

SMOKE-FREE LEGISLATION AND ENFORCEMENT IN CHINA: RECOGNIZING UNEVEN PROGRESS

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How this policy brief was developed:

This policy brief is based on the research project “*Analysis of uneven smoking legislation in China*”. The research was conducted under the guidance of the Duke Kunshan University, China, and benefited from the incentive grant for young researchers provided by the World Health Organization Global NCD Platform and UNITAR’s Defeat-NCD Partnership in collaboration with the Alliance for Health Policy and Systems Research.



What is this policy brief about?

This policy brief summarizes the findings of an analysis to identify the uneven progress of smoking ban legislation in China and investigate the factors that contribute to this variability across the country.

Who is this policy brief for?

This policy brief primarily targets national, regional and local health policy-makers in China, however other decision-makers, practitioners and researchers interested in the enforcement of smoking bans in general, and in China specifically, may find the content of this policy brief relevant.

This policy brief includes:

- Description of the factors contributing to the uneven enforcement of smoking bans in mainland China
- General policy implications and recommendations

This policy brief does not include:

- Strategies to implement the provided recommendations
- Comparison of several viable policy options and recommendations on the best option

PROBLEM STATEMENT

- The progress of smoking ban legislation in China is uneven, with some cities lagging behind others. There is also an imbalance in the timing and scope of smoking bans across different locations.
- The tobacco industry is influencing the process of implementing smoking ban legislation in China, for example by participating directly in the discussions of the draft smoking ban.
- The views of some policy-makers in China on smoking rooms/areas and transition periods were found to be at odds with the recommendations of international tobacco control organizations.
- The standards for establishing smoking rooms / areas in China are currently unclear.
- Concurrently, there is a lack of coordination between law enforcement agencies, which may lead to ineffective enforcement of smoking bans and the lack of awareness of smoking bans among both the public and the owners of public venues.

IMPLICATIONS

- Policy-makers need to recognize the interference of the tobacco industry in the enforcement of smoking ban regulations in China, including the ambiguity in the definition of smoking rooms / areas which was largely influenced by the industry in the recent past.
- To improve tobacco control efforts, it is instrumental to designate specialized departments for the enforcement of the smoke-free law and promote coordination and advertising.
- It is pivotal to ensure publicity through comprehensive public education campaigns that focus on (i) raising awareness among enforcement officers, (ii) educating the general public, and (iii) conducting targeted outreach to businesses and employers.
- In the long term, the government should reduce reliance on the tobacco industry in the economic structure by offering alternative sources of income to those whose livelihoods depend on tobacco production.
- At the sub-national level in China is to include smoking legislation as one of the criteria for selecting patriotic cities.

1. FRAMING THE PROBLEM

BACKGROUND

Second-hand smoke (SHS) is a hazardous mixture of smoke exhaled by smokers and sidestream smoke, containing over 7,000 compounds and 69 carcinogens [1, 2]. According to the World Health Organization, any level of SHS exposure is unsafe, (WHO) [3]. Comprehensive smoking bans are the most effective solution to prevent SHS exposure, as measures such as designated smoking areas and ventilation methods are insufficient [4].

Many countries have implemented smoking bans, resulting in reduced smoking and SHS rates [5]. China has made progress in tobacco control after signing the Framework Convention on Tobacco Control (FCTC)

in 2005 [6]. More than 20 cities have implemented smoking bans, some of which have completely banned smoking in indoor public places. China has included tobacco control legislation in the criteria for selecting patriotic and healthy cities in 2021 and has encouraged the implementation of smoking bans in more cities in the past two years.

However, the smoking bans passed in the last two years have shown a reverse trend. For example, Shenyang's smoking control law, which took effect on 1 October 2021, has sparked controversy as it allows smoking rooms for consumers in food service establishments, accommodation and

recreation places, and public entertainment areas. Although Shanghai's comprehensive smoking ban has proven to be effective in reducing smoking rates, some cities have enacted only partial smoking bans to restrict smoking in specific public places [7].

The aim of the study that informed this policy brief was to identify the uneven progress of smoking ban legislation in China and investigate the factors that contribute to this variability across the country.

Where can I find out more about second-hand smoke?

The dedicated section in the [Global Health Observatory](#) established by the World Health Organization to monitor and share data on global health.

The [Centers for Disease Control and Prevention \(CDC\)](#), national public health agency of the United States.

The [American Nonsmokers' Rights Foundation](#), an educational nonprofit organization aimed to prevent the harmful effects of second-hand smoke and smoking.

