Why ban the sale of cigarettes? The case for abolition

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ABSTRACT
The cigarette is the deadliest artefact in the history of human civilisation. Most of the richer countries of the globe, however, are making progress in reducing both smoking rates and overall consumption. Many different methods have been proposed to steepen this downward slope, including increased taxation, bans on advertising, promotion of cessation, and expansion of smoke-free spaces. One option that deserves more attention is the enactment of local or national bans on the sale of cigarettes. There are precedents: 15 US states enacted bans on the sale of cigarettes from 1890 to 1927, for instance, and such laws are still fully within the power of local communities and state governments. Apart from reducing human suffering, abolishing the sale of cigarettes would result in savings in the realm of healthcare costs, increased labour productivity, lessened harms from fires, reduced consumption of scarce physical resources, and a smaller global carbon footprint.

Abolition would also put a halt to one of the principal sources of corruption in modern civilisation, and would effectively eliminate one of the historical forces behind global warming denial and environmental obfuscation. The primary reason for abolition, however, is that smokers themselves dislike the fact they smoke. Smoking is not a recreational drug, and abolishing cigarettes would therefore enlarge rather than restrict human liberties. Abolition would also help cigarette makers fulfil their repeated promises to ‘cease production’ if cigarettes were ever found to be causing harm.

SIX REASONS TO BAN
The cigarette is the deadliest object in the history of human civilisation. Cigarettes kill about 6 million people every year, a number that will grow before it shrinks. Smoking in the twentieth century killed only 100 million people, whereas a billion could perish in our century unless we reverse course. Even if present rates of consumption drop steadily to zero by 2100, we will still have about 300 million tobacco deaths this century.

The cigarette is also a defective product, meaning not just dangerous but unreasonably dangerous, killing half its long-term users. And addictive by design. It is fully within the power of the Food and Drug Administration in the US, for instance, to require that the nicotine in cigarettes be reduced to subcompensable, subaddictive levels. This is not hard from a manufacturing point of view: the nicotine alkaloid is water soluble, and denicotinised cigarettes were already being made in the 19th century. Philip Morris in the 1980s set up an entire factory to make its Next brand cigarettes, using supercritical fluid extraction techniques to achieve a 97% reduction in nicotine content, which is what would be required for a 0.1% nicotine cigarette, down from present values of about 2%. Keep in mind that we’re talking about nicotine content in the rod as opposed to deliveries measured by the ‘FTC method’, which cannot capture how people actually smoke.

Cigarettes are also defective because they have been engineered to produce an inhalable smoke. Tobacco smoke was rarely inhaled prior to the nineteenth century; it was too harsh, too alkaline. Smoke first became inhalable with the invention of flue curing, a technique by which the tobacco leaf is heated during fermentation, preserving the sugars naturally present in the unprocessed leaf. Sugars when they burn produce acids, which lower the pH of the resulting smoke, making it less harsh, more inhalable. There is a certain irony here, since these ‘milder’ cigarettes were actually far more deadly, allowing smoke to be drawn deep into the lungs. The world’s present epidemic of lung cancer is almost entirely due to the use of low pH flue-cured tobacco in cigarettes, an industry-wide practice that could be reversed at any time. Regulatory agencies should mandate a significant reduction in rod-content nicotine, but they should also require that no cigarette be sold with a smoke pH lower than 8. Those two mandates alone would do more for public health than any previous law in history.

Death and product defect are two reasons to abolish the sale of cigarettes, but there are others. A third is the financial burden on public and private treasuries, principally from the costs of treating illnesses due to smoking. Cigarette use also results in financial losses from diminished labor productivity, and in many parts of the world makes the poor even poorer.

A fourth reason is that the cigarette industry is a powerful corrupting force in human civilisation. Big tobacco has corrupted science by sponsoring ‘decoy’ or ‘distraction research’, but it has also corrupted popular media, insofar as newspapers and magazines dependent on tobacco advertising for revenues have been reluctant to publish critiques of cigarettes. The industry has corrupted even the information environment of its own workforce, as when Philip Morris paid its insurance provider (CIGNA) to censor the health information sent to corporate employees. Tobacco companies have bullied, corrupted or exploited countless other institutions: the American Medical Association, the American Law Institute, sports organisations, fire-fighting bodies, Hollywood, the
US Congress—even the US presidency and US military. President Lyndon Johnson refused to endorse the 1964 Surgeon General’s report, for instance, fearing alienation of the tobacco-friendly South. Cigarette makers managed even to thwart the US Navy’s efforts to go smoke-free. In 1986, the Navy had announced a goal of creating a smoke-free Navy by the year 2000; tobacco-friendly congressmen were pressured to thwart that plan, and a law was passed requiring that all ships sell cigarettes and allow smoking. The result: American submarines were not smoke-free until 2011.9

Cigarettes are also, though, a significant cause of harm to the natural environment. Cigarette manufacturing consumes scarce resources in growing, curing, rolling, packaging, transport, advertising and legal defense, but also causes harms from massive pesticide use and deforestation. Many Manhattans of savannah woodlands are lost every year to obtain the charcoal used for flue curing. Cigarette manufacturing also produces non-trivial greenhouse gas emissions, principally from the fossil fuels used for curing and transport, fires from careless disposal of butts, and increased medical costs from maladies caused by smoking10 (China produces 40 percent of the world’s cigarettes, for example, and uses mainly coal to cure its tobacco leaf). And cigarette makers have provided substantial funding and institutional support for global climate change deniers, causing further harm11. Cigarettes are not sustainable in a world of global warming; indeed they are one of its overlooked and easily preventable causes.

