

# ALTERNATIVE RESEARCH INITIATIVE NEWSLETTER

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## The right to health means the right to tobacco harm reduction

Gerry Stimson

A brutal culture war is raging on the role of harm reduction to hasten the end of smoking. But as the Twitterstorms rumble on, the evidence is mounting that safer nicotine products—vapes, pouches, snus and heated tobacco—are helping millions of people around the world switch away from combustible cigarettes and other risky tobacco use.

Cigarettes are a harmful delivery mechanism for nicotine—and nicotine doesn't cause tobacco-related disease. Options now available deliver nicotine at vastly reduced risk. More Swedes use snus than smoke cigarettes, resulting in the lowest lung cancer rates of any EU country. In the United Kingdom, vaping is supported by health authorities as a cessation tool. Around 7 per cent of adults (six million people) vape; a year-on-year increase in vaping is matched by a decline in smoking, and over a quarter of people who made a quit attempt in England in 2020 did so by switching to vaping. These products reduce harm at both an individual and population level.

For harm reduction advocates, much collective energy goes into discussing scientific and regulatory issues. It's important, both to quantify and maximize the benefits of safer nicotine options, and because there are many countries where poor regulation or outright prohibition prevents access. Thirty-six countries currently ban the sale of nicotine vapes, 39 the sale of snus and 14 the sale of heated tobacco products.

In contrast, combustible cigarettes are widely available everywhere and in 18 countries, the state is directly involved in, and profits from, the manufacture of deadly tobacco products. In Los Angeles, you can buy THC gummies in flavours like sour lemon and strawberry, and cigarettes in any corner store. But a new ban will mean you can't buy flavored vaping products, which many vapers find essential to quitting tobacco completely.

However, it's also important for us to consider the more fundamental basis of the argument for safer nicotine options. A strong case can be made that international human rights law supports tobacco harm reduction. A human rights approach offers us significant and as-yet unexplored opportunities for challenges to

bad laws and policies.

The role of health rights in harm reduction was integral to my work on drug use and HIV/AIDS in the UK from the 1990s onwards. Drug control has primarily been viewed through a prism of bans, prevention and abstinence. In many countries around the world, it still is. Yet the focus on drug supply and demand reduction began to fracture with the arrival of HIV/AIDS, when the realization emerged that safer drug use, or harm reduction, could limit the spread of the virus.

Beginning in the early 2000s, organizations such as Human Rights Watch and the International Harm Reduction Association, which I led, campaigned to establish that harm reduction was about the right to health. These organizations worked with the UN Special Rapporteurs on the Right to Health, who argued within the UN system that interventions such as the provision of safer drugs and safer delivery systems—opioid substitution treatment and syringe access—were fundamental to the health rights of people who use drugs.

The parallels with tobacco harm reduction are clear. And the need is clear: There are 8 million smoking-related deaths a year. That's three times more than the number of deaths from HIV/AIDS, TB and malaria combined. It's 10 times greater than all deaths related to state-banned drug use.

One difficulty in developing these arguments with regard to tobacco is that human rights implications have long been ignored in tobacco control. While harm reduction is named as the third "pillar" in the World Health Organization's 2005 Framework Convention on Tobacco Control (FCTC), alongside reducing supply and demand, the FCTC is not a human rights treaty, and a human rights framework was not incorporated into the text. There was barely any consideration of human rights during the negotiations about the treaty. No delegate or NGO involved in the process raised the issue. Subsequent discussions about human rights in tobacco control have focused on the obligation of the state to protect people from the infringement of their rights by third parties, mainly identified as the tobacco industry.

These address the demand and supply components of tobacco control and can be called a “freedom from” position. Political philosopher Isaiah Berlin called this concept “negative liberty,” describing the freedom from external constraints and influence. Yet the right to health and the personal autonomy to take positive steps to protect one’s own health have been neglected. This is unsurprising, given the neglect and denigration of harm reduction by Parties to the FCTC, the FCTC Secretariat, and the WHO.

