**Action on Smoking and Health et al**

 **Questionnaire**

**A consultancy study on the contribution of development to the enjoyment of human rights**

**(A/HRC/RES/41/19, para. 13)**

**1. Please share your views on the contribution of development in promoting and protecting human rights, including its context, concept, specific aspects and means of implementation.**

**Contribution of development to:**

**(1) Civil and political rights.**

**(2) Economic, social and cultural rights.**

Tobacco is the leading preventable cause of death in the world killing more than 8 million people every year; the majority of these deaths occur among low-income populations. Left unchecked, tobacco will kill 1 billion people this century. As a result, the actions of the tobacco industry are a barrier to key economic, social and cultural rights, particularly the right to the highest attainable standard of health. The negative human rights impacts of the tobacco industry, and of tobacco itself, are numerous and widespread and occur throughout the life cycle of a tobacco product, from growing all the way through post-consumer waste. Besides the general right to life and the right to health, tobacco products violate children’s rights[[1]](#footnote-1), including the protection of children from child labor in tobacco production[[2]](#footnote-2) and from misleading information (e.g. advertising) and women’s rights[[3]](#footnote-3), including protection from the impact of (passive) smoking on pregnancy, and adversely impacts the rights of other vulnerable populations, such as the LGBT community, racial minorities, and indigenous populations.[[4]](#footnote-4) In addition, the right to a healthy environment is violated when workers are exposed to tobacco smoke in the work place and the right to an adequate standard of living is violated when a prison inmate is forced to breathe secondhand smoke.

The impact of tobacco products on human rights has been noted in a number of human rights fora, both directly and implicitly. The Committee on Economic, Social and Cultural Rights, in its General Comment No. 14, stated that the “failure to discourage production, marketing and consumption of tobacco” constitutes a violation of the obligation to protect under Article 12 of the International Covenant on Economic, Social and Cultural Rights on the right to health, which is also mentioned in the preamble to the WHO Framework Convention on Tobacco Control (FCTC). Likewise, General Comment 15 of the Committee of the Rights of the Child noted that governments must implement and enforce the FCTC as part of their obligations under the Convention on the Rights of the Child.[[5]](#footnote-5) Tobacco was also noted as barrier to development in the 2030 Agenda for Sustainable Development, target 3.a, which calls on Parties to “strengthen the implementation of the WHO Framework Convention on Tobacco Control in all countries.”[[6]](#footnote-6)

Accelerating the implementation of the best practices set out in the World Health Organization’s Framework Convention on Tobacco Control (FCTC) will help States in their efforts to protect the right to health as well as other economic, social and cultural rights of their citizens.

**(3) The right to peace, the right to development, environmental rights, and digital rights.**

Continuing human rights issues stemming from the actions of the tobacco industry are a barrier to the 2030 development agenda. Tobacco use remains the leading cause of global preventable death, killing over 8 million annually***[[7]](#footnote-7)***and costing the global economy up to two percent of its GDP.[[8]](#footnote-8)

To address this major obstacle to development and human rights goals, the 2030 Agenda for Sustainable Development included target 3.a, which calls on States to “strengthen the implementation of the WHO Framework Convention on Tobacco Control in all countries”.

Furthermore, the United Nations Development Program has established that the [World Health Organization Framework Convention on Tobacco Control](https://www.who.int/fctc/cop/about/en/) (FCTC) is an accelerator for Sustainable Development and reducing tobacco use is critical to achieving every goal in the SDGs.[[9]](#footnote-9)

Furthermore, the thirty-fifth session of the UN Human Rights Council adopted a Resolution on “The right of everyone to the enjoyment of the highest attainable standard of physical and mental health in the implementation of the 2030 Agenda for Sustainable Development” urging “States to work towards the full implementation of all Sustainable Development Goals and targets with a view to contributing to the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, including, inter alia, ….. Strengthen[ing] the implementation of the World Health Organization Framework Convention on Tobacco Control in all countries, as appropriate.”[[10]](#footnote-10)

Accelerating the implementation of the WHO FCTC will not only help States advance towards SDG goals and targets, but some of its articles, such as using price and tax measures will help decrease smoking prevalence while also helping States generate the much-needed revenues during this global pandemic. As the United Nations recognized during the third International Conference on Financing for Development in Addis Ababa, “price and tax measures on tobacco can be an effective and important means to reduce tobacco consumption and health-care costs, and represent a revenue stream for financing for development in many countries.”[[11]](#footnote-11)

**2. How to ensure that development contributes to promoting and protecting human rights? (The principles, strategies, policies and laws, action plans and programmes of development, what contents are important and what responsibilities should be taken into account)**

 **(1) At the international level.**

The global agenda should support progress towards the Sustainable Development Goals and promote the implementation of the WHO FCTC, the WHO Tobacco Free Initiative MPOWER package[[12]](#footnote-12), and the Global Action Plan for the Prevention and Control of Non-Communicable Diseases.

