

Existing laws and policies that hinder tobacco control

Policy Briefing:

The development of the health of the people of a country is closely related with the existing laws and the policies of that country. Some of the selfish groups are trying to influence all the principles to fulfill their own interests. Tobacco companies have been making the most active role in various self-communist groups. Like many other countries of the world, it's also a big challenge to face Tobacco Industry Interference in formulating tobacco control law in Bangladesh. Currently, this challenge is also visible. Even after having the potentiality to play a leading role in tobacco control, in many cases we are falling behind. To provide more emphasize on tobacco control and take proper initiative in controlling tobacco companies is badly needed to develop the health of the people. In addition to enacting laws on tobacco control, raising taxes and imposing surcharges, it is important to update the provisions of other laws in the state that may hinder tobacco control as needed. The law, policy and commandment which is creating obstacle in tobacco control activities has been discussed in this policy paper.

¹In 1990, the Ministry of Health and Family Welfare took the initiative to stop advertising of tobacco products by formulating tobacco control law. But it was not possible due to the interference of tobacco companies. ²After 15 years of this incident, in 2005, the advertisements of all types of tobacco control products has been banned by formulating the Tobacco related product uses (Control) Act. However, in this long period the companies have got the opportunity to attract thousands of young people by advertising. While there is no explicit information on why, how and by whom this great initiative of the government to stop the advertisement of tobacco products was stopped but it is a clear example of the influence of the tobacco company. It is important to stop such opportunities of tobacco companies to protect public health.

In this year, like many countries, Bangladesh had to face a horrible form of covid-19. Due to the general holidays during the Corona epidemic period there was a huge crisis in supplying regular commodities. But despite the World Health Organization's warn that “The smoker’s risk in affecting in Covid- 19 is 14 times higher than the non-smokers”, tobacco supplies was stabled across the country. According to a very old law, British American Tobacco and Japan Tobacco International were requested for necessary assistance to produce, supply and sell. ³⁴The Health and Family Welfare Ministry proposed to stop tobacco production temporarily at the moment of COVID-19. The Ministry of Industry rejected the proposal, knowing that it would be helpful to spread the epidemic. ⁵This issue has been introduced at the beginning of the policy brief paper to highlight the level of interference of the tobacco company.

¹<https://www.industrydocuments.ucsf.edu/tobacco/docs/#id=fzcf0195>

²<http://bdlaws.minlaw.gov.bd/act-927/section-27988.html>

³https://moind.portal.gov.bd/sites/default/files/files/moind.portal.gov.bd/notices/a0a0de3f_7e11_4635_bb23_1e1e2636fe80/BAT%20Letter.pdf

⁴https://moind.portal.gov.bd/sites/default/files/files/moind.portal.gov.bd/notices/a0a0de3f_7e11_4635_bb23_1e1e2636fe80/BAT%20Letter.pdf

⁵<https://www.bbc.com/bengali/news-52733934>

Brief information on the laws /policies /rules/committees /notifications that are in force in conflict with the tobacco control in Bangladesh:

Laws / Ordinances

Sl no:	Laws / Ordinances	
1	Presidential (Remuneration and Rights) Act, 1975⁶	<p>Sub-section (3) of section 8 of the President (Remuneration and Rights) Act, 1975 states that no excise duty will be levied on any domestic tobacco produced in Bangladesh, manufactured in Bangladesh, used in Bangladesh, when such cigarette is accepted by a member of the President's household or his guests (official or not). Pursuant to Section 3 (4) of this Act, the Government may, by such order, allow any person (identified as an authorized regulator) to exercise power as it deems necessary to supply and maintain or maintain the necessary goods.</p>
2	The Control of Essential Commodities Act, 1956	<p>There are a total of 16 sections in this law. The Act, enacted in 1956, defines 24 products under Section 2A (20) and mentions matches at number 15 and cigarettes at number 20 in the list of required products. Using this, two special tobacco companies have been seen applying to the Ministry of Industry to facilitate the supply of cigarettes in the market during the Covid 19 outbreak. According to section 3 (4) of this Act, the Government may, by such order, allow any person (identified as an authorized regulator) to exercise power as it deems necessary to supply and maintain the necessary goods.</p> <p>Protection of action taken under Section 15 (1) of this Act (1) no suit or other legal action may be taken against any person for carrying out any act done in good faith or for the purpose of carrying out any order under section 3.</p> <p>In accordance with Section 15 (2), no suit or other legal action may be taken against the Government or any of its subordinates for causing harm or being harmed for any reason in good faith or in pursuance of any order made under section 3.</p> <p>Section 13 (1) of this Act states that any order made by this Act or in the exercise of any power conferred under it cannot be questioned in any court.</p>

