

AWARENESS ARTICLE

What Took States So Long To Ban Gutkha?

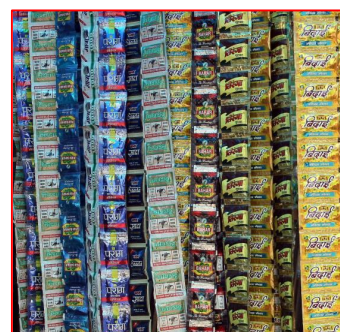
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Chewing tobacco is a type of smokeless tobacco product consumed by placing a portion of the tobacco between the cheek and gum or upper lip teeth and chewing. Unlike dipping tobacco, it is not ground and must be manually crushed with the teeth to release flavor and nicotine. Unwanted juices are then expectorated (spat). Chewing tobacco is typically manufactured as several varieties of product – most often as loose leaf (or scrap), pellets (tobacco "bites" or "bits"), and "plug" (a form of loose leaf tobacco condensed with a binding sweetener). Nearly all modern chewing tobaccos are produced via a process of leaf curing, cutting, fermentation and processing or sweetening. Almost all tobacco consumers, adults and kids, like **Gutkha**, a preparation of crushed betel nut, tobacco, catechu, lime and sweet or tasty flavorings. It is manufactured in India and exported to a few other countries. In general it is consumed much like **chewing tobacco**. Highly addictive and a known carcinogen, gutkha is currently the subject of much debate in India. According to a recent study approximately 42% of the people surveyed preferred to chew on Gutkha. However, only 34% of tobacco users in Ahmedabad are aware of the pictorial warnings and harmful effects of chewing tobacco. These facts were found when Gujarat Voluntary Health Association (GVHA) conducted a pilot survey in the city, to find out the status of pressure of Cigarette and Other Smoking Products Act, (COTPA) 2003, in Ahmedabad. The survey also found that 70% of government offices that were part of the survey did not display the sculptural signage for ban on smoking in the office. Other places like malls, schools, hospitals also didn't put up the signage. The sample size of the research was 150 and around 20 occasional places were taken into account for the survey which was done on a pilot-project base and took around one and half months.



Mihir Dave, project manager of GVHA, said: "Most pedagogic institutions were not displaying the mandatory warning on prohibition of sale of any kind of tobacco product within 100 yards of the institutions." Dave added: "Despite the fact that smoking in public places was banned with effect from October 2, 2008, most government offices are yet to display the mandatory "No smoking" sign in their respective premises." President of GVHA, Geeta Raval explained that most of the tobacco users started consuming tobacco in several forms before they turned 18. Most of them were not aware of the **harmful effects of tobacco use** at the time when they started consuming tobacco products. Most of the tobacco consumers which

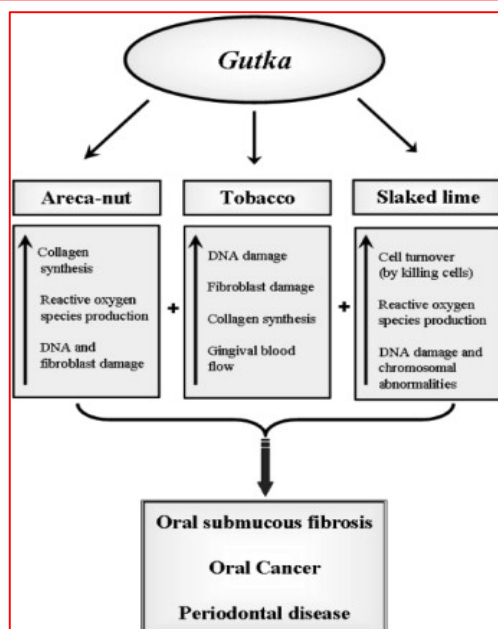


were asked were not only unaware of the ban on smoking in public places but were also of the pictorial warning on cigarette packs. Scientists concluded that out of all the cancer cases in Ahmedabad, 40% are affected due to tobacco consumption. Therefore, even after all the anti-tobacco campaigns efforts smokers continue to consume tobacco products. In a span of four months, nine states have announced a ban on gutkha, a chewing tobacco that is responsible for 80 per cent of oral cancer cases in the country. The latest in the league are Rajasthan, Jharkhand and Haryana that announced the ban in mid-July.