**(2) At the national level.**

States must implement the best practices set out in the World Health Organization’s Framework Convention on Tobacco Control (FCTC).  Article 6 on price and tax measures to reduce tobacco States is an effective and important means to reduce tobacco consumption and health-care costs, and could also represent a useful revenue stream for financing for development in many countries in the world.

Article 5.3 of the FCTC states “in setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law. The guidelines for Article 5.3 of FCTC state that *“*there is a fundamental and irreconcilable conflict between the tobacco industry’s interests and public health policy interests,” and go on to encourage Parties to *“*establish measures to limit interactions with the tobacco industry and ensure the transparency of those interactions that occur.”

Countries should engage with UN human rights mechanisms to provide information on progress and challenges in the implementation of Target 3.a of the 2030 Agenda for Sustainable Development, and address human rights implications over the whole life-cycle of tobacco growing, manufacturing, marketing, distribution, consumption and post consumption.

**(3) Through global and regional partnerships, civic space and engagement.**

The agendas of the WHO FCTC and the UN Human Rights Council are mutually reinforcing. For this reason, we encourage collaboration between the WHO Framework Convention on Tobacco Control Secretariat and the Human Rights Council.

**3. Please share any concrete examples of best practices of contribution of development to the enjoyment of human rights. Challenges, obstacles, lessons learned and experience with regard to principles, strategies, law and policies, action plans and programmes, the role of communities, organizations, and individuals and/or other stakeholders.**

The WHO Framework Convention on Tobacco Control has been established as a best practice tool and accelerator for Sustainable Development given that reducing tobacco use is critical to achieving every goal in the SDGs.[[13]](#footnote-13) As such, its implementation should be prioritized. The Political Declaration of the High-level Meeting of the General Assembly on the Prevention and Control of Non-communicable Diseases, adopted in 2011, calls on countries to “accelerate implementation by States parties of the World Health Organization Framework Convention on Tobacco Control, recognizing the full range of measures, including measures to reduce consumption and availability.”[[14]](#footnote-14) This also aligns with the UN Human Rights Council Resolution (adopted on July 23rd 2017), on “The right of everyone to the enjoyment of the highest attainable standard of physical and mental health in the implementation of the 2030 Agenda for Sustainable Development” urging “States to work towards the full implementation of all Sustainable Development Goals and targets with a view to contributing to the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, including, inter alia, ….. Strengthen the implementation of the World Health Organization Framework Convention on Tobacco Control in all countries.”

An accelerated implementation of the FCTC will help progress towards the achievement of the SDGs and also towards the health articles in the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Right of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

**4. Are there any other aspects relating to the contribution of development to the enjoyment of all human rights for all that you would recommend for the study to focus on?**

During the best of times, tobacco has been identified as a major barrier to health, development and human rights objectives, but during this unprecedented COVID-19 pandemic, tobacco, cigarettes, and the actions of the tobacco industry are even more of a blight on society. As the WHO states,

*Tobacco smoking is a known risk factor for many respiratory infections and increases the severity of respiratory diseases. A review of studies by public health experts convened by WHO on 29 April 2020 found that smokers are more likely to develop severe disease with COVID-19, compared to non-smokers. COVID-19 is an infectious disease that primarily attacks the lungs. Smoking impairs lung function making it harder for the body to fight off coronaviruses and other diseases. Tobacco is also a major risk factor for noncommunicable diseases like cardiovascular disease, cancer, respiratory disease and diabetes which put people with these conditions at higher risk for developing severe illness when affected by COVID-19. Available research suggests that smokers are at higher risk of developing severe disease and death.[[15]](#footnote-15)*

The public health community has long expressed its concern about the impacts of tobacco, and also the dangers of working with the tobacco industry. The guidelines for Article 5.3 of FCTC state that *“*there is a fundamental and irreconcilable conflict between the tobacco industry’s interests and public health policy interests,” and go on to encourage Parties to, *“*Establish measures to limit interactions with the tobacco industry and ensure the transparency of those interactions that occur.” These concerns were reiterated in the Cape Town Declaration, a landmark document that has been signed by 165 organization, which asserts that “We consider that the United Nations Guiding Principles on Business and Human Rights and its respect, protect and remedy framework require the cessation of the manufacture and marketing of tobacco. The fundamentally harmful nature of the tobacco industry is such that it cannot be a partner in these efforts.”[[16]](#footnote-16)

Furthermore, in 2017, the Danish Institute of Human Rights (DIHR) did a human rights review of Philip Morris International, a large transnational tobacco corporation, and came to a clear conclusion.

