

TOBACCO CONTROL IN ARGENTINA: PENDING TASKS TO PROTECT WOMEN'S HEALTH

UNITED NATIONS COMMITTEE ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

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STATE PARTY CONSIDERED: ARGENTINA

I. REPORT FILED BY:

This report was filed by FIC Argentina: Fundación Interamericana del Corazón Argentina (Argentine Interamerican Heart Foundation), FUNDEPS (Foundation for the Development of Sustainable Policy) and the O'Neill Institute for National and Global Health Law at Georgetown University.



FIC ARGENTINA's mission is to promote changes in public policies in order to prevent non-communicable diseases (NCDs, such as cardiovascular, cancer, diabetes, etc.). FIC – Argentina is an affiliate of the Interamerican Heart Foundation, an organization with a trajectory of over 20 years. Within the field of the prevention of NCDs, FIC Argentina takes different action lines to promote the design and implementation of tobacco control, healthy eating and physical activity policies with a human rights perspective. Furthermore, it also develops a variety of activities and projects to raise awareness of the importance of these measures with the final objective of protecting the right to health.



The Foundation for the Development of Sustainable Policies (FUNDEPS) is a non-profit organization based in Argentina, whose work is aimed towards the development of a fairer, more equitable and inclusive society, promoting a sustainable development, respectful of human rights, through advocacy in public policies at the local, national and international levels. To achieve these goals, FUNDEPS promotes the empowerment of community stakeholders in the development process through training, lobbying, policy & research, strategic litigation and cooperation.



The O'Neill Institute for National and Global Health Law at Georgetown University is a research institute on topics related to health and law. Housed at Georgetown University Law Center, in Washington DC, the Institute's mission is to provide innovative solutions for the leading health problems both domestically and globally. The Institute, a joint project of the Law Center and School of Nursing and Health Studies, also draws upon the University's considerable intellectual resources, including the School of Medicine, the Public Policy Institute and the Kennedy Institute of Ethic.

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II. ARGENTINA'S DUTY TO PROTECT WOMEN'S HEALTH ACCORDING TO CEDAW OBLIGATIONS AND COMMITTEE'S RECOMMENDATIONS.

CEDAW imposes the obligation on States Parties to adopt measures for the inclusion of the right to women's health into domestic legislation while also serving as the principal document for the advancement of women's equality in international human rights law.

In particular, the obligations established by CEDAW in its articles 3 (obliges States to take all appropriate measures to guarantee women their fundamental rights), 10 h (establishes access to educational information that contributes to ensuring the health and wellbeing of their family) and 12 1 (obliges States to take measures to eradicate discrimination against women in the field of health care) are relevant to this document in view of Argentina's periodic review as it relates to tobacco control and women's health.

In 2010, at the time of reviewing Argentina at the 46th session period, CEDAW Committee showed its concern about the widespread of tobacco use among women in Argentina and its serious health impact on women:

“39. The Committee is concerned about the widespread use of tobacco among women in Argentina and the serious health impact of tobacco on women. The Committee is particularly concerned that women are often targets in tobacco advertising campaigns, which encourage and increase the usage of tobacco among women, resulting in tobacco-related diseases and deaths.

40. The Committee urges the State party to ratify and implement the World Health Organization Framework Convention on Tobacco Control and put in place legislation aimed at banning smoking in public spaces and restricting tobacco advertising.”

Despite the recommendations done by the CEDAW Committee, at the time of filing its follow up report, the state party provided a vague response that does not provide any information on the effectiveness of tobacco control policies implemented in Argentina. Further, the state party did not mention or address its obligation to respect, protect and fulfill women's right to health through measures that prevent the harmful consequences of tobacco epidemic.

“106. Legislation to control tobacco consumption: In relation to Recommendation 40, Argentina approved the WHO Framework Convention on Tobacco Control but did not ratify it. Nonetheless, a very wide range of regulations are in force at the national, provincial and/or municipal levels restricting or banning smoking and/or regulating tobacco advertising, in particular Law 26.687/2011, regulating the publicity, promotion, consumption of tobacco products.”

III. TOBACCO USE AND SITUATION IN ARGENTINA

A) TOBACCO INDUSTRY MARKETING STRATEGIES TARGETING WOMEN

Persistent advertising and promotion of tobacco products targeting women and girls

In Argentina, despite the national tobacco control law No. 26.687 that restricts tobacco advertising, promotion and sponsorship, there is wide evidence about high exposure to

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advertising and mainly, to product display at point of sales. According to a FIC Argentina study done in 2014, which assessed advertising at point of sales, 73.7% of them did not obey the law¹.