⁶ <http://bdlaws.minlaw.gov.bd/act-487.html>

		Recommendations- It is necessary to amend this very old law (The Control of essential Commodities Act, 1956) enacted in 1956 to make it up-to-date and to remove cigarettes from the list of essential products.
3	<u>"Bangladesh Export Processing Zones Authority Act, 1980"</u>	<u>"Bangladesh Export Processing Zones Authority Act, 1980"</u> - Export of all goods from EPZ factories is tax free as per “Section 15 of the Bangladesh Export Processing Zones Authority Act, 1980”. Taking advantage of the law, the National Board of Revenue (NBR) waived the export duty on tobacco products. Under the Act, the National Board of Revenue (NBR) waived 25% tax on exports of tobacco products by factories located in the country's Export Processing Zones (EPZs) in 2017 ⁷ . By amending the “Bangladesh Export Processing Zones Authority Act, 1980”, it is necessary to bring all these products out of the scope of duty free facilities which pose a risk to public health.
4	<u>Income-tax Ordinance, 1984.</u>	There are a total of 187 sections in this ordinance. <u>Section 26 (1)</u> of Chapter 5 of the Income Tax Ordinance mentions agricultural income. The income that can be recorded as agricultural income is mentioned in Article 26 (3), where the Board directs by official gazette notification that agricultural income is determined from the sale of rubber, tobacco, sugar or any other product produced by the appraiser Can be calculated in the method.
5	Customs Act, 1969 (Exemption by notification) Notification on the Ministry of Finance, Department of Internal Resources (Value Added Tax and Supplementary Duty) of the Government of the People's Republic of Bangladesh (SRO No. 194-ACT /	Notification on Ministry of Finance, Department of Internal Resources (Value Added Tax and Supplementary Duty) of the Government of the People's Republic of Bangladesh S.R.O. No. 194-Act / 2019/51-VAT- In accordance with the powers conferred on sub-section (1) of section 126, Value Added Tax and Supplementary Duty Act, 2012 (Act No. 47 of 2012), the Government has exempted the whole of value added tax and supplementary duty under the (Title No. 24.02 mentioned in the First Schedule of the Customs Act, 1969 (IV of 1969) and its H.S Code is 24.02.20.00) on the manufacture of tobacco cigarettes for the use of Bangladesh Navy officers and sailors on sea-going vessels of the Bangladesh Coast Guard under the following

⁷ <https://www.thefinancialexpress.com.bd/trade/nbr-exempts-epz-factories-from-25pc-tobacco-export-tax-1504856011>

	2019/51-VAT).	<p>conditions. E.G:</p> <p>(A) In order to obtain tax-free cigarettes, the captain of the concerned ship of the Coast Guard or the appropriate authority at the headquarters of the Coast Guard shall issue a certificate stating the brand and quantity of the cigarettes shall be distributed among Navy officers and Sailors for consumption (smoking).</p> <p>(B) A copy of the said certificate shall be sent to the concerned customs, excise and VAT, circle officer having jurisdiction over the area in which the office of the supplier is located.</p> <p>(C) The cigarettes to be supplied must be produced in Bangladesh and the supply must be received from a taxable company.</p> <p>(D) No more than twenty sticks of cigarettes should be distributed in favor of each officer or sailor every day.</p> <p>(E) The supplier should print the words “Duty Free for Coastguard Ships” on each cigarette butt, packet and parcel</p> <p>(F) The supplier will send to the aforesaid Circle Officer a statement containing the brand-based quantity of cigarettes supplied per month, the value added tax and the amount of supplementary duty imposed on it within the next 10 (ten) days of the said month and the Circle Officer within 15 (fifteen) days of the same month. Send a copy to the Divisional Officer. (By order of the President, Md. Mosharraf Hossain Bhuiyan, NDC, Senior Secretary) (file:///C:/Users/wbbtrust/Downloads/VATSRO-1941.pdf)</p> <p>Recommendations: The Government will encourage Navy officers and sailors working on deputation from sea-going ships to use tobacco in order to exempt total value added tax and supplementary duty levied on cigarettes. It is necessary to cancel such notification as it conflicts with the government's enactment of tobacco control laws.</p>
6.	<u>Local Govt. (Union Parishad) Act 2009</u>	<p><u>Local Government (Union Parishad) Act 2009</u></p> <p>Although the government enacted a law on tobacco control in 2005, the Local Government (Union Parishad) Act was enacted in 2009. Schedule 2 (35) of the Act mentions "Hookkah" as one of the symbols associated with the use of tobacco products in the list</p>

		<p>of symbols reserved for the nominated candidates of political parties for the post of Chairman.</p> <p>Recommendation: The Local Government (Union Parishad) Act 2009 needs to be amended to remove the "Hookkah" symbol.</p>
7.	<p><u>Investment Corporation of Bangladesh Act, 2014 (indirectly)</u></p>	<p>There are 36 sections in the Investment Corporation of Bangladesh Act. Section 8 of this Act has a very strong governing body. Article 8 A of the functions of the authority is to provide all kinds of facilities for domestic and foreign capital investment for the purpose of rapid industrialization in the private sector. Japan Tobacco Bangladesh has started investing in tobacco in Bangladesh with the benefit of this section.</p> <p>Recommendation: It is necessary to ban foreign investment in tobacco expansion in Bangladesh. Tobacco control laws have been enacted in the country considering its harmfulness to public health. Hon'ble Prime Minister has expressed his determination to control tobacco use in the country by 2040. But somewhere in the law it is necessary to prohibit the investment of domestic and foreign capital for industrial purposes in the case of products harmful to health and the environment.</p>
8.	<p>"Agriculture Marketing Act, 2018"</p>	<p>"Agricultural Marketing Act, 2018" is a very important law of the government. This law has 32 sections and 2 schedules. Schedule 1 (b) of the Act mentions tobacco as a cash crop. The aim of the law is to develop and expand agri-marketing system to support farmers, producers, agri-traders and consumers for the purpose of strengthening the national economy. For the purpose of this Act, the Department of Agricultural Marketing formulates and implements the pricing policy of agricultural products (Agricultural products mentioned in Schedule 1 including tobacco); Take effective steps in marketing and business development; Provide necessary support for market connectivity and smooth supply; Expansion of modern marketing system of agricultural products by engaging in production and business and establishing close links with associations; Strengthen construction and management of market infrastructure, warehouses, cold storages, cool chambers etc. in manufacturing areas in the interest of fair marketing; Determining and implementing the lowest price and reasonable price; Provide assistance in value addition and processing activities; Provide value support; Expansion of</p>

