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## Observed Circumvention of the Gutka Smokeless Tobacco Ban in Mumbai, India

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### Abstract

**Objectives:** Gutka is industrially manufactured in India and some Indian states have instituted bans on the sale of manufactured gutka as a public health initiative. We explored whether gutka was still available for purchase after the ban and also sought to observe methods of ban circumvention.

**Methods:** We visited 5 different markets at different locations separated by at least 15–20 km around the Mumbai Metropolitan Region (MMR) area, consisting of Mumbai and its satellite towns in Maharashtra, India during August- September, 2019. In each location, purveyors were queried as to the availability of gutka.

**Results:** Tobacco purchases were made in 5 locations/sections of MMR. At all markets, banned gutka was not displayed, and could only be purchased after requesting from the shopkeeper. Three methods of ban circumvention were observed: (1) packages marked ‘export only’; (2) use of twin packaging in which pan masala and tobacco are sold together for immediate mixing to create gutka; and, (3) non-descript packaging without mention of ‘gutka’.

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Human Subjects Approval Statement

Our work is conducted under Institutional Review Board approval at the University of Minnesota (1702M08521) and Tata Memorial Centre (#95) and is conducted in accordance with the Declaration of Helsinki.

Conflict of Interest Disclosure Statement

The authors have no conflicts of interest to disclose.

**Conclusions:** Although not readily displayed in shops, gutka is readily available in MMR, despite a statewide ban in Maharashtra. Marketers have used multiple methods to circumvent the statewide gutka ban.

### Keywords

gutka; gutka ban; smokeless tobacco; regulation circumvention; India

In India, tobacco use is common (28.6%) with smokeless tobacco use far more prevalent (21.6%) than combustible tobacco (10.7%). In smokeless form, tobacco is used in a wide variety of ways, with gutka being the second most prevalent form (6.8%).<sup>1</sup> Unlike most other smokeless tobacco products, gutka is industrially manufactured as a mixture of tobacco, areca nut, slaked lime, and other condiments and flavoring agents. A similar mixture, without the addition of tobacco, is also manufactured and sold as *pan masala*. Gutka is a unique kind of smokeless tobacco product. It is sold as a single-use packaged mixture of areca nut pieces, tobacco, and condiments. The product was launched in the 1970s and with intense marketing targeted to adolescents, its use has increased dramatically. The advent of single-use plastic sachets of gutka further contributed to an explosive growth of gutka consumption, especially among youth. The combination of tobacco and areca nut created an epidemic of oral sub-mucosal fibrosis,<sup>2</sup> followed by oral cancer.<sup>3</sup> This led to a national public health concern with recommendations for banning gutka throughout India.

A general lack of public education regarding the dangers of gutka contributed to escalating use over the past several years. Initial attempts by individual states to ban gutka were universally challenged by the industry and overturned by courts on legal technicalities. The arguments for banning gutka received a boost with the promulgation of the Food Safety and Standards Act in 2006, as this act contained a specific clause that tobacco or nicotine cannot be added to any food product. This act was notified in 2011 and Madhya Pradesh was the first state to enact a gutka ban using this clause in April 2012. The Maharashtra state government banned gutka and *pan masala* beginning July 20, 2012. A powerful advocacy campaign, Voice of Tobacco Victims, was instrumental in bringing about this ban.<sup>4</sup>

By 2013, almost all states had enacted a gutka ban. The power of the Food Commissioner to ban any item is limited to one year, and therefore, the gutka ban is re-notified every year. Still, the enforcement of the gutka ban has been patchy and non-uniform in different states.<sup>1,4</sup> In the 8 years since the gutka ban, studies have shown that vendors are generally aware of an existing ban but often unsure of which products are included.<sup>5</sup> As expected, this has led to confusion and decreased adherence to regulations. Furthermore, compliance with display and advertising provisions was poor. Still, the ban appeared to have some effect on users' understanding of the dangers associated with gutka, even though some simply switched to other tobacco products.<sup>4</sup> To date, gutka is the only tobacco product that is banned on a near-national level. No smoking product (eg, bidi, chutta, waterpipe, etc) has been banned thus far. In contrast, vape products have been banned completely at the federal level.

As nearly 10 years have passed since the gutka ban, the question of availability of this product remains. In our ongoing work to characterize the diversity and composition of

tobacco products available in the Mumbai Metropolitan Region (MMR), our team visited multiple markets in the MMR area to purchase various smokeless tobacco products. As part of this effort, we sought to explore the availability of gutka and observe methods by which the product may remain available.

