handle/10665/272688/wntd_2018_srilanka_fs.pdf?sequence=1> Cinnamon cigarettes in Sri Lanka are severely impacting children and young generation as well as public health.>
- A qualitative study on beedi production and consumption in Sri Lanka. Accessed 3 June 2021. <http://www.nidarshanam.lk/wpcontent/uploads/2016/04/Beedi-production-and-consumption-in-Sri-Lanka_Report_final-1.pdf>.
- Arunathilaka. N and Opatha. M., 2004, UCSF WHO Tobacco Control Papers, THE ECONOMICS OF TOBACCO IN SRI LANKA, Accessed 1 June 2021, <<https://escholarship.org/content/qt31q733jf/qt31q733jf.pdf>>.
- Ceylon Tobacco Company PLC V Hon Maithripala Sirisena, Minister of Health and others [2012] CA 336/2012 (Writ) (Court of Appeal).
- Chulasiri, P., Gunawardana, N. and de Silva, A., 2017. “Smoking and lung cancer risk in Sri Lankan men: a case-control study”. *Ceylon Medical Journal*, 62, pp.25-28.
- Fernando, H., Wimaladasa, I., Sathkoralage, A., Ariyadasa, A., Udeni, C., Galgamuwa, L., Herath, P. and Kumarasinghe, N., (2019)., “Socioeconomic factors associated with tobacco smoking among adult males in Sri Lanka”. *BMC Public Health*, 19(1).
- Policy Insights, 29th October 2020, Cigarette tax reforms to reduce tobacco consumption and increase government revenue, Accessed 2 June 2021, <https://www.ips.lk/wp-content/uploads/2020/11/CIGARETTE-TAX-REFORMS-TO-REDUCE-TOBACCO-CONSUMPTION-AND-INCREASE-GOVERNMENT-REVENUE_Policy-Insights.pdf>
- Tobacco Atlas: Sri Lanka, Accessed 2 June 2021. <<https://tobaccoatlas.org/country/sri-Lanka>>.
- Tobaccounmasked.lk. 2021. Tobacco Industry Country Profile – Sri Lanka - TobaccoUnmasked. Accessed 1 June 2021, <http://tobaccounmasked.lk/index.php/Tobacco_Industry_Country_Profile_percentE2percent80percent93_Sri_Lanka#cite_note-CTCAAnnualReport2015-10>
- Tobaccounmasked. “John Player Navy Cut: A Tactic to Evade Price Hikes?” - TobaccoUnmasked. Accessed 3 June 2021, <https://www.tobaccounmasked.com/index.php/John_Player_Navy_Cut:_A_Tactic_to_Evade_Price_Hikespercent3F> .
- Wijesinghe, S., 2019. “Tobacco Epidemic and Development: The South Asian Experience,” *Annals of Social Sciences & Management studies*, Juniper Publishers Inc., vol. 4(3), pages 59-68,
- World Health Organization, Fact sheet 2018 Sri Lanka, Accessed 1 June 2021 <https://apps.who.int/iris/bitstream/handle/10665/272688/wntd_2018_srilanka_fs.pdf?sequence=1>
- World Health Organization, WHO report on the global tobacco epidemic 2019: offer help to quit tobacco use. Accessed 2 June 2021 <<https://www.who.int/teams/health-promotion/tobacco-control/who-report-on-the-global-tobacco-epidemic-2019#:~:text=Thepercent20percent22WHOpercent20reportpercent20onpercent20the,banspercent20topercent20nopercent20smokingpercent20areas.>>>

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