		<p>domestic and export markets; To take necessary steps for the development, encouragement, expansion and development of contracted marketing system of industry and business etc. It goes without saying that since the law mentions tobacco as a cash crop, if steps are taken in accordance with the law, there will be a massive development and expansion of tobacco with the help of the government.</p> <p>Recommendation: As per Section 30 of the Agricultural Marketing Act, 2018, by notification in the Government Gazette, it is necessary to amend the schedule and remove the name of tobacco from the list of agricultural products.</p>
9.	<p><u>Fertilizer Management Act-2006</u></p>	<p>There are a total of 33 sections in this law. It is a law enacted to regulate the production, import, storage, distribution, marketing, transportation and sale of agricultural fertilizers and inputs.</p> <p><u>Section 18</u> of the Fertilizer Management Act 2006 mentions special provisions for harmful substances. Where mentioned, if any fertilizer containing harmful elements for plant growth is applied to a particular type of crop, the label of the said fertilizer should specify the amount of harmful substances prescribed by the committee and the committee shall determine the limit of harmful substances in any fertilizer. Article 18(1) (b) of the said Act states that the amount of chlorine in fertilizers used in tobacco crops (which are highly sensitive to chlorides) will not exceed 2.5%.</p> <p>While the government is supposed to discourage tobacco cultivation in the interest of public health development and protection of agricultural land, chlorine levels have been mentioned in fertilizers used in tobacco crop (tobacco has been identified as a special type of crop) containing harmful substances in plant growth.</p> <p>Recommendation: It is necessary to amend the Fertilizer Management Act 2006 and remove the provision of guidelines for tobacco cultivation.</p>
10.	<p>Bangladesh Finance Act 2018</p>	<p>Prior to 2018, there were no guidelines regarding the import of Bangladeshi cigarettes but in Bangladesh through the <u>finance act 2018</u> to give the opportunity to import e-cigarettes in the country.</p>

11.	Bangladesh Labor Act, 2006	<p>Bangladesh Labor Act, 2006. Section 144 relates to the working hours of the 9th chapter of labor act stipulates that every shop, business and industrial establishment shall be closed at least one day a week. The provisions of this section will not be applicable in some cases in which tobacco cigars, cigarettes, cigarettes, bidis are sold (According to the labor act, 2006). In addition to keeping some other necessary shops open, there is a provision to keep the shop of harmful tobacco products open all week long.</p> <p>Again According to section 183, in case of formation of trade union, any organization is considered as an organization. Note that in a designated area there are 20 workers engaged in the same types of designated industry and these organizations are called group of organizations. But section-3 again recognizes the bidi industry as a worker friendly with the number of workers employed in certain industrial management organizations.</p>
12.	Value Added Tax and Supplementary Duty Act, 2012	<p>Banderole is one of the main means of tax collection for tobacco products in Bangladesh. In the case of bidis and cigarettes, the Banderole is used separately. The banderole used in bidi packets has to be procured from the National Board of Revenue at a fixed price and the banderole is supplied to the cigarette companies through invoices. Cigarette companies are given the opportunity to pay the price mentioned in the next invoice.</p>

Rules

1.	Rules for use of stamp or banderole on packaged cigarettes, including pricing of manufactured or imported tobacco cigarettes Rules, 2017 (exemption by notification) –	<p>Notification on Ministry of Finance, Department of Internal Resources (Value Added Tax and Supplementary Duty) of the Government of the People's Republic of Bangladesh.</p> <p>SRO No. 164-law-2017/07 VAT- With the power conferred on section 135 of the Value Added Tax and Supplementary Duty Act, 2012 (Act No. 47 of 2012), read with section 58, rules are framed for the purpose of levying value added tax or, as the case may be, value added tax and supplementary duty on tobacco cigarettes produced under Heading number 24.02 mentioned in the First</p>
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	<p>Notification on the Ministry of Finance, Department of Internal Resources (Value Added Tax and Supplementary Duty) of the Government of the People's Republic of Bangladesh (SRO No. 194-law / 2019/51-VAT).</p>	<p>Schedule of National Board of Revenue, Customs Act, 1969 (IV of 1969).</p> <p>This regulation is called the Rules of Use of Stamps or Banderoles on the Packets of Tobacco Cigarettes Produced or Imported.</p> <p>The procedure for affixing stamp or banderole on the packet of cigarettes produced in section 6 of the said rules is mentioned in section 6(2). If any stamp or banderole is damaged due to a technical defect in the stamping machine while applying the stamp or banderole, the damaged stamp or banderole must be stored by the manufacturer. Provided that the number of damaged stamps or banderoles shall not exceed 1 per cent of the total number of stamps or banderoles in use.</p> <p>It is further stipulated that in case of loss of stamp or banderoles due to reasons other than technical defects, the concerned commissioner shall, after proper investigation, send a report to the Board stating that up to 2% of the total number of banderole has been lost. Up to 2% of the stamp or banderole will be deemed to have been lost if no different instructions have been given by the Board regarding the said report.</p> <p>Recommendation- Exemption has been given in the case of cigarette banderole by issuing SRO from the Board of Revenue. In the case of harmful products such as tobacco, it is important to repeal such provisions.</p>
2.	<p>Collection of tax payable on bidis and use of bandroll in bidi packets Rules, 2017 (by notification) –</p> <p>Notification on Ministry of Finance, Department of Internal Resources (Value Added Tax and Supplementary</p>	<p>Notification on Ministry of Finance, Department of Internal Resources (Value Added Tax and Supplementary Duty) of the Government of the People's Republic of Bangladesh.</p> <p>SRO No. 165-Act-2017/08 vat- With the power conferred on section 135 of the Value Added Tax and Supplementary Duty Act, 2012 (Act No. 47 of 2012), read with section 58, rules are framed for the purpose of levying value added tax or, as the case may be, value added tax and supplementary duty on tobacco Biri produced under Heading number 24.02 mentioned in the First Schedule of National Board of Revenue, Customs Act, 1969 (IV of 1969).</p> <p>The rules are called rules for collection of tax payable on bidis and use of banderole in bidi packets (2017).</p>