Ironically, the preamble to the Constitution of the World Health Organization (1946) that is recognized as the first statement of the right to health in international law. It states that, “the enjoyment of the highest attainable state of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition,” and “the extension to all peoples of the benefits of medical, psychological and related knowledge is essential to the fullest attainment of health.”

In 1966, the International Covenant on Economic, Social and Cultural Rights (ICESCR) was ratified by 171 countries. Article 12 enshrines the right of everyone to “the enjoyment of the highest attainable standard of physical and mental health” and states that everyone has the right “to enjoy the benefits of scientific progress” (Article 15).

The pursuit of the highest standard of health includes enabling people to protect themselves. This can be called a “freedom to” or “positive liberty” position. Regarding tobacco, this would include the freedom to choose safer alternatives to combustible cigarettes or risky oral tobacco products, so as to avoid smoking-related disease and premature death. A rights-based approach that mixes both “freedom to” and “freedom from” elements is core to much public health thinking in other spheres. The exclusive invocation of negative liberty in tobacco control discourse is an anomaly.

This blind spot in tobacco control is costing lives—millions of

lives—every year. The right to control one’s health and body is at the core of tobacco harm reduction. It empowers people to make safer choices.

We desperately need an alternative narrative to the dominant tobacco control view that human rights can only be about protection from tobacco. Times and technologies have changed since the FCTC came into force. Taking the right to health as the starting point, signatories to the FCTC and the WHO have a responsibility to take positive steps to ensure that safer alternatives are available to the 1.1 billion smokers worldwide. Those of us involved in tobacco harm reduction need to build alliances with those working in human rights, explore challenges under international, regional and national legislation, and establish tobacco harm reduction as fundamental to the right to health.

[https://filtermag.org/right-to-health-tobacco-harm-reduction/?fbclid=IwAR3olqVV50JOioOrkme0RgHP\\_s0HxD-jRLcQ0E2GM-Bb4M0D8CitZrL1mqU](https://filtermag.org/right-to-health-tobacco-harm-reduction/?fbclid=IwAR3olqVV50JOioOrkme0RgHP_s0HxD-jRLcQ0E2GM-Bb4M0D8CitZrL1mqU)



Gerry Stimson is a British public health social scientist, emeritus professor at Imperial College London from 2004, and an honorary professor at the London School of Hygiene and Tropical Medicine from 2017. Stimson has over 220 scientific publications mainly on social and health aspects of illicit drug use, including HIV

infection. He has sat on numerous editorial boards including AIDS, Addiction, and European Addiction Research, and with Tim Rhodes he was the co-editor-in-chief of the International Journal of Drug Policy from 2000 to 2016. He is one of the global leaders for research on and later advocacy for harm reduction.

## In world first, Canada to put warning on each cigarette, not just packaging

Addictions Minister Carolyn Bennett says the measure is meant to reach more people, including youth who often share cigarettes and don't encounter the packaging.

Canada is poised to become the first country in the world to require that a warning be printed on every cigarette.

Addictions Minister Carolyn Bennett says the measure is meant to reach more people, including youth who often share cigarettes and don't encounter the packaging.

A 75-day consultation period is to begin tomorrow.

Bennett also revealed expanded warnings for cigarette packages that include a longer list of smoking's health effects. Canada has required the photo warnings since the turn of the millennium, but the images haven't been updated in a decade. Rob Cunningham, senior policy analyst with the Canadian Cancer Society, notes that Canada also set a precedent by requiring the photo warnings, with other countries following suit.

He says he hopes the warnings printed on cigarettes themselves take off internationally as well.

[https://nationalpost.com/news/canada/cp-newsalert-new-regulations-would-put-warning-on-each-cigarette-not-just-packaging?fbclid=IwAR0vfGWb8-H\\_mBl0IWpk-KmOPv5mRWvd5GOxFdMlot-g5x\\_KE2yGFeu3lWbg](https://nationalpost.com/news/canada/cp-newsalert-new-regulations-would-put-warning-on-each-cigarette-not-just-packaging?fbclid=IwAR0vfGWb8-H_mBl0IWpk-KmOPv5mRWvd5GOxFdMlot-g5x_KE2yGFeu3lWbg)

## FSFW backs prior authorization of 23 ENDS



For years, worldwide, independent research has concluded that adult use of e-cigarettes is far less harmful than smoking combustible cigarettes. As use and death rates from smoking idle at a precariously high level across the globe, smokers are desperate for more safe options to kick the habit. The Foundation for a Smoke-Free World fully appreciates the FDA's prior authorization of 23 electronic nicotine delivery system (ENDS) products for adult smokers as appropriate for the protection of the public health. We will continue to work with all stakeholders to achieve the Foundation's goal of ending smoking in this generation.