Action on gutkha
*India's revenue earned from tobacco products per year: US \$1.62 billion**
*Expenditure on treating only three tobacco related diseases a year: US \$6.32 billion**

| State | Date of ban/restriction | Adult population addicted to chewing tobacco (in%) |
|------------------|---|--|
| Madhya Pradesh | April 1 | 31.4 |
| Kerala | May 22 | 10.7 |
| Bihar | May 30 | 48.7 |
| Uttar Pradesh | June 30 (announced VAT) | 25.3 |
| Maharashtra | July 11 (announced) July 20 (notification issued) | 27.6 |
| Himachal Pradesh | July 13 (announced; notification deferred till October) | 4.5 |
| Rajasthan | July 18 | 18.9 |
| Haryana | July 20 | 6.4 |
| Jharkhand | July 20 | 47.9 |

Source: Global Adult Tobacco Survey, 2010; *Planning Commission



A Central government regulation that bans tobacco and nicotine laced food products has been in place for almost a year. The Food Safety and Standards Authority of India (FSSAI), a statutory body under the Union health ministry, had issued the regulations on August 5, 2011. But it took the states around eight months to get clarity whether they can ban gutkha as per the Food Safety and Standards regulation. Several documents and communications with FSSAI officials show that till recently neither the health ministry nor FSSAI took a firm stand on whether gutkha is a food or a tobacco product. Additional secretary in the health ministry, Keshav Desiraju, sent letters to all states recommending the ban only on April 25, 2012, after Madhya Pradesh went ahead on its own and banned the sale and storage of gutkha on April 1. After the ban by Madhya Pradesh, states moved swiftly to impose the ban, which has left the smokeless tobacco industry in a tizzy. They are now dragging states to courts, calling the ban illegal. In Madhya Pradesh, the industry has filed three court cases against the state government challenging the ban. Four court cases were filed in Kerala and one in Bihar.

After two failed attempts to ban gutkha, first in 2002 and then in 2007, Maharashtra is treading cautiously. The state government has also invoked Section 30 of the Food Safety and Standard Act (FSSA) of 2006, which gives powers to states to ban any food product for a year in public interest.

Along with chewing tobacco products, it banned paan masala, which does not contain tobacco but has an equally harmful chemical—magnesium carbonate ($MgCO_3$). Just before announcing the ban, it also filed a caveat in the Bombay High Court on July 20 explaining why it is banning the product. The caveat will not allow the industry to seek a stay on the ban without giving opportunity to the government to present its case. The ban on gutkha and paan masala in Maharashtra alone will result in loss of revenue of around Rs 100 crore (about US \$17.8 million) per year. According to the Planning Commission, the revenue from tobacco products annually is around US \$1.62 billion. Not surprisingly, the Centre has been reluctant to lose so much money.

Gutkha is a preparation of betel nuts and tobacco designed to be chewed. It originated in the Indian Subcontinent, where its consumption is widespread today, and spread from there to areas with a large Indian population. Like other tobacco products, gutkha is potentially addictive and cancerous, and in India, some moves have been made to attempt to restrict its availability to address health concerns. In addition to betel nuts and tobacco, gutkha also includes an extract of acacia called catechu, and slaked lime, which is designed to catalyze a chemical reaction when gutkha is chewed, releasing alkaloids in the blend to make it more powerful. It is also usually blended with spices and seasonings, which can make it sour, hot, or sweet. Sometimes, traditional Ayurvedic herbs are used to give gutkha an illusion of respectability, and sweet flavourings are often designed to appeal specifically to children. Classically, gutkha comes in the form of a loose powder that is inserted into the mouth, chewed, and eventually spat out. Like other betel nut chews, it is highly staining, leaving a characteristic reddish to orange stain on the lips, tongue, and teeth, and it also stains the streets and sidewalks when people spit it out. Gutkha is also extremely addictive, and thanks to the tobacco content, it can contribute to the development of oral and throat cancers. One of the biggest groups of gutkha users is children, especially in impoverished neighbourhoods. It is also used by people who are trying to quit smoking, or individuals who wish to avoid the social consequences of smoking. Many users are unaware of how addictive gutkha can be, and they are greatly surprised when they attempt to give up the habit. It is also a mild stimulant, making it appealing to students, shift workers, and other people who may have trouble staying awake sometimes. Although gutkha is largely unregulated in India, many officials became concerned about widespread use of the substance in the early 2000s, and for a brief period of time, there was actually a ban on it. Regulation of gutkha will probably focus on making it harder for children to obtain, and encouraging labelling to indicate its carcinogenic and addictive properties. In some regions of India, education campaigns have been launched to teach children about the dangers of chewing it, but such programs primarily reach children who are actively in school, excluding children who lack access to education.