	<p>Duty) of the Government of the People's Republic of Bangladesh</p> <p>(SRO No. 164-law-2017/07 VAT -)</p>	<p>Section 6 of the said rules mentions the procedure for putting banderole on bidi packets in 6 (3) is that, if any banderole is damaged due to technical or any other type of error while installing the banderole, the damaged banderole should be stored by the bidi manufacturer.</p> <p>In 6(4) it is mentioned that the number of banderoles lost under (3) shall not exceed 1% of the total number of banderoles used. However, in case of loss of banderole due to reasons other than technical defects, the concerned commissioner shall, after proper investigation, send a report to the National Board of Revenue stating that up to 2% of the total number of banderoles used has been lost and up to 2% Will be considered.</p> <p>Recommendations- SROs have been issued by the Board of Revenue for the release of bidi banderoles. In the case of harmful products such as tobacco, it is important to repeal such provisions.</p>
3.	<p><u>Local Government (Municipality) Election Rules, 2010 (Symbol) Amendment 27-2-2019</u></p>	<p><u>Local Government (Municipality) Election Rules, 2010 (Symbol) Amendment 27-2-2019</u></p> <p>The Election Commission amended the Local Government (Municipality) Election Rules, 2010 to list one of the symbols reserved for political party nominees for the mayoral post in Schedule 2 (35) of the Rules as one of the relevant "hookah" which is the symbol of tobacco use.</p> <p>Recommendation - Local Government (Municipality) Election Rules, 2010 need to be amended to remove the "hookah" symbol.</p>
4.	<p><u>Local Government (City Corporation) Election Rules, 2010</u></p>	<p><u>Local Government (City Corporation) Election Rules, 2010</u></p> <p>The Election Commission amended the Local Government (City Corporation) Election Rules, 2010 to list one of the symbols reserved for the nominees of political parties for the post of Chairman in Schedule 2 (35) of the Rules as one of the relevant "hookah" symbols for the use of tobacco products.</p> <p>Recommendation: Local Government (City Corporation) Election Rules, 2010 need to be amended to remove the "hookah" symbol.</p>
5.	<p><u>Election Management Rules-</u></p>	<p><u>Election Management Rules-2008 (Revised)</u></p> <p>In 2017, the Election Commission amended the Election</p>

	<u>2008 (Revised)</u>	<p>Management Rules-2008 and replaced the following sub-rule (1) of sub-rule (1) of rule 9 of the said rules. In the list of symbols assigned to a contesting candidate, the number 64 is mentioned as the "hookah" symbol.</p> <p>Recommendation: It is necessary to amend the Election Management Rules, 2008 and remove the "hookah" symbol.</p>
6.	<u>Upazila Parishad Election Rules, 2013</u>	<p><u>Upazila Parishad Election Rules, 2013</u></p> <p>The Election Commission has amended the Upazila Parishad Election Rules, 2013 to include one of the symbols reserved for the nominees of political parties for the post of Chairman in Schedule 2 (35) of the Rules. There is also a hookah at number 35 as a reserved symbol for the positions of Vice Chairman and Female Vice Chairman.</p> <p>Recommendation: It is necessary to amend the Upazila Parishad Election Rules, 2013 and remove the "hookah" symbol</p>

Order

1	Import Policy Order 2015-2018	<p>Import Policy Order 2015-2018 is applicable to the import of all types of products in Bangladesh. It will remain in force till June 30, 2018. However, after the expiration of that date, it will continue to be effective until a new import policy order is issued.</p> <p>In case of import of human food items, the conditions applicable through 28 sub-sections have been mentioned. Article 16 (13) states that no radioactivity test will be required for the import of cigarettes, cigarette paper, pipe tobacco, whiskey, beer and other alcoholic beverages, concentrated essences, spices and medicines.</p> <p>Article 26 (20) also mentions in the case of cigarettes, the statutory warning in Bengali "Smoking is Injurious to health" should be clearly printed on the packet of imported cigarettes. However, in case of import of cigarettes by a bonded warehouse, such statutory warning must be printed on the packet of cigarettes in any language other than</p>
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		<p>Bengali.</p> <p>On page 1404 of the Gazette given on the website, Bangladesh Betel Leaf Exporters Association (Ispahani Building, 9th Floor, 14-15, Motijheel B / A, Dhaka) is at number 45 of the list of Eklas Association. At number 48 in the list is Bangladesh Bidi Shilpa Malik Samiti (9/A, AC Roy Road, Armanitola, Dhaka). At number 67 in the list is Bangladesh Cigarette Manufacturers Association (Kichukkhon building, 4th floor, 43/1, Ulan Road, Rampura, Dhaka-1219). Besides, at number 303 in the list is Bangladesh Tobacco Products Distributors Association (Apartment # A8, House # 27, Road # 114, Gulshan-2, Dhaka-1212).</p>
2	<p>The Essential Commodities Control Order, 1981</p>	<p>The Essential Commodities Control Order, 1981</p> <p>Article 22 of the order states that no person other than the manufacturer or importer may buy or sell or store without a license issued by the Deputy Commissioner. Here are the license fees for 10 products, including cigarettes (license fee 500 taka). Here 14 orders under section 25 were canceled including “The Cigarettes distribution order” of 1957.</p> <p>Clause (2) of the Essential Commodities Order, paragraph 22 of 1981 was replaced by Clause (2) as of October 8, 2012. The issue of the license fee of Tk.600 of cigarette is also mentioned there. The license fee has been increased by only Tk.100. As per the date mentioned in the Gazette, this provision has come into force from July 1, 2013.</p> <p>Recommendation- Very nominal amount of license fee has been fixed. Here, it is important to coordinate with the guidelines formulated by the Ministry of Local Government.</p>