<https://www.smokefreeworld.org/newsroom/foundation-for-a-smoke-free-world-statement-on-fdas-marketing-denial-orders-to-juul-labs-inc/>

## Nicotine pouches: geographic footprint, company presence and legislative snapshot

Authors: Ayda Yurekli, Candida Nakhumwa, David Janazzo, Ehsan Latif, Evan Hahn, Karthik Ranganathan, Romita Shah, Staff and Yuchen Xue.

### Introduction

The Tobacco Transformation Index™ measures the extent to which nicotine and tobacco companies are making material progress toward reducing the consumption of high-risk products (HRPs) and contributing to tobacco harm reduction. Nicotine pouches are one of six products defined as “reduced-risk”. As this blog post explores, nicotine pouches are a relatively niche category and not widely available but are developing rapidly in select geographies. The largest markets are currently in the US and other HMICs. Seven of the 15 companies ranked by the Tobacco Transformation Index currently offer nicotine pouches, as do a number of other companies. Regulatory developments, given current fluidity, will likely be crucial to the category’s future.

### Brand landscape overview

Of the 15 companies ranked by the Tobacco Transformation Index, seven offer nicotine pouches to date. Nicotine pouches are a rapidly

growing but relatively small category, representing 0.3% of the world tobacco market by value terms in 2021.

Not included in Table 1 is Philip Morris International, which acquired AG Snus in May 2021 and its brand Shiro. The brand has

a limited market presence in Sweden. Smaller companies are entering the niche market. For example, the UK-based next generation nicotine and CBD manufacturer, V&YOU, launched a new &Boost+ nicotine pouch in September 2021.

**Geographic presence:** USA and Sweden are the leading markets.

The largest nicotine pouch markets are the USA and Sweden, partly a result of oral tobacco products being strongly rooted in the local tobacco culture. From the Index list of countries, the nicotine pouch brands are mostly present in HMICs, except for BAT which sells Velo in LMICs (Indonesia and Pakistan). Swedish Match, global nicotine pouch category leader, continued to increase sales in 2021 in the USA with its brand Zyn. In 2021, Altria Group acquired the remaining 20% global ownership of On! and expanded its retail distribution, which accelerated volume growth of the brand.

### Changing Legislative Environment.

In terms of the 36 countries covered by the Tobacco Transformation Index, nicotine pouches are allowed in 24 countries

(often considered consumer products by regulatory bodies). Of the 24 markets in 2021, there was notable market size (above 10 million units) in seven: USA, Sweden, UK, Germany, Ukraine, Switzerland, and Poland. Nicotine pouches are sold as consumer products, in contrast to Nicotine Replacement Therapy (NRT) products which require a pharmaceutical license and are traditionally outside of the capabilities of tobacco companies.

In some countries, the legislation is uncertain. Non-tobacco nicotine pouches were banned in the federal state of Bavaria, while Germany’s Federal Office of Consumer Protection and Food Safety (BVL) recognized that the products are not regulated by tobacco law and should not be placed on the market. The BVL stated that nicotine pouches are a foodstuff containing an unauthorized novel food ingredient (nicotine) and thus illegal for sale.

In other countries, nicotine pouches are explicitly banned, such as in Kenya, which banned nicotine pouches in February

2022. BAT launched and then subsequently withdrew Lyft in Kenya. Elsewhere, nicotine pouches may not have been formally legislated under tobacco product legislation, such as in Mexico. In these instances, no legislation exists regarding the introduction

of the product in the market and there is a lack of legislation around the advertising of nicotine pouches.