*According to the UNGPs [United Nations Guiding Principles on Business and Human Rights] companies should avoid causing or contributing to adverse impacts on human rights.* *Where such impacts occur, companies should immediately cease the actions that cause or contribute to the impacts.* *Tobacco is deeply harmful to human health, and there can be no doubt that the production and marketing of tobacco is irreconcilable with the human right to health. For the tobacco industry, the UNGP therefore require the cessation of the production and marketing of tobacco.*

The public health and human rights community are increasingly reiterating the incompatibility of the tobacco industry with international cooperation in the field of human rights obligations. The tobacco industry cannot be compatible as long as they continue selling a product that kills half of all its consumers. The UN Global Compact on 12 September 2017 reiterated this argument when it instituted a new exclusion for tobacco companies. "This decision recognizes that tobacco products are in direct conflict with UN goals, particularly with the right to public health, and undermines the achievement of SDG 3." We urge the Human Rights Council to take the same approach when proposing development strategies that support human rights.[[17]](#footnote-17)

And finally, we urge the Human Rights Council to promote the acceleration of the FCTC and consider tobacco control efforts in the context of a post COVID 19 recovery strategies. As the United Nations recognized during the third International Conference on Financing for Development in Addis Ababa, “price and tax measures on tobacco can be an effective and important means to reduce tobacco consumption and health-care costs, and represent a revenue stream for financing for development in many countries.”[[18]](#footnote-18) Increased revenue from tobacco taxes can be a positive by product of helping millions around the world protect their lung health and perhaps lessen the impacts of this or any other future pandemics.

**5. If you have differing views on the contribution of development to the enjoyment of all human rights for all, please explain and provide examples if possible.**

\* \* \* \* \*

Co-signed by:

Action on Smoking and Health, Washington D.C.

ACT - Alliance contre le tabac

Austrian Council on Smoking and Health

BLUE 21 / Unfairtobacco

Cigarette Butt Pollution Project

Corporate Accountability

DNF - Pour un Monde ZéroTabac

FCTC Implementation and Monitoring Center in Georgia

Foundation for Sustainable Health India

Fresh (Making Smoking History)

HealthJustice, Philippines

Healthy Romania Generation 2035 Association

The International Union Against Tuberculosis and Lung Disease

Public Health Law Center

Smoke Free Israel

Swarna Hansa Foundation

Tobacco Control Research Group, University of Bath

Tobacco Free Association of Zambia

1. Children’s Rights and Tobacco Control, The right to a tobacco-free world, Unfairtobacco, January 2020. Available from https://unfairtobacco.org/en/material/brochure-childrens-rights-and-tobacco-control/ [↑](#footnote-ref-1)
2. Child labour in tobacco growing has been defined as one of the worst forms of child labour (according to ILO Convention 182) due to its detrimental effect on the physical and mental health of the children, especially from nicotine poisoning.

ILO Convention 182: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\_ILO\_CODE:C182 [↑](#footnote-ref-2)
3. <https://unfairtobacco.org/wp-content/uploads/2020/02/CEDAW_submission_Germany_2020_Unfairtobacco.pdf> [↑](#footnote-ref-3)
4. Avaialble from <https://ash.org/declaration/> [↑](#footnote-ref-4)
5. UN Committee on the Rights of the Child (CRC), *General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24)*, 17 April 2013, CRC/C/GC/15, available from: http://www.refworld.org/docid/51ef9e134.html. [↑](#footnote-ref-5)
6. Available from <https://sdgs.un.org/goals>. [↑](#footnote-ref-6)
7. Available from <http://www.who.int/mediacentre/factsheets/fs339/en/>. [↑](#footnote-ref-7)
8. Available from <http://www.europe.undp.org/content/geneva/en/home/presscenter/pressreleases/2017/05/26/tobacco-kills-more-than-7-million-people-per-year-and-is-costing-the-world-economy-usd-1-4-trillion-annually.html> [↑](#footnote-ref-8)
9. Available from <https://www.who.int/fctc/implementation/publications/who-fctc-undp-wntd-2017.pdf> [↑](#footnote-ref-9)
10. Available from https://ap.ohchr.org/documents/dpage\_e.aspx?si=A/HRC/RES/35/23. [↑](#footnote-ref-10)
11. Available from <https://www.who.int/tobacco/economics/innovative_financing/en/>. [↑](#footnote-ref-11)
12. Available from <https://www.who.int/tobacco/mpower/en/>. [↑](#footnote-ref-12)
13. Available from <https://www.who.int/fctc/implementation/publications/who-fctc-undp-wntd-2017.pdf> [↑](#footnote-ref-13)
14. Available from <https://www.who.int/nmh/events/un_ncd_summit2011/political_declaration_en.pdf>. [↑](#footnote-ref-14)
15. Available from <https://www.who.int/news-room/detail/11-05-2020-who-statement-tobacco-use-and-covid-19>. [↑](#footnote-ref-15)
16. Available from [↑](#footnote-ref-16)
17. Available from <https://www.unglobalcompact.org/about/faq> [↑](#footnote-ref-17)
18. Available from https://www.who.int/tobacco/economics/innovative\_financing/en/. [↑](#footnote-ref-18)