

# **The challenges of waterpipe tobacco smoking regulation in the Eastern Mediterranean Region**

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## **Background**

Waterpipe tobacco smoking is increasingly prevalent in the Eastern Mediterranean Region (EMR), especially among young people [1], and regular calls have been made for improved regulation to prevent and control its use [2]. There are, however, particularities of waterpipe tobacco that make legislation enforcement challenging. Due to the fact that waterpipe tobacco is culturally accepted, it is often shared with peers over several hours and used as a tool to socialise, the main customer-product interface is the commercial waterpipe premises (herein “waterpipe café”). Here, users pay for both a product (i.e. the waterpipe tobacco) and a service (e.g. having it prepared by staff). National tobacco laws, however, are often curated on a cigarette model that focuses exclusively on targeting the product (e.g. taxation, health warnings, etc.), ignoring the fact that businesses may dedicate their premises to the sale and onsite consumption of profitable non-cigarette tobacco products. Instead, the laws in place to protect public health at waterpipe cafes often come from multiple and different government departments, making the coordination of enforcement inefficient and burdensome. Turnover from the sale of profitable waterpipe tobacco at cafes often outweighs the financial disincentive to adhere to tobacco control and other business laws [3], and as such most reports of waterpipe tobacco regulatory challenges are at the waterpipe café level.

Waterpipe tobacco has a unique selling point in its flavours. It is the flavours that encourage uptake of waterpipe tobacco among young people and it is the flavours that are the most important product feature in the decision to smoke waterpipe tobacco; more so than price or nicotine content [4]. With cigarettes, the issue of flavours is relatively minor in comparison and current public health policies targeting cigarettes aim to tackle what is a highly addictive product. Priorities for cigarettes are higher taxation, enforcement of smoke-free laws, prohibition of advertising, and the addition of large and graphic health warnings. In contrast, the level of nicotine content in waterpipe tobacco is lower than that of a cigarette, dependence is possible but uncommon on a population level, and health warning labels on waterpipe tobacco packaging are rarely seen in cafes as the waterpipe is served to the customer pre-prepared. It follows that the starting point for regulation for waterpipe tobacco should differ to cigarettes. While taxation, enforcement of smoke-free laws, and health warning labelling of waterpipe tobacco are important regulatory targets that can benefit public health, another approach to reach a public health gains for waterpipe tobacco might come from a flavour ban. The latter is in line with the implementations of the partial guidelines on FCTC with articles 9 and 10.

On November 6<sup>th</sup>-7<sup>th</sup> 2018, the Waterpipe Tobacco Smoking Knowledge Hub led a workshop entitled “Waterpipe tobacco smoking regulations and challenges” at the American University of Beirut. It was attended by policymakers, non-government organisations, and academics from the Eastern Mediterranean Region, who discussed individual country experiences across a number of themes. This commentary summarises the challenges associated with the enactment and enforcement of waterpipe tobacco control legislation in the context of different countries. Case studies that stood out in the workshop as examples that can provide

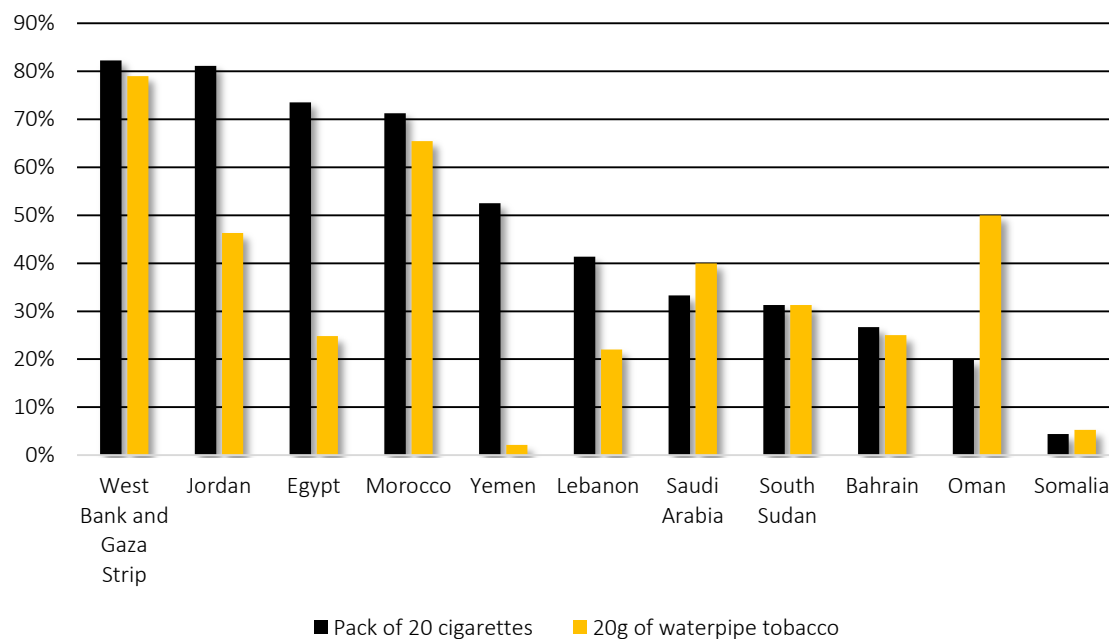
important and shared learning will be focused on. Countries represented included Egypt, Iran, Jordan, Kuwait, Lebanon, Oman, Qatar, Pakistan, Saudi Arabia, Syria, and Turkey.