In the USA, flavored nicotine pouches are currently available across the country, pending FDA review of the premarket tobacco product applications “submitted by the September 9, 2020, deadline”. One of the possible outcomes would be the removal of some or all flavored products from the market. In New York State, there is a possibility that state legislation would ban flavored nicotine pouches.

In Europe, it remains to be seen whether the EU Tobacco Products Directive 3 (unlikely to come into effect before 2025) will provide more guidance on nicotine pouch regulation. In Italy, where nicotine pouch sales are currently relatively small, nicotine pouches will officially fall under tobacco legislation as of January 1, 2023, and they will be taxed for the first time at EUR 22 per kg.

**Table 1: Leading Nicotine Pouch Brand Global Volume Sales, Growth, and Country Presence, 2021**

Brand name	Company Name	Global volume sales (million units) 2021	2021 (vs 2020) volume growth rate	Main Country Presence
Zyn	Swedish Match AB	3,278.8	87%	USA, Sweden, Denmark, Netherlands
Velo	British American Tobacco Plc	1,319.9	328%*	Sweden, USA, Austria, Germany, UK, Switzerland
On!	Altria Group Inc	809.5	141%	USA, Sweden
Lyft	British American Tobacco Plc	198.0	-66%*	Denmark, Netherlands, Sweden
Nordic Spirit	Japan Tobacco Inc	132.3	80%	Sweden, UK, Netherlands
Rogue	Swisher International Group Inc	81.7	47%	USA
Skruf	Imperial Brands Plc	58.9	23%	Sweden

<https://www.smokefreeworld.org/nicotine-pouches-geographic-footprint-company-presence-and-legislative-snapshot/>



## Tax tobacco now

Zafar Mirza

The time is ripe for a heavy tax to be slapped on consumer items that have proved to be harmful such as tobacco products and sugary drinks. Such a measure would be good for public health and will support the ailing economy. Smoking is on the rise, and a cash-strapped Pakistan desperately needs revenue. The IMF supports such taxes and tobacco excises in Pakistan are way below the recommended global level.

Tobacco is lethal. Of the eight million deaths that occur globally each year due to tobacco use, 170,000 are in Pakistan — to put it into perspective, the total deaths from Covid-19 in Pakistan were around 31,000. Tobacco causes 20 different kinds of cancers and is a major risk factor for cardiovascular diseases. Ninety per cent of lung cancer detected in males is attributed to tobacco use.

Whereas tobacco use is on the decline globally, smoking rates are going up in Pakistan, most disturbingly among children and women. The prevalence of tobacco use in Pakistan is around 24pc, and 10.7pc of the youth aged between 13 and 15 years are smoking. With a high population growth rate and 62.7pc of the population under 25, Pakistani youth are a great market for the tobacco industry where children serve as replacement customers.

In view of the uncontrolled tobacco pandemic, the first ever global public health treaty — the Framework Convention on Tobacco Control (FCTC) — was adopted by the World Health Assembly in 2003. Pakistan is a member. This comprehensive treaty covers almost all determinants of tobacco use: legislation and governance; measures for countering the tobacco industry's interference; strengthening tobacco taxation; banning advertisements, transforming packaging; tobacco cessation and treatment for dependence. Article 6 of the FCTC specifically deals with 'Price and tax measures to reduce the demand for tobacco'. Analyses show that a tax increase that escalates tobacco prices by 10pc decreases tobacco consumption by about 4pc to 5pc.

The World Health Organisation (WHO) has recommended at least a 70pc share of excise taxes on the retail price of tobacco products, whereas currently in Pakistan, the federal excise duty is around 45pc. The Federal Board of Revenue (FBR) divides cigarettes into expensive and inexpensive categories. The market share of expensive cigarettes is only 12.2pc, whereas the bulk 87.8pc, is made up of cigarettes that cost less than Rs119.2 per pack. The current FED on the retail price of expensive cigarettes is Rs104 and on inexpensive cigarettes it is only Rs33.