Others information

(Taking advantage of some of the abuses and weaknesses of the law and provided on the web)

1	<p><u>Circular-2015 (Income Tax)</u></p> <p><u>Through the budget activities of the financial year 2015-2016</u></p> <p>Publication regarding clarification of changes made in case of income tax</p>	<p>Document No. 08.01.0000.030.03.009 (Part-1).15/56 has been provided on the website of National Board of Revenue. Dated: 03 Bhadra, 1422 Bangabda.... 18th August, 2015</p> <p>Necessary amendments to the Income Tax Act, Rules and Notifications regarding changes made through notification through circular-01 (Income Tax) / 2015, Finance Act-2015 and various notifications through Income Tax Ordinance-1984 and Income-tax Rules-1984 under the budget activities of the financial year 2015-2016. The additions / amendments / changes / modifications are introduced to ensure proper implementation of the newly introduced and amended laws, rules and notifications and to make the relevant rules and regulations easily known to the taxpayers.</p> <p>On page 16-17 of the same document, it is mentioned at number 16, "The income earned by the cigarette manufacturer in the production and sale of cigarettes is not comparable to the loss of any other source". Amendment of Section 37 of the Income Tax Ordinance:</p> <p>Under the Finance Act, 2015, a new provision has been added after the existing three provisions under Section 37 of the Income Tax Ordinance. According to the provisions of the aforesaid Proviso, no taxpayer's loss of income from any other source can be reconciled with the income from the cigarette manufacturing and sales business. However, it has been mentioned that the losses of the cigarette production and sales business sector can be adjusted with the income of other business sectors.</p>
2	<p><u>Department of Agricultural Marketing</u></p>	<p>Regular meetings of the advisory committee on tobacco crop pricing are held under the "Department of Agricultural Marketing" of the Ministry of Agriculture. In the meeting, besides fixing the price of tobacco products, information was also given that the officials of the Ministry of Agriculture were also involved in the monitoring. It is making a big question mark on the government's tobacco control efforts. The involvement of the Ministry of Agriculture in the pricing of harmful products like tobacco is instrumental in influencing the government's efforts to control tobacco</p>

		<p>cultivation.</p> <p>There are few other factors that play a role in influencing. Such as national awarding of tobacco companies based on tree planting, highest taxpayer, largest taxpayer industrial organization etc.</p>
3	<p><u>On the website of the Department of Agricultural Extension</u></p>	<p>The website of the department of Agricultural Extension has information and activities helpful in tobacco expansion.</p> <p>Although the extent of modern agricultural expansion in Bangladesh is about half a century, the chronological history of more than a hundred years behind it shows that the Department of Agriculture was born in 1870 to counter the severe famine of 1862-65 as part of the Revenue Department in the wake of raising the issue of establishing the first Agriculture Department. In 1943, in fact, the work of agricultural expansion began. In 1972, after the independence, the Cotton Development Board, Tobacco Development Board, Horticulture Board and in 1975, the Directorate of Agriculture (Jute Production), the Directorate of Agriculture (Extension and Management) were set up to strengthen agricultural extension activities.</p> <p>The present Department of Agricultural Extension was formed in 1982 by merging six agencies involved in crop technology extension, namely DA (E&M), DA (JP), Directorate of Plant Protection, Horticulture Board, Tobacco Development Board and SARDI. Following the implementation of Planned and Partnership Extension Services (NAEP), the Department of Agricultural Extension is currently conducting departmental activities comprising of 8 wings.</p> <p>According to the website of the Department of Agricultural Extension, tobacco is one of the eight wings that the Department of Agricultural Extension is currently conducting.</p> <p>Recommendation: It is important to eliminate tobacco from the 8 wings of the Department of Agricultural Extension which are currently conducting departmental activities.</p>

4	Consumer Rights Protection Act, 2009	<p><u>Consumer Rights control Act, 2009-</u></p> <p>There are a total of 82 sections in this law. Pursuant to Section 37 of this Act, it is mandatory for any law or rule to clearly state the sale of a product in a package and the weight of the product, quantity, material, rules of use, maximum retail price, date of manufacture, date of packaging and expiry date. However, it is not going to be applied in the case of tobacco control law. Note that most of the tobacco products in Bangladesh are sold in packaged form. Violation of section 37 of the Consumer Rights Protection Act, 2009 is punishable by imprisonment for a term not exceeding one year, or a fine not exceeding fifty thousand rupees, or both.</p> <p>Besides, the company has no interest in implementing section 37 of the law but is abusing section 38 for their own benefit. The tobacco company is abusing the penalty of not displaying the price list in section 38.</p> <p>According to the law, a person who disobeys the obligation imposed by any law or rule and fails to display the price list of the product in a place easily visible in his shop or establishment shall be punished with imprisonment of not less than one year or fine not exceeding Tk. 50000 or both. Through this, the tobacco company is displaying the price list of cigarettes in different shops.</p> <p>Recommendations - Section 37 of the Consumer Rights Protection Act, 2009 should ensure the application of tobacco control and section 38 should be amended to include the word “Without Tobacco”.</p>
5	<u>Smoking and the use of smoking and tobacco products (Control) Act, 2005-</u>	<p>There are a total of 18 sections in this law working as a supporting force in tobacco control in Bangladesh. However, although the Tobacco Control Act was enacted in Bangladesh in 2005 in accordance with the International Convention on Tobacco Control (FCTC) and amended in 2013, did not focus on protecting public health policies from the commercial and other interests of tobacco companies. In other words, there is no strong provision in the current law to counter the cunning tactics of tobacco companies. As a result, despite having a separate active law on tobacco control, it is not possible to</p>

		<p>control the company in any way regarding policy interference.</p> <p>Recommendation- It is necessary to amend the Tobacco Control Act and include Article 5.3 of the FCTC in the Act. It is important to formulate a guideline in accordance with Article 5.3 of the FCTC.</p>
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As discussed earlier, some of the existing laws, policies and the current situation are giving tobacco companies an opportunity to influence the formulation of public health policies. By identifying all these issues, it is necessary to amend, refine and change the provisions that are against public health.