## METHODS

During the period of August to September 2019, 5 areas around MMR were visited to purchase smokeless tobacco products for analytical purposes. The sites of purchase in MMR were Airoli, Vashi, Thane, Mumbai Central, and Kurla. The 5 market areas were selected such that they reflected an area surrounding a known public hub. These included bus stations, railway stations, cinemas, etc. Within each market, we identified the tobacco vendors and shops such as in department stores, pan/bidi kiosks, small grocery stores, tobacco specialist shops, tea shops/stalls and mobile vendors. We randomly selected one tobacco shop in each market and purchased smokeless tobacco products, and attempted to purchase a gutka product. At the point of purchase, for each vendor, a record was made regarding the presence/absence of gutka on display or for sale. If gutka products were not visibly available for purchase, verbal requests were made as to gutka availability. If this request yielded the product, it was purchased. Each procured gutka sample was placed in a separate plastic bag with an identification label including date, location, and price of purchase. A record was kept of each locality and market approached and the details of the products purchased from that market. Purchased products were refrigerated until delivery to the Healis Sekhsaria Institute for Public Health within 24 hours of purchase for cataloging and storage in a  $-17^{\circ}\text{C}$  freezer.

## RESULTS

Our most notable finding was that gutka was available from all vendors across MMR. Although this does not ascertain the extent of the problem nationwide, we theorize that it reflects the likely widespread availability of gutka despite the government's ban. In each case, multiple requests to the vendor resulted in the ability to purchase some variety of gutka. In all cases, our team member (a local resident) engaged the shopkeeper to establish some rapport. Perhaps understandably, shopkeepers were not willing to discuss their suppliers or details of the gutka ban. To obtain gutka, the purchaser requests at times had to be persistent. Two main strategies for circumventing the ban in MMR were observed (Figure 1) – (1) through package labeling and (2) by offering an alternative version of the product. The first strategy, package labeling, included either non-descript packaging with no mention of 'gutka' or, if the word 'gutka' was displayed, then the packages were marked as 'export only'. The second strategy involved twin packaging in which *pan masala* (a mix of areca nut and spices) and tobacco were packaged separately but sold together with instruction to consumers to mix the 2 ingredients and create gutka by themselves. Although no vendor had a product labeled 'gutka' and marked 'for export' on display, products with non-descript packaging were displayed.

*Pan masala*, intended to be mixed with tobacco, also was displayed; however, the accompanying tobacco sachets were hidden. Both the non-descript gutka and the *pan masala*

were arranged in bundles at eye level of the consumer. Our team's requests for purchase resulted in different responses depending on the product type. The non-descript pack (did not have the word 'gutka' on it) was not advertised by the vendors and required questions to be asked by the purchaser on what is included within the packaging. These non-descript packs were identified as 'gutka' by the vendors themselves in response to such questions across all markets and shops visited. The products labeled 'gutka' as such were difficult to obtain and required persistence from the customer, such as asking them repeatedly for the product, providing them description of the packets, and asking them if they have such products, convincing them to share the product only for study purposes or assuring them that the purchaser was not an inspector, and there would be no repercussions. In contrast, *pan masala* with the accompanying tobacco sachet was the easiest to purchase, with a simple request for a tobacco sachet being sufficient to obtain the twin packaging. Lastly, in the case of 'export only' gutka, the price was almost 2- to 3-fold that of the non-descript and twin packaging products. Likewise, the twin-packaged products were sold at a higher price than the written maximum retail price.

## DISCUSSION

India has made important strides in tobacco control over the last 20 years. This has been a critical priority in India where tobacco-induced disease, especially cancer, imparts a devastating toll. Prior reports demonstrated that compliance with the gutka ban, as well as the provisions of COTPA, were poor.<sup>5-7</sup> Our experience demonstrates that, despite progress in legislation banning the sale of gutka, there continue to be issues in metropolitan areas of India, specifically in MMR, one of the most populous (population over 26 million) metropolitan areas in the world. Selling gutka in non-descript packaging is in direct violation of the government ban. Packages marked as 'export only' were presumably produced for export with the product being illicitly sold inside India. This production occurs because of a loophole in the gutka ban notification of some states where gutka manufacture for export purposes was allowed.