The Social Policy Dialogue Centre, WHO, The Union, Vital Strategies and Campaign for Tobacco-Free Kids have jointly produced a Tobacco Fact Sheet 2022 for Pakistan in which they have analysed and argued that since FED on cigarettes has not increased since July 2019, adjusting for inflation and income, cigarettes have become more affordable today. The SPDC et al have also made a budget proposal to increase FED from Rs33 to Rs42.9 on inexpensive cigarettes and from Rs104 to Rs135.2 on the high price tier. This would increase the weighted average of FED to 54.16pc, still around 16pc less than the recommended level of 70pc.

According to calculations based on data from the State Bank of Pakistan and the Pakistan Institute of Development Economics in 2021, Pakistanis are annually smoking cigarettes that are collectively worth Rs347 billion, whereas the total costs of smoking-related diseases and deaths in Pakistan is Rs615.07bn. And according to FBR, in fiscal year 2020-21, the revenue collected from cigarettes was a mere Rs135bn.

One of the reasons why Pakistan is falling into a debt trap is insufficient revenue generation. Our current funding programme with the IMF has stalled because of our slow progress on reforms. High tobacco taxation, however, is one area that the IMF also recommends. In 2016, the Fund came out explicitly with its position on tobacco taxation through a published paper titled How to Design and Enforce Tobacco Excises? At the outset, the paper mentioned that "...tobacco is one of the most prominent killers of our times", that "Taxes can be a powerful instrument to decrease tobacco consumption" and that "...tobacco-related revenue can in some cases represent a high proportion of government revenue". With the IMF supporting tobacco taxation, this is the right time to leapfrog to achieve the global benchmark of 70pc of FED. Pakistan also needs to remove the price-tier anomaly and should have uniform taxation. Instead of falling into the trap of the industry argument of illicit tobacco trade, we need to honestly put in place measures to effectively control the illicit trade. More on this topic later.

The tobacco revenues should also be earmarked to be spent only on the prevention and promotion of health. In this regard, attempts have been made since 2019 to impose a health tax. I led one effort on this front and got it included in the budget speech after the cabinet's approval but it could not be realised due to bureaucratic rigmarole and collusion. Dr Faisal Sultan also tried to get through a Health Contribution Bill, 2021. The current government needs to pick it up and take it forward.

Not only is all this possible, it has also been done successfully elsewhere. The Philippines introduced the Sin Tax Reform Law in 2012 whereby it made bold reforms in tobacco taxation. In five years, it had increased the excise tax rate on cigarettes on low-priced brands to 1000pc. It also shifted from a multi-tiered price system; the total tax burden per pack of the most-sold brand more than tripled from 27pc (2012) to 93pc (2017); tobacco tax revenue grew from PhP32bn (2012) to PhP106bn (2017); there were three million less smokers in 2015 compared to 2012, with the biggest decline among the poorest households; and with incremental earmarking, the country's health budget tripled from PhP50bn in 2013 to PhP165bn in 2019. Such is the power of tobacco taxation. This became possible only because of a committed leadership, which was ready to deal with the industry's pressure and was supported in its efforts by an active civil society.

As we approach the next budget in turbulent economic times, it is high time to make bold decisions and offer win-win solutions for all. More on the issue of sugary drinks later.

<https://www.dawn.com/news/1692900/tax-tobacco-now?fbclid=I->

[wAR054P9qUduz3D4dbiC8pRmJ9FpKuhXXHdNjvifZWUQDGfYiQ3QcZft1y3A](https://www.dawn.com/news/1692900/tax-tobacco-now?fbclid=I-wAR054P9qUduz3D4dbiC8pRmJ9FpKuhXXHdNjvifZWUQDGfYiQ3QcZft1y3A)

Established in 2018, ARI is an initiative aimed at filling gaps in research and advocacy on ending combustible smoking in a generation. Supported by the Foundation for A Smoke-Free World (FSFW), ARI established the Pakistan Alliance for Nicotine and Tobacco Harm Reduction (PANTHR) in 2019 to promote innovative solutions for smoking cessation.

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Islamabad, Pakistan | Email: [info@aripk.com](mailto:info@aripk.com)