Although tobacco is a health hazardous product, no excise duty will be levied on any domestic tobacco (manufactured in Bangladesh, used in Bangladesh) if it is adopted by a member of the President's household or his guests under the [Presidential \(Remuneration and Rights\) Act, 1975](#)⁸. Considering the public health, it is necessary to repeal the provision of duty free supply of harmful and unhealthy products like cigarettes.

[Customs Act, 1969 \(Exemption by notification\)](#) –

With the powers conferred by the Value Added Tax and Supplementary Duty Act, 2012, the Government has imposed certain conditions on the total value added tax and supplementary duty on cigarettes exempted under the H. S. Code for the enjoyment of Bangladesh Navy officers and sailors on sea-going ships. Exemption of taxes on cigarettes to encourage the use of harmful cigarettes by Bangladesh Navy officers and sailors on deputation on sea-going ships is by no means acceptable. Harmful tobacco use can have psychological effects on sailors who are separated from their families on board. It can also adversely affect their health. Rather, in this case, they can be given the benefit of providing healthy food.

[Controversy over essential commodity control laws, orders and tobacco control- The Control of Essential Commodities Act, 1956](#). Among the 24 products definition, cigarettes are mentioned in the list of required products in the 1956 Act enacted Section [2A \(20\)](#). This undermines the purpose of implementing the Tobacco Product Use (Control) Act. Unhealthy products like tobacco cannot be treated as an essential product in any way. Cigarettes need to be removed from the list by issuing a notification under Section 3 (1) of the 1956 Act.

[The Essential Commodities Control Order, 1981](#). Section 22 of the order states that no person other than the manufacturer or importer may purchase or sell or store without a license issued by the Deputy Commissioner. Here the license fee for cigarettes was mentioned as Taka.500. Later

⁸ বাংলাদেশে ডামাক নিয়ন্ত্রণের সাথে প্রচলিত সাংঘর্ষিক কলবৎ আইন/ নীতি/বিধি/কমিটি/প্রজ্ঞাপন বিষয়ে সংক্ষিপ্ত তথ্য :

in 2012, the license fee was increased by Taka 100 to Taka 600. The business of cigarette companies has multiplied in this long period, according to 2018, the market for cigarettes in Bangladesh is at least Taka 20,000 crore and it is growing steadily.⁹ But the license fee has been increased to only Taka 100. In this case more price increase is needed.

"Bangladesh Export Processing Zones Authority Act, 1980" Export of all goods from EPZ factory is tax free as per Section 15 of Bangladesh Export Processing Zones Authority Act, 1980. Taking advantage of the law, the National Board of Revenue (NBR) waives the export duty on tobacco products. Under the Act, in 2017, the National Board of Revenue (NBR) waived 25% tax on the export of tobacco products by factories located in the country's export processing zones (EPZs).¹⁰ By amending the "Bangladesh Export Processing Zones Authority Act, 1980", it is necessary to bring all these products out of the scope of duty free facilities which are at risk to public health.

Cigarettes and Bidis have been exempted under the "Stamp or Banderole Usage Rules of 2017 Cigarette Packets" and "Bidi Tax Collection and Packet Banderole Use Rules". Both the rules state that up to 2% of the stamp or banderole will be deemed to have been damaged if the stamp or banderole was damaged due to any reason other than technical fault. In no case can government revenue be free for harmful products like cigarettes and bidis.

Hookah symbol is one of the main means of using tobacco products in a number of local government laws and regulations- As per Local Government (Union Council) Act 2009, Local Government (Municipality) Election Rules, 2010 (Symbol) Amendment 27-2-2019, Local Government (City Corporation) Election Rules, 2010, Election Management Rules-2008 (Amended), Upazila Council Election Rules, 2013 the list of election symbols mentions "hookah" as one of the symbols associated with the use of tobacco products. In election campaigns, people campaign extensively with symbols in support of the candidate of their choice. If "Hookah" is mentioned as a symbol, there will be a possibility of increasing the promotion and use of tobacco. The "Hookah" symbol needs to be removed from all these laws and regulations.

Bangladesh Labor Act, 2006- Article 144 of Chapter 9 of the Labor Act states that every shop or business or industrial establishment shall be completely closed for at least one and a half days a week during working hours and holidays. However, the provisions of this section will not apply in certain cases. These include retail outlets for tobacco, cigars, cigarettes and bidis. In other words, there are provisions to keep the shops of some other essential products open as well as the shops of harmful tobacco products open all week.

⁹ <https://www.bbc.com/bengali/news-45100590>

¹⁰ <https://www.thefinancialexpress.com.bd/trade/nbr-exempts-epz-factories-from-25pc-tobacco-export-tax-1504856011>

Again, in case of formation of trade union under section 183, any organization has been considered as an organization. It is to be noted that if 20 workers are engaged in the same type of industry in a given area, then all those organizations are called Institutional Group. But, again in sub-section-3, excluding the number of workers employed in certain industrial establishments, it has been recognized as a labor force. That list includes the bidi industry. Attempts to achieve the goal of tobacco control will be hampered if such exemptions are given to unhealthy products by law.