Long-run reluctance

On August 5, soon after FSSAI issued the notification, Arun Prasad, then joint secretary in the Union health ministry, had told this correspondent that gutkha cannot be banned as it is a means of livelihood for millions of people. It can only be “regulated” under the Cigarettes and Other COTPA of 2003, he had said. On March 16 this year, FSSAI director (administration), Asim Chaudhary, had told Down To Earth that FSSAI is not clear if the regulation is applicable to gutkha. “The matter is in court,” Chaudhary had said. On May 4, during the Lok Sabha question hour, members of the opposition Bharatiya Janata Party had urged the Centre to take cue from Madhya Pradesh and ban gutkha. Union health minister Ghulam Nabi Azad said that he alone cannot take a decision on banning gutkha; he would have to consult the Union finance ministry. Sources say that gutkha industry’s interference is the reason for the Centre’s delayed recommendation and some states’ inaction to ban gutkha. It is rumoured that the assembly elections in Assam last year were fought on donations from the gutkha industry. A Noida-based chewing tobacco product manufacturers, has a factory in the state. Another reason for the lack of will on part of the government to ban gutkha could be investments made by public sector companies in the gutkha manufacturing companies. The Union health ministry took its first official stand on the matter in an affidavit filed in the Delhi High Court in December 2011 in response to a case filed by the Dharampal Satyapal



(DS) Group, challenging the new FSS regulations. The affidavit notes that FSSA definitions of food, ingredients, additives include products like paan masala and gutkha.

Gutkha may lead to impotency

With gutkha addiction on the rise in the Pune city, Dr Kalyan Gangwal has warned that the "socially acceptable addiction" was proving more dangerous than other addictives."According to a report published by Gangwal, a chemical analysis of gutkha shows how its lethal potential. "The aromatic hydrocarbons in it can lead to impotency," he pointed out, "and the nicotine can lead to heart disorders and oral cancer."Speaking to reporters on Tuesday morning Gangwal pointed out that the biggest threat from gutkha was the misinformation surrounding it. "With the spate of advertisements, gutkha has become more acceptable and a prestige-friendly product. It is more addictive than tobacco or alcohol and more dangerous."Citing reports from Johns Hopkins Research Institute (JHRI) in Baltimore, USA, and the Regional Cancer Centre, Thiruvanthapuram, he pointed out that some branded gutkhas had extremely high cancer indexes.A cancer index is a quantification of the potency of a particular product to cause cancer. "Some gutkhas had a potency of 13.75, which is enough to ban the product in Europe and America," he pointed out. According to Gangwal, studies conducted among Pune youths had shown that college youths had started taking up gutkha as it was considered a status symbol. "One patient who had oral scars indicating oral cancer asserted that she took gutkha and not tobacco. Such is the lack of awareness of the harmful effects of gutkha. With its chemical composition, gutkha is far more dangerous than tobacco.'



Industry hides under tobacco law

The industry calls the ban illegal, saying that COTPA is a special Act and FSSA is a general Act. So, despite FSSA being enacted in 2006, three years after COTPA, the latter does not stand repealed. "A special Act always comes above the general Act. When FSSA came into force, COTPA was not repealed. So gutkha is still regulated under COTPA," says Sanjay Bechen, executive director of Smokeless Tobacco Federation, an association of smokeless tobacco producing companies in the country. The federation is in possession of a Right To Information (RTI) reply from FSSAI, dated June 29, 2012. The applicant had asked the food regulatory body whether gutkha is a tobacco or a food product and if it comes under FSSA or COTPA. The reply notes, "As per the extant Food Safety and Standards Act and regulation, gutkha has not been defined as food". This shows the double standards adopted by FSSAI, says Bechen. "In court they say something else, and in the RTI response, they agree gutkha is not food."

FSSAI chairperson K Chandramouli, however, clarifies that "FSSAI's stand is clear. Gutkha is a food product. Now it is up to the states to implement it and enforce the ban." The RTI reply may be specific to the questions asked, he adds. In the affidavit submitted in the Delhi High Court, the Union health ministry notes that section 89 of FSSA overrides all other legislation, including COTPA. It adds that FSSA is also a special Act as it regulates laws related to food and food safety. The government also slams the smokeless tobacco producing companies' claim that gutkha should be regulated under COTPA as it is taxed as a tobacco product. "Their payment of taxes has no bearing on the quality of the gutkha," the affidavit notes.

The Union government has, meanwhile, sought the transfer of the DS Group case to the Supreme Court, saying the apex court is already hearing a case on the issue filed by the Central Arecanut Marketing Cooperative. On August 3 the Supreme Court will decide whether it will admit the DS Group case. If it admits the case, all ongoing cases against the states' ban on gutka will have to wait for the apex court's order. Even if the apex court orders in favour of a ban, officials say the ban by a countable number of states will remain ineffective because of porous borders. Gutkha is still available in states that have banned the product, though they are not openly displayed in kiosks. To make a ban on gutkha foolproof, doctors and cancer patients' associations in states like Uttar Pradesh and Karnataka are mounting pressure on governments. In Uttar Pradesh, the Indian Dental Association has filed a public interest petition in the Allahabad High Court, asking the government why it is reluctant to ban chewing tobacco products. Uttar Pradesh increased Value Added Tax (VAT) on tobacco from 12.5 per cent to 50 per cent on June 30. The Madhya Pradesh government has also urged Uttar Pradesh to ban gutkha to make its ban effective [Courtesy: Matharu S. 2012, August 1-15, *DTE (CSE)*, pp. 11-12]

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