When analyzing advertising targeting women, it is clear that the tobacco industry has created detailed psychographic profiles in order to address to them in a selectively way. Thus, cigarettes with "low tar" and "light" are intended to appeal to women. According to the Global Adults Tobacco Survey (GATS) 2012, the 7.5% of respondents smoked flavored cigarettes, being more frequent among teens, poor people and **women**. In addition, tobacco companies design cigarette packages exclusively targeting at women, invoking feminine stereotypes of fashion, appearance and interests.

Tobacco companies and their marketing agents use internet data to obtain information and build databases about women's preferences and consumption patterns. The industry also sponsors events targeting women, such as concerts and fashion shows, and promotes cigarettes designed to appeal to women. These events have the explicit intention to appeal to teenagers and their desire to imitate the behavior of elder women.



Website of Virginia Slims sponsoring the "Buenos Aires Fashion (BAF) Week" and promoting cigarettes with less smoke odor in "your hair, hands and clothes". February 2016.

Women as agents of advertising and promotion

Women are often use as brand ambassadors to promote tobacco consumption. They are commonly seen at clubs and bars wearing clothes that refer to cigarette brands' colors inviting people to participate in activities and giving away free samples of tobacco products.

Moreover, the industry is using unconventional marketing strategies known as "bellow the line" (BTL) marketing. During 2015, FIC Argentina² monitored and detected a wide BTL advertising strategy which operated through various communication channels including websites, email marketing, social networks, cultural events and concerts, private parties,

¹FIC ARGENTINA. Research Protocol: Current regulations' features and fulfillment on tobacco products' advertising, promotion and sponsorship in points of sale. (2013-2014). 2014. .

² FIC ARGENTINA. Report survey: Tobacco promotional and advertising actions in Argentine cities. 2015

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among others. Often, these strategies violate the tobacco national law or take advantage of legal loopholes.

Given all this evidence, it appears that girls, teens and women remain highly exposed to tobacco marketing and perpetuate this cycle as agents of advertising and promotion. Since the industry promotes its products for women in a special and different way than for men, public health policies should address these differences.

B) EXPOSURE TO SECOND-HAND TOBACCO SMOKE IN ARGENTINA

Scientific evidence shows that only 100% smoke-free environments, which are created by total elimination of smoking and tobacco smoke, are safe. Comprehensive smoke-free place laws protect children and non-smoking adults from second-hand smoke, which causes disease and premature death among non-smokers.

In Argentina 69.4% of teenagers said that they have been exposed to tobacco smoke in public places, and 47.5% of them in their own homes. Indeed, in all cases, **girls reported greater exposure than boys** (Global Youth Tobacco Survey GYTS 2012). Another study³ showed that in 25 cities in Argentina exposure to tobacco smoke was significantly higher in young people and women, even cities with smoke free policies.

Clearly, despite the presence of smoke free regulation, monitoring and enforcement deficient at both national and provincial levels. By strengthening these mechanisms, the population, and especially women, would be protected from the harmful effects of tobacco smoke. Additionally, smoke free place laws also reduce tobacco consumption by discouraging initiation by young people and non-smokers and by helping motivate smokers to quit.

C) TOBACCO PRICES AND CONSUMPTION

Tobacco taxes are the most cost effective way to reduce tobacco consumption and also generate significant revenue. The Concluding observations from the Committee on Economic, Social and Cultural Rights in 2011 clearly stated the Committee's concern about the high level of tobacco consumption in Argentina, specifically among women and youth. The Committee recommended to the State party to "*develop effective public awareness and tax and pricing policies to reduce tobacco consumption, in particular targeting women and youth*"⁴. Still, Argentina counts with one of the cheapest and most affordable cigarettes throughout the world⁵.

There is a huge rapport between tobacco prices and consumption. After analysis on data obtained from GYTS 2012, using a continuous- time split population model, it was found that tobacco prices exert an important influence on smoking onset. The empirical evidence suggests that at the starting age of 15 years, an increase of 10% in real cigarettes prices is expected to delay smoking onset by almost two and a half years. Indeed, it was found that for

³ Schoj V, Allemandi L, Ianovsky O, Lago M, Alderete M. Smoke-free environments: age, sex, and educational disparity in 25 Argentinean cities. *Cancer Causes & Control*. 2012;23(10):1607-14.

⁴ Concluding observations of the Committee on Economic, Social and Cultural Rights: Forty-seventh session. November 2011.

⁵ Germán Rodríguez-Iglesias, Martín González-Rozada, Beatriz Marcet Champagne, and Verónica Schoj. Real price and affordability as challenges for effective tobacco control policies: an analysis for Argentina. *Panamerican Journal of Public Health*, vol.37 n.2, Washington. February 2015.

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males, an increment of 10% in the real price of cigarettes induces a delay in the smoking onset of about 4%, **whereas this figure is 5.6% for women**⁶. This evidence highlights that onset in women is more sensitive to price increases than in men. Increasing cigarette prices through a tax increase would be the most effective measure to be implemented to reduce the initiation among women.