Although it is mentioned that the [Import Policy Order 2015-2018](#) will be in force till June 30, 2018, it will continue to be effective till the new Import Policy Order is issued after that date.

According to the order, import of cigarettes, cigarette paper, pipe tobacco, whiskey, beer and other alcoholic beverages, concentrated essences, spices, medicines has been exempted from radioactivity testing. The list of Class A Associations in the Gazette also includes Bangladesh Bidi Industry Owners Association, Bangladesh Cigarette Manufacturers Association and Bangladesh Tobacco Products Distributors Association. In no way, it's reasonable to waive radioactivity testing for harmful products such as tobacco.

["Agriculture Marketing Act, 2018"](#) in this law tobacco is mentioned as a cash crop. In this context, it can be said that, since the law mentions tobacco as a cash crop and steps are taken in accordance with the law, there will be a massive development and expansion of tobacco with the help of the government. It is important to remove the name of tobacco from the list by amending the law or issuing a notification.

[Fertilizer Management Act-2006](#) A state law sets the amount of chlorine in fertilizers used in tobacco crops (which are highly sensitive to chlorides). While the government is trying to discourage tobacco cultivation in public health development and protection of agricultural land, the levels of chlorine in the fertilizer, which is harmful to plant growth, have been mentioned for use in tobacco crops.

[Investment Corporation of Bangladesh Act, 2014](#) this law has a very strong governing body. According to the law, one of the activities of the authority is to provide all kinds of facilities for domestic and foreign capital investment for the purpose of rapid industrialization in the private sector. Japan Tobacco Bangladesh has started investing in tobacco industry in Bangladesh with the benefit of this section. The Appellate Division has directed the Voice of Discovery to reduce the use of tobacco in Bangladesh within the stipulated time. The problem is, JTI is still coming to Bangladesh through the Board of Investment. Although the law does not directly create problems, it does indirectly give opportunities to tobacco companies. So, it's necessary to add the word except tobacco and unhealthy products.

[Small and cottage industries](#) there are 51 sub-sectors of the food and food industry including Tobacco Processing, Bidi, Jorda Making, etc. Various facilities are provided to the companies

under small and cottage industries. It is important to exclude harmful products such as tobacco products from this sector.

Some more topics

The study found that positive information on tobacco was available on the websites of several important ministries. [According to the information given on the crop wing page](#) of the Department of Agricultural Extension, the crop wing works for the development of tobacco crop along with other crops.

[Presenting tobacco as a profitable crop:](#) According to a data provided by Crops Wing on the website of the Department of Agricultural Extension in 2018 (Memorandum No. 2798 dated 15/11/2018 AD),

According to a data provided by Crops Wing on the website of the Department of Agricultural Extension in 2018 (Memorandum No. 2798 dated 15/11/2018), tobacco, which destroys the environment and public health, has been shown to be more profitable than boro paddy in terms of production cost of paddy, maize and tobacco crops per hectare. The net income from tobacco per hectare is shown here as 82,286.40 taka. On the other hand, net income from Boro paddy per hectare is 71,215 taka (Department of Agricultural Extension, 2018). Bangladesh's position in the world in the production of agricultural products is significant. Bangladesh ranks third in vegetable production, fourth in rice and fish production and seventh in potato and mango production¹¹ and 12th in the production of harmful products like tobacco¹². It is important for the Ministry of Agriculture to give more importance to the crops that help in the development of health than the products that are harmful to health.

Despite being a health hazardous product and for a long time under the "[Department of Agricultural Marketing](#)" of the Ministry of Agriculture, regular meetings of the Agricultural Prices Advisory Committee on tobacco crop pricing have been held. During the meeting, it was learned that besides fixing the price of tobacco products, the officials of the Ministry of Agriculture also gave instructions and were involved in monitoring. Agriculture Prices Advisory Committee 2015-16 Tobacco Minimum Pricing Meeting was held on 13th March 2016 in the meeting room of the Ministry of Agriculture under the chairmanship of Agriculture Secretary. Involvement of the Ministry of Agriculture in pricing of harmful products like tobacco helps to influence the steps taken by the government to control tobacco cultivation.

[Website of the Department of Agricultural Extension:](#)

¹¹http://www.ais.gov.bd/site/view/krishi_kotha_details/%E0%A7%A7%E0%A7%AA%E0%A7%A8%E0%A7%A8/%E0%A6%85%E0%A6%97%E0%A7%8D%E0%A6%B0%E0%A6%B9%E0%A6%BE%E0%A7%9F%E0%A6%A3/%E0%A6%95%E0%A7%83%E0%A6%B7%E0%A6%BF%E0%A6%A4%E0%A7%87%20%E0%A6%AC%E0%A6%BE%E0%A6%B2%E0%A6%B2%E0%A6%BE%E0%A6%A6%E0%A7%87%E0%A6%B6%E0%A7%87%E0%A6%B0%20%E0%A6%B8%E0%A6%BE%E0%A6%AB%E0%A6%B2%E0%A7%8D%E0%A6%AF