## Demand-side measures

### Article 6 - Taxation

Almost all countries expressed concern about the low price of waterpipe tobacco and the need for higher taxes. Waterpipe tobacco was taxed at about half of rate of cigarettes in **Egypt**, **Jordan**, **Lebanon** and **Turkey**, and in **Lebanon** waterpipe tobacco was exempt from the most recent tax increase on tobacco. It was promising to learn about tax increases on waterpipe tobacco in **Egypt** (50% to 100% in 2010) and **Turkey** (68% to 85% in the next five years). An unusual exception was the case of **Oman**, which has a historical precedent resulting in taxes on waterpipe tobacco totalling 50% of the retail price, compared to 20% of the retail price for cigarettes. We substantiated these observations using 2016 data from the WHO Report on the Global Tobacco Epidemic, although information on waterpipe tobacco was only available for eleven countries, many of which did not attend the workshop [5]. The pattern seen in Figure 1 is broadly consistent with the workshop findings, and it is notable that some countries (Bahrain, Morocco, **Oman**, **Saudi Arabia**, Somalia, South Sudan, and West Bank and Gaza Strip) have waterpipe tobacco tax rates at similar or higher levels to those of cigarettes. The ongoing conflict in **Syria** meant that no taxes for waterpipe tobacco were collected at all by the Syrian government.

**Figure 1.** Total taxes on cigarettes and waterpipe tobacco as a percentage of retail price, 2016 [5]



### Article 8 - Smoke-free law

Article 8 is well ratified in most countries that attended the workshop, except for **Egypt** and **Jordan**, where possible exemptions for waterpipe cafes, bars and restaurants exist. All countries suffered from enforcement difficulties of smoke-free laws onto waterpipe cafes,

with prosecutions often being resource intensive and burdensome on enforcement agents. In **Lebanon**, the syndicate of restaurants commissioned Ernst & Young to conduct an impact assessment of the smoke-free law on their expected revenue and employment, and the results were used to lobby politicians and “relax” the smoke-free law following its implementation. Similar industry action was taken in **Jordan**.

In **Pakistan**, the introduction of a comprehensive smoke-free law was used as an entry point to lead to a total ban of waterpipe cafes and a ban on the importation of waterpipe tobacco, regardless of its flavour or tobacco content. This step-wise approach started with an indoor ban and was followed by the Lahore High Court deeming open spaces adjacent to enclosed public spaces as “enclosed”, thereby ending the possibility of trade for waterpipe cafes. The industry responded by claiming to sell nicotine- and tobacco-free waterpipe products, thereby exempting themselves from the smoke-free law, but the law was subsequently amended to include tobacco substitutes. Locally grown waterpipe tobacco and home waterpipe use is not currently prohibited in **Pakistan**. This regulatory action was made possible due to the low prevalence of waterpipe nationally and that people use smokeless tobacco and manufactured cigarettes far more commonly.

#### *Articles 9 & 10 - Contents and emissions*

Discussion on the testing, regulation and reporting of contents and emissions was limited, and it is strongly suspected that little progress has been made to ensure that these articles are adhered to by the waterpipe industry in EMR countries. One particular point of interest was made with respect to the heterogeneity of the waterpipe, and that toxicant emissions can vary substantially based on the materials used and level of water in the apparatus, and whether other substances are added (usually at the retail end, e.g. adding flavours or ice to the water, tobacco, or charcoal). The implications that such easy manipulation has on the regulation of contents and emissions remains uncertain and requires further guidance. **Turkey** is the only known country to legislate against the addition of any liquid besides water to the waterpipe apparatus.

#### *Article 11 – Packaging and labelling*

It was promising to hear that **Saudi Arabia** has plans for plain packaging of tobacco products, including waterpipe tobacco, and that in **Qatar**, the spirit of the law was followed by having health warning posters on the tables and walls of waterpipe cafes, rather than on the apparatus. The European Union’s latest tobacco directive prohibits the use of flavours on waterpipe tobacco packaging, and instead mandates a system of colours and shapes to denote flavours (Figure 2). This was seen as best practice. **Turkey** was the only country that mandated health warning labels on the waterpipe apparatus, although there was a suggestion that warnings on the water base apparatus are often obscured from the smoker by tables and chairs. Suggestions were made to have health warning labels on the waterpipe hose, on café menus and on shop fronts that sell waterpipe tobacco.