D) PREVALENCE OF TOBACCO USE AMONG ARGENTINE WOMEN

Smoking prevalence among women in Argentina, particularly girls and teens, is increasing. Nowadays there is a 20% higher consumption in teen girls compared to boys. GYTS results (2012) showed that smoking prevalence among teens aged 13 to 15 years corresponds to 19.6% (21.5% women and 17.4% men). According to the Global School-based students Health Survey (GSHS) 2012 where the prevalence is 18.8%, there is an increased consumption among women (women 20.5% and men 17%). Finally, according to official sources⁷ 2014 the prevalence is 15.1%, showing higher rates among women (15.9%) than men (14.4%).

E) EFFECTS OF TOBACCO USE ON WOMEN'S HEALTH

Smoking is the leading preventable cause of death and disease in the world. Its consumption is growing steadily, especially among the poor, **women** and youth. Tobacco consumption generates several negative effects on women's health, such as:

- Cardiovascular Disease: Acute myocardial infarction, angina, peripheral vascular disease, abdominal aortic aneurism and strokes.
- Respiratory illnesses: Pneumonia, pulmonary emphysema, chronic bronchitis, chronic obstructive pulmonary disease, increases the appearance of asthma and the number of asthma crises.
- Oncological disease: Mouth, pharynx, esophagus, lung, kidney, breast and bladder.
- Metabolic disease: Reduces estrogens, thereby producing bone decalcification, osteoporosis, whose principal complication is hip fracture.⁸
- Reduces fertility and fecundity⁹, increases the risk during pregnancy of premature membrane rupture, and placenta detachment. There is higher risk for premature birth and low birth weight.

In Argentina tobacco is responsible for a significant number of deaths, illnesses and health care costs. In sum, tobacco causes the loss of 926,878 years of life each year and accounts for 13.6% of all deaths occurring in the country. This represents 40,591 deaths per year that could be avoided¹⁰. Out of all deaths from diseases associated with smoking 11.731¹¹ are women.

⁶ Martin González Rozada; Giselle Montamat. How increasing tobacco prices affects the decision to start and quit smoking: evidence from Argentina. Universidad Torcuato Di Tella. September 2015

⁷ Secretary for the Prevention of Drug Addiction and the Fight against Drug Trafficking (SEDRONAR) Sixth national study on substance use in high school students. Newsletter N.1: patterns and magnitude of consumption: diagnosis at the country level. 2014

⁸ Riancho Moral, José A. and Jesús González Macías, Osteoporosis and Mineral Metabolism Diseases practical handbook, 2004, p 154. Available at <http://www.unican.es/NR/rdonlyres/EB68B8BC-3AF3-46BC-96FF-AA2CC84834F4/47174/LIBRO.pdf>

⁹ Women and the tobacco epidemic. Challenges for the 21st century. WHO/NMH/TFI/01.1.

¹⁰ Pichon-Riviere A, A.A., Bardach A, Augustovski F, Caporale J, Caccavo Francisco . Disease attributable to smoking in Argentina. IECS Technical Document No. 7.

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One in three women die from cardiovascular disease and double deaths from malignant tumors¹². Lung cancer duplicated among women since 1980 (it has increased 1.7% annually) as a consequence of tobacco consumption, which is one of the higher rates in Latin America¹³.

IV. HUMAN RIGHTS OBLIGATIONS AT A SUB-NATIONAL LEVEL

Argentina has been slow to develop the legal framework for tobacco control at a national level, as exemplified by the failure to ratify the FCTC and the delay in adopting a comprehensive national tobacco control law, which did not take shape until mid-2011. For this reason, many sub-national governments established regulations aimed at reducing the negative impacts of the tobacco epidemic in their respective jurisdictions. In this context, provinces like Santa Fe, Neuquén, Tucumán, San Luis and Córdoba, among others, enacted regulations establishing smoke-free environments. Although these jurisdictions adopted various levels of protection, they constituted a regulatory advance compared to the absence of any regulation at the national level.

Nowadays, some of these laws coexist with others regulations implementing the national law. However, at a practical level, implementation of both provincial and national tobacco control laws is insufficient, and the tobacco industry takes advantage of this complex institutional framework to continue to market its products regardless of the restrictions established by law.

On the other hand, there are still some provinces that have not passed any tobacco control regulation, leaving their citizens unprotected from the harmful consequences of the tobacco epidemic. In this context, clear policies from the Federal Government are needed, not only to guarantee the effective implementation of the current legislation across the country but also to promote the adoption of tobacco control measures in those provinces that are not enforcing the minimum standards adopted by the national tobacco control law No. 26.687.