¹²<http://krishi.gov.bd/content/561/%E0%A6%95%E0%A7%83%E0%A6%B7%E0%A6%BF%E0%A6%B0-%E0%A6%86%E0%A6%A7%E0%A7%81%E0%A6%A8%E0%A6%BF%E0%A6%95%E0%A6%BE%E0%A7%9F%E0%A6%A8%E0%A6%87-%E0%A6%A4%E0%A6%BE%E0%A6%AE%E0%A6%BE%E0%A6%95-%E0%A6%9A%E0%A6%BE%E0%A6%B7%E0%A7%87-%E0%A6%A8%E0%A6%BF%E0%A6%B0%E0%A7%81%E0%A7%8E%E0%A6%B8%E0%A6%BE%E0%A6%B9%E0%A6%BF%E0%A6%A4-%E0%A6%95%E0%A6%B0%E0%A6%AC%E0%A7%87-%E0%A6%95%E0%A7%83%E0%A6%B7%E0%A6%BF%E0%A6%AE%E0%A6%A8%E0%A7%8D%E0%A6%A4%E0%A7%8D%E0%A6%B0%E0%A7%80>

According to the website of the Department of Agricultural Extension, **tobacco** is one of the eight wings that the Department of Agricultural Extension is currently conducting. According to the information provided, the present Department of Agricultural Extension was formed in 1982 by merging six agencies engaged in crop technology extension namely DA (E&M), DA (JP), Directorate of Plant Protection, Horticulture Board, Tobacco Development Board and Sardi.

The current use of the Smoking and Tobacco Products (Control) Act, 2005¹³ in Bangladesh is very strong in many sectors but on the one hand there is weakness in the implementation of the law and on the other hand there is a lack of proper guidelines to protect the policy from the influence of tobacco companies. In addition to these, there are some laws that tobacco companies are abusing. [Such as Consumer Rights Protection Act-2009, Bangladesh Workers Welfare Foundation Act-2006, Bangladesh Labor Act-2006 etc.](#) The Consumer Rights Protection Act, 2009 is being enforced by tobacco companies at various times for their convenience. According to Regulation 5 of the "Bangladesh Standards Weight and Measurement (Commodity Packaging) Rules, 2007", it is mandatory for the packaging to have a production and expiration date, but the tobacco company does not comply with it.

[On the Section 14 \(1\) of the Bangladesh Workers Welfare Foundation Act 2006 mentions the formation of a fund for the welfare of workers, where the grant was given by the owner will be deposited. Pursuant to 234 \(1\) of Bangladesh Labor Act 2006,](#) each company shall constitute a Workers Participation Fund and a Workers Welfare Fund. In this fund, each employer will contribute 5% of the previous year's net profit to the fund within 9 months of the end of the year (in the ratio of 80:10:10 to the participation fund, welfare fund and Bangladesh Sramik Kalyan Foundation fund respectively). This is the legal obligation. But the company promotes the money after it is donated to the fund. This is a kind of promotional program of Tobacco Company. Payment is compulsory under the law but BAT also avails special benefits instead. According to Section 102 of the Labor Act, 48 working hours per week has been fixed but a notification was issued in 2014 to give BATB the opportunity to employ workers up to 60 hours per week.¹⁴ Although it is mentioned in the notification that this exemption has been given in the public interest, it is not clear to the people, what is the interest with the exemption of the tobacco company which produces harmful products!

[Benefits of E-cigarettes](#) E-cigarettes have been identified as harmful for the body.¹⁵ Its use can lead to heart attack, stroke and lung damage.¹⁶ One study found that the ingredients in E-cigarettes can cause cancer by destroying various cells in the body.¹⁷ The harmful effects of vaping or e-cigarettes are discussed in the United States after six deaths and multiple lung complications were detected, and E-cigarettes were subsequently banned. Already, 42 countries,

¹³ <http://bdlaws.minlaw.gov.bd/act-927.html>

¹⁴ http://www.dpp.gov.bd/bgpress/bangla/index.php/document/get_extraordinary/10623

¹⁵ বিশ্ব স্বাস্থ্য সংস্থা

¹⁶ ইউএস সার্জন জেনারেল রিপোর্ট

¹⁷ Hong Kong Council on Smoking and Health

including neighboring India, have completely banned e-cigarettes in their countries and 56 countries have imposed restrictions on buying and selling. Prior to 2018, there was no law or directive regarding the import of e-cigarettes in Bangladesh. However, through the Bangladesh Finance Act 2018, the country was given the opportunity to import e-cigarettes. It is important to close such opportunities quickly to reduce tobacco use.

In The textbook there has been also mentioned the tobacco as a cash crop of Bangladesh

The textbook mentions tobacco as a natural resource and cash crop of Bangladesh. Despite mentioning that "tobacco harms human health and therefore tobacco cultivation is being discouraged", the fifth grade textbook named "Bangladesh and World Identity" (page 34)¹⁸ and the eighth grade "Bangladesh and World Identity" (page 133)¹⁹ refer to tobacco as Bangladesh's natural resource and Mentioned as a cash crop. It is important to remove the list of cash crops from the textbook.

In addition to the above mentioned policies / laws / rules / notifications, it is important to pay attention to the issues like government shares and representation in tobacco companies, control of opportunities for government officials to participate in programs organized by tobacco companies,, lack of control over communication of government officials with company representatives, state rewards for excellence (Tree plantation, Highest taxpayer, Highest Taxpayer Industry) etc.

In the light of the above research, in the light of their work experience the **WBB** Trust is strongly recommending to modernize the existing laws that are hindering tobacco control, including the Smoking and Tobacco Use (Control) Act, 2005. In addition, **WBB Trust** call for the formulation of specific guidelines in accordance with FCTC Article 5.3 and the effective withdrawal of government shares from tobacco companies.

¹⁸ https://drive.google.com/file/d/16PDNypriDyy1SSud_q3dDBeSFNm4tq1E/view

¹⁹ <https://drive.google.com/file/d/1RsZ1SYasiCDnC4GAZcamqvi73dKpAR9W/view>

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