To create proper enforcement and compliance of the gutka ban, we propose several tenets for a successful initiative. First, the loophole allowing manufacture ("for export only" or otherwise) must be closed at the legislative level. It is evident from this report, and others, that any gutka produced in India has a chance to reach the local markets. Another loophole requiring attention is the continued manufacture and sale of *pan masala* as a "food" which can then be sold in twin packets with tobacco to effectively create gutka. Second, a campaign that uses both mass media and social media must be employed to curb the illicit sale of gutka. We envision this to consist of television and print media utilized to publicize and reinforce the importance of the gutka ban. Part of the educational aims of this media campaign would ideally educate Indians that gutka is dangerous and frequently being sold in violation of the law. Furthermore, the use of Twitter (via #enforcegutkaban, for example) and Instagram would allow crowd-sourced documentation and ban circumvention allowing authorities to efficiently target offenders. Lastly, the regulatory commitment to enforcement should include rewards (eg, monetary, publicity, etc) for both citizens and law enforcement who identify, document, or neutralize shopkeepers who violate the ban. To help these efforts, tobacco control advocates in India must play a critical role in "jump starting" an endeavor

such as the one described here. For these changes to take place, the effort must be aided at each stage by those who are most passionate about tobacco control.

Whereas the challenges associated with these efforts in India are numerous, a commitment to make change among lawmakers is not sufficient. Indeed, citizens themselves also must be convinced that change is required. We propose these ideas with an understanding that enforcement of product bans is difficult in many countries, not only in India. Such change requires adjusting the public mindset which is often a product of history and culture. Therefore, the ideas presented above are multi-modal and require broad commitment.

Limitations of our study include the focused nature of our investigation, that was limited to the urban MMR, and our catchment area that did not include shops outside the MMR. Still, our results were consistent inside the MMR, and thus, may be extrapolated to urban shopping environments. In rural areas, however, the level of compliance with the gutka ban may be higher (or lower) than seen in this report; we were not able to explore these possibilities in this study.

In summary, we demonstrate that gutka continues to be available for purchase despite earlier reports of this problem 5–10 year ago.<sup>5–7</sup> Prior data and our current report demonstrate the urgent need for new, creative initiatives described above. With these efforts, the goals of the Indian gutka ban may be fully achieved with long-term overall benefits for public health.

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### IMPLICATIONS FOR TOBACCO REGULATION

The gutka ban has been in place for several years, but its goals have not been fulfilled. We have identified specific means by which the ban is being violated. There is an urgent need for strict enforcement of the gutka ban with closing of the production and sales loopholes in existing regulations (ie, the manufacturing loophole and lack of ban on *pan masala*). In addition, new and creative strategies are needed to end the illicit sale of gutka in India. These begin with the use of mass media to increase awareness of this persistent problem to shift public sentiment. This is followed by crowd-sourcing a community of observers and enforcers through the use of social media platforms and positive reinforcement.

The benefits of achieving these goals are numerous and pertain to an overall improvement in multiple public health measures including cardiovascular disease and tobacco-related cancers. In addition, any successful steps taken to “complete” the ban that has been codified, but not fully enforced, also would provide a blueprint for future tobacco control legislation in India. Each further act of legislation (eg, for non-gukka smokeless products) could potentially include *all* of the steps for successful ban/enforcement including those focused on modulation of cultural factors (such as apathy and lack of awareness) at the outset to enhance efficacy. Lastly, a fully realized ban (one without large loopholes and for which there is broad community support) allows for study of its public health and economic impact without concerns for inaccurate data due to ban circumvention.

Non-Descript Packaging



Purchase price Rs. 5 (US\$ 0.07)

Purchase price Rs. 10 (US\$ 0.14)

Maximum retail price: not mentioned

Maximum retail price: not mentioned

Packaging marked "Export only"



Purchase price Rs. 25 (US\$ 0.35)

Purchase price Rs. 21 (US\$ 0.29)

Maximum retail price: not mentioned

Maximum retail price: not mentioned

Note.

Identified circumvention method #1: non-descript packaging or packaging marked "export only"



Purchase price Rs. 30 (US\$ 0.42)

Purchase price Rs. 15 (US\$ 0.21)

Maximum retail price: Rs. 17 (US\$ 0.24)

Maximum retail price: Rs. 4.50 (US\$ 0.06)

Note.

Identified circumvention method #2: alternative packaging (twin packaging of pan masala and tobacco)

**Figure 1.**  
Gutka Ban Circumvention Methods via Package Design and Labeling