In 2010, CEDAW addressed these issues, highlighting the responsibility of the federal government to ensure that sub-national governments take action required to fully implement and enforce the Convention:

11. While the Committee is cognizant of the complex federal constitutional structures of the State party, it underlines that the federal Government is responsible for ensuring the implementation of the Convention and providing leadership to the provincial and territorial governments in that context. The Committee expresses its concern that the federal Government lacks an efficient mechanism to ensure that the provincial governments establish legal and other measures to fully implement the Convention in a coherent and consistent manner.

12. The Committee, taking into account the responsibility of the federal Government for the implementation of the Convention, urges the State party to establish an effective mechanism aimed at ensuring accountability and the transparent, coherent and consistent implementation of the Convention throughout its territory, in which all

¹¹ Disease Atributable to smoking in Argentina. Institute of Clinical Effectiveness and Health. (IECS). July 2013. <http://www.iecs.org.ar/wp-content/uploads/N7Carga-de-Enfermedad-Tabac-Argentina.pdf>

¹² Liprandi, Harwicz. Causes of death in women and the trend over the last 23 years in Argentina Rev. Argent. Cardiol. v.74 n.4 Buenos Aires jul. 2006

¹³ SchargrotskyH et al. CARMELA: assessment of cardiovascular risk in seven Latin American cities. AmJ Med.2008 Jan; 121(1):58-66

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levels of government — national, provincial and municipal — participate¹⁴.

The same criteria can be applied for the tobacco control laws and regulations, which should assure a minimum protection throughout the country, including effective coordinating mechanisms between the federal and sub-national governments.

V. ARGENTINA'S RATIFICATION OF THE FRAMEWORK CONVENTION ON TOBACCO CONTROL (FCTC)

The WHO FCTC is the legal framework that places upon States obligations, which facilitates the implementation of laws that are necessary to protect the global population from the toxic effects of tobacco consumption and exposure to secondhand smoke. By February 2016, 180 countries had ratified the FCTC, and Argentina is the only country in South America that is still not a member of the first public global health treaty.

This treaty has established a gender perspective in its principles and obligations. As an example, it recalls *“that the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the United Nations General Assembly on 18 December 1979, provides that States Parties to that Convention shall take appropriate measures to eliminate discrimination against women in the field of health care”*. In addition, it takes into account the current tobacco consumption trends. Thus, the FCTC signatories are ***“alarmed by the increase in smoking and other forms of tobacco consumption by women and young girls worldwide and keeping in mind the need for full participation of women at all levels of policy-making and implementation and the need for gender-specific tobacco control strategies”***.

Scientific evidence demonstrates that, worldwide, the tobacco industry has undermined country's efforts to implement effective tobacco control policies that endanger industry profitability. In order to properly protect the right to health of its population and in particular women from the tobacco industry strategies, it is not enough to approve tobacco control legislation with standards along the line of the FCTC. Ratifying the FCTC would give Argentina greater legal tools to advance tobacco control policies in general and in particular with a gender perspective. Thus, Argentina shall promptly ratify the FCTC, according not only to CEDAW recommendation, but also to ESCRC Committee that in its concluding observations of 2011 recommended *“that the State party ratify and implement the WHO Framework Convention on Tobacco Control and develop effective public awareness and tax and pricing policies to reduce tobacco consumption, in particular targeting women and youth.”*

VI. SUGGESTED QUESTIONS

Taking into consideration the information described in this report, we recommend the Committee to ask Argentinean State the following questions:

- 1) Which measures are being implemented by the Government in order to effectively control and monitor advertising, promotion and sponsorship regulations, established by Law 26.867 and its regulatory decree 602/13?
- 2) Which measures are being implemented by the government to effectively restrict and

¹⁴ CEDAW (2010). Concluding observations of the Committee on the Elimination of Discrimination against Women. Argentina.

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regulate advertising, promotion and sponsorship containing gender perspective in order to prevent the tobacco industry from targeting women and girls with its marketing campaigns?

- 3) Which effective measures are being taken by the government to control smoke-free environments established by law 26.687 in order to ensure that women and girls are not exposed to tobacco second hand smoke?
- 4) Which are the tax measures taken by the Government in order to increase tobacco prices, taking into account that in Argentina tobacco products are the cheapest in the region, and that initiation in women is more sensitive to the increase of prices rather than in men?
- 5) What monitoring and/or reporting mechanisms does the government have in place to determine compliance with Law 26.867 and associated regulations?
- 6) What steps is the government taking to strengthen enforcement of Law 26.867 and associated regulations?
- 7) Which are the policies implemented by the Government to ensure law's 26.687 is applied as a minimum standard throughout all the nation, especially among provinces where there is no tobacco control regulations? Are there any coordinating mechanisms with sub-national governments?
- 8) Why Argentina has not yet ratified the FCTC, despite having signed it in 2003 and being recommended to do so by the CEDAW and ECSR Committees? -