But the sixth and most important reason for abolition is the fact that smokers themselves do not like their habit. This is a key point: smoking is not a recreational drug; most smokers do not like the fact they smoke and wish they could quit. This means that cigarettes are very different from alcohol or even marijuana. Only about 10–15% of people who drink liquor ever become alcoholics, versus addiction rates of 80% or 90% for people who smoke.12 As an influential Canadian tobacco executive once confessed: smoking is not like drinking, it is rather like being an alcoholic.13

THE SPECTRE OF PROHIBITION
An objection commonly raised is: Hasn’t prohibition already been tried and failed? Won’t this just encourage smuggling, organised crime, and yet another failed war on drugs? That has been the argument of the industry for decades; bans are ridiculed as impractical or tyrannical. (First they come for your cigarettes....)14

The freedom objection is weak, however, given how people actually experience addiction. Most smokers ‘enjoy’ smoking only in the sense that it relieves the pains of withdrawal; they need nicotine to feel normal. People who say they enjoy cigarettes are rather rare—so rare that the industry used to call them ‘enjoyers’.15 Surveys show that most smokers want to quit but cannot; they also regret having started.16 Tobacco industry executives have long grasped the point: Imperial Tobacco’s Robert Bexon in 1984 confided to his Canadian cotobacconists that ‘If our product was not addictive we would not sell a cigarette next week’.17 American cigarette makers have been quietly celebrating addiction since the 1950s, when one expressed how ‘fortunate for us’ it was that cigarettes ‘are a habit they can’t break’.18

Another objection commonly raised to any call for a ban is that this will encourage smuggling, or even organised crime. But that is rather like blaming theft on fat wallets. Smuggling is already rampant in the cigarette world, as a result of pricing disparities and the tolerance of contraband or even its encouragement by cigarette manufacturers. Luk Joossens and Rob Cunningham have shown how cigarette manufacturers have used smuggling to undermine monopolies or gain entry into new markets or evade taxation.19 20 And demand for contraband should diminish, once the addicted overcome their addiction—a situation very different from prohibition of alcohol, where drinking was a more recreational drug. And of course, even a ban on the sale of cigarettes will not eliminate all smoking—not should that be our goal, since people should still be free to grow their own for personal use. Possession should not be criminalised; the goal should only be a ban on sales. Enforcement, therefore, should be a trivial matter, as is proper in a liberal society.

Cigarette smoking itself, though, is less an expression of freedom than the robbery of it. And so long as we allow the companies to cast themselves as defenders of liberty, the table is unfairly tilted. We have to recognise that smoking compromises freedom, and that retiring cigarettes would enlarge human liberties.

Of course it could well be that product regulation, combined with taxation, denormalisation, and ‘smoke-free’ legislation, will be enough to dramatically lower or even eliminate cigarette use—over some period of decades. Here, though, I think we fail to realise how much power governments already have to act more decisively. From 1890 to 1927 the sale of cigarettes was banned virtually overnight in 15 different US states; and in Austin v. Tennessee (1900) the US Supreme Court upheld the right of states to enact such bans.19 Those laws all eventually disappeared from industry pressure and the lure of tax revenues.20 None was deemed unconstitutional, however, and some localities retained bans into the 1930s, just as some counties still today ban the sale of alcohol. Bhutan in 2004 became the first nation recently to ban the sale of cigarettes, and we may see other countries taking this step, especially once smoking prevalence rates start dropping into single digits.

HELPING THE INDUSTRY FULFIL ITS PROMISES
One last rationale for a ban: abolition would fulfil a promise made repeatedly by the industry itself. Time and again, cigarette makers have insisted that if cigarettes were ever found to be causing harm they would stop making them:

▸ In March 1954, George Weissman, head of marketing at Philip Morris, announced that his company would ‘stop business tomorrow’ if ‘we had any thought or knowledge that in any way we were selling a product harmful to consumers’.21

▸ In 1972, James C Bowling, vice president for public relations at Philip Morris, asserted publicly, and in no uncertain terms, that ‘If our product is harmful...we’ll stop making it’.22

▸ Helmut Wakeham, vice president for research at Philip Morris, in 1976 stated publicly that ‘if the company as a whole believed that cigarettes were really harmful, we would not be in the business. We are a very moralistic company’.23

▸ RJ Reynolds president Gerald H Long, in a 1986 interview asserted that if he ever ‘saw or thought there were any evidence whatsoever that conclusively proved that, in some way, tobacco was harmful to people, and I believed it in my heart and my soul, then I would get out of the business’.24
 hardships of smoking as important:

Lorillard

conspiracy: On 14 December 1953, Hill and Knowlton had

made under oath. All follow a script drawn up by the indus-

try that 'would never market a product which is in

any way harmful'. Reynolds was also advised to make it clear

that

The most important reason to ban the sale of cigarettes,

however, is that most smokers do not even like the fact they

smoke; cigarettes are not a recreational drug.

It is not in principle difficult to end the sale of cigarettes;

most communities—even small towns—could do this virtually

overnight. We actually have more power than we realize to

put an end this, the world’s leading cause of death and
disease.

Competing interests The author has served as an expert witness for plaintiffs in
tobacco litigation.

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Endgame proposal

Summary points

The cigarette is the deadliest object in the history of human
civilisation. It is also a defective product, a financial burden
on cash-strapped societies, an important source of political
and scientific corruption, and a cause of both global
warming and global warming denial.

Tobacco manufacturers have a long history of promising to
stop the production of cigarettes, should they ever be proven
harmful.

The most important reason to ban the sale of cigarettes;
however, is that most smokers do not even like the fact they
smoke; cigarettes are not a recreational drug.

It is not in principle difficult to end the sale of cigarettes;
most communities—even small towns—could do this virtually
overnight. We actually have more power than we realize to
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