**Figure 2.** Old and new waterpipe tobacco packaging and labelling requirements in the



European Union

### *Article 13 – Advertising, promotion, and sponsorship*

Despite nearly all countries having strong laws prohibiting the advertising, promotion, and sponsorship of waterpipe tobacco, enforcement of these laws were universally described as difficult, particularly with regards to social media. One striking feature of waterpipe tobacco advertising was that it often came from the waterpipe cafes rather than waterpipe tobacco manufactures, and in **Jordan** and **Lebanon** this extended beyond cafes and included waterpipe home delivery services. In **Qatar**, social media accounts of restaurants are routinely monitored for the advertisement of waterpipe tobacco. In **Jordan**, a typical restaurant package includes a meal, drink, and waterpipe. In **Egypt**, Eastern Tobacco Company was said to have embarked on a corporate social responsibility strategy by sponsoring university projects, growing trees, and donating to local hospitals. In **Syria**, it was claimed that any smoking on television and in movies was accompanied by an on screen health warning.

### **Supply-side measures**

#### *Article 15 – Illicit trade*

The illicit waterpipe tobacco trade appeared problematic in most countries. A track and trace system was implemented on waterpipe tobacco in **Egypt** in 2016, a country where waterpipe tobacco product imitation was said to be easy, which reduced illicit trade from 21% to 8%. However, the price of waterpipe tobacco in **Egypt** remains among the cheapest in the EMR, due to high levels of domestic production from Eastern Tobacco Company and Al-Nakhla. In **Egypt** and **Turkey**, increased smuggling of waterpipe tobacco was reported following recent political unrest. Delegates from **Turkey** estimated that 99% of the waterpipe market is illicit tobacco.

#### *Zoning and licensing*

Zoning laws, which prohibit waterpipe cafes opening within a certain distance of residential and/or educational establishments, were noted in several countries from the **Gulf Cooperation Council**, and **Turkey**. Additionally, licenses for trade are required in **Egypt**, **Jordan** and **Turkey**. In **Turkey**, waterpipe café licenses are often ignored; only 973

waterpipe cafes are licensed, but an online directory lists over 6,000 waterpipe cafes. In **Jordan**, where restaurants less than 100m<sup>2</sup> are not allowed to sell waterpipe, all waterpipe café licenses expired in March 2014 without plans for renewal, but this was revoked after successful lobbying from the hospitality sector.

### *Prohibition*

There were several examples where prohibition led the regulation of waterpipe tobacco. In addition to **Pakistan**, where waterpipe cafes are *de facto* prohibited through an extended interpretation of its smoke-free law, Mecca (**Saudi Arabia**) has completely banned the sale of tobacco, including waterpipe tobacco. **Oman** had a waterpipe tobacco ban passed in 1998 which was approved by the Muscat Municipal Council and implemented in 2001, but it has since become more lax and waterpipe cafes have returned.

### **General obligations**

#### *Article 5.3 – Protecting public health policies from vested interests of the waterpipe tobacco industry*

The workshop highlighted the importance of adhering to Article 5.3 with respect to the waterpipe tobacco industry. Delegates from **Iran, Jordan, Lebanon, Oman, Pakistan and Turkey** reported examples of political lobbying and tobacco industry interference with public health policies. These were almost always from the hospitality sector, although in **Iran** tobacco producers were involved when a possible flavour ban across multiple tobacco products, including waterpipe tobacco, was put forward. In **Kuwait**, the hospitality sector was perceived as being extremely influential politically. Transnational tobacco company interest in waterpipe tobacco was apparent, with delegates describing the purchase of Al-Nakhla (Egypt) and Hagggar Cigarette & Tobacco Factory Ltd (Sudan) by Japan Tobacco International in 2013 and 2011, respectively.

### **Recommendations**

Chapters 10 and 11 of the 2015 WHO Advisory Note on Waterpipe Tobacco Smoking outline a comprehensive list of policy recommendations specific to waterpipe tobacco [2]. This report supports these recommendations and makes additional ones based on the discussions of this workshop:

- As the waterpipe café is at the heart of waterpipe tobacco prevention and control, law enforcers should be better incentivised to regularly inspect these premises and take action when necessary.
- While taxation, enforcement of smoke-free laws, and health warning labelling of waterpipe tobacco are important regulatory targets that can benefit public health, the biggest public health gains for waterpipe tobacco are likely to come from a flavour ban.
- Provisions should be made to ensure that non-tobacco (so-called “herbal”) waterpipe products are fully covered within any waterpipe tobacco legislative framework.
- Stronger advocacy is needed by the public health community to combat tobacco and hospitality industry interference in the policymaking process.
- Clearly visible and un-obstructed Health warning labels should be mandated on the waterpipe hose rather than or in addition to other accessories of the waterpipe.

- Countries with waterpipe tobacco policies should seek to evaluate them to generate evidence as to their effectiveness.

## References

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