METHODS AND DATA SOURCES

In this paper, we used a case study design, an approach that facilitates the exploration of a phenomenon over a period using a variety of data sources, which is commonly used in the qualitative study.

Literature review

To provide a comprehensive review of the smoking legislation and implementation publications, we conducted a literature review and policy mapping. We searched for peer-reviewed academic articles and grey literature in PubMed, Cochrane Reviews, Embase, Google, and China National Knowledge Infrastructure (CNKI). The search included documents published between 2005 and 2023, covering the period after China ratifies of WHO FCTC. Policy mapping covered local laws or regulations on official websites across 32 provincial-level administrative regions in mainland China.

Qualitative interviews

The literature review and policy mapping informed the selection of study sites and key stakeholders, ultimately leading to the choice of Shanghai and Chongqing as the interview sites. These two locations were chosen

because of their contrasting geographical and legislative environments, which provided valuable grounds for comparison. Shanghai, an eastern municipality in China, first implemented a partial smoking ban in 2010, which was revised and had the most recent comprehensive smoking ban promulgated in 2017. It boasted a higher GDP per capita of 25166.37 USD in 2022. In contrast, Chongqing, a southwestern Chinese municipality, implemented a partial smoking ban in 202 and exhibited a lower GDP per capita of 12721.71 USD in 2022.

The initial study participants were purposively selected through telephone contact to provide variation in the representation of different sectors and their role in policymaking. Additional key stakeholders were also identified using a snowball technique during interviews with the initial key stakeholders. Between June and July 2022, 16 in-depth interviews were conducted with key stakeholders: former policy-makers involved in the smoking legislation; tobacco control policy experts; enforcement officers; owners of restaurants and hotels. The interview guide covered respondents' perceptions of the current smoking ban legislation and enforcement in China. The interview also covered challenges, achievements, and recommendations for implementing smoking bans.

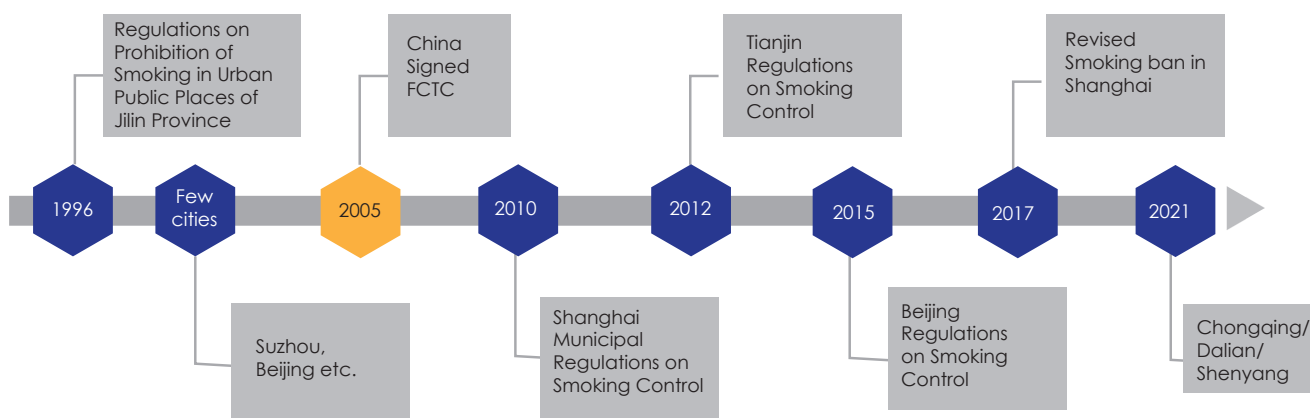
2. KEY FINDINGS

Current status of smoking ban legislation and enforcement in mainland China

Our study shows that the progress of smoking legislation in mainland China is uneven, with the timing and scope of smoking bans varying from city to city. While Jilin Province and a few cities had implemented smoking bans before China signed the WHO FCTC, most cities have since adopted or are preparing to adopt smoking bans. However, the timing and extent of implementation varies.

Currently, all four municipalities have smoking bans, and Shanghai and Beijing have comprehensive indoor smoking bans. However, Tianjin and Chongqing still allow smoking rooms or areas in some public places. Of the seven special economic zones, only Shenzhen has implemented smoking bans. Five of the 23 provincial capitals do not have formal tobacco control laws, but have drafted regulations and consulted the public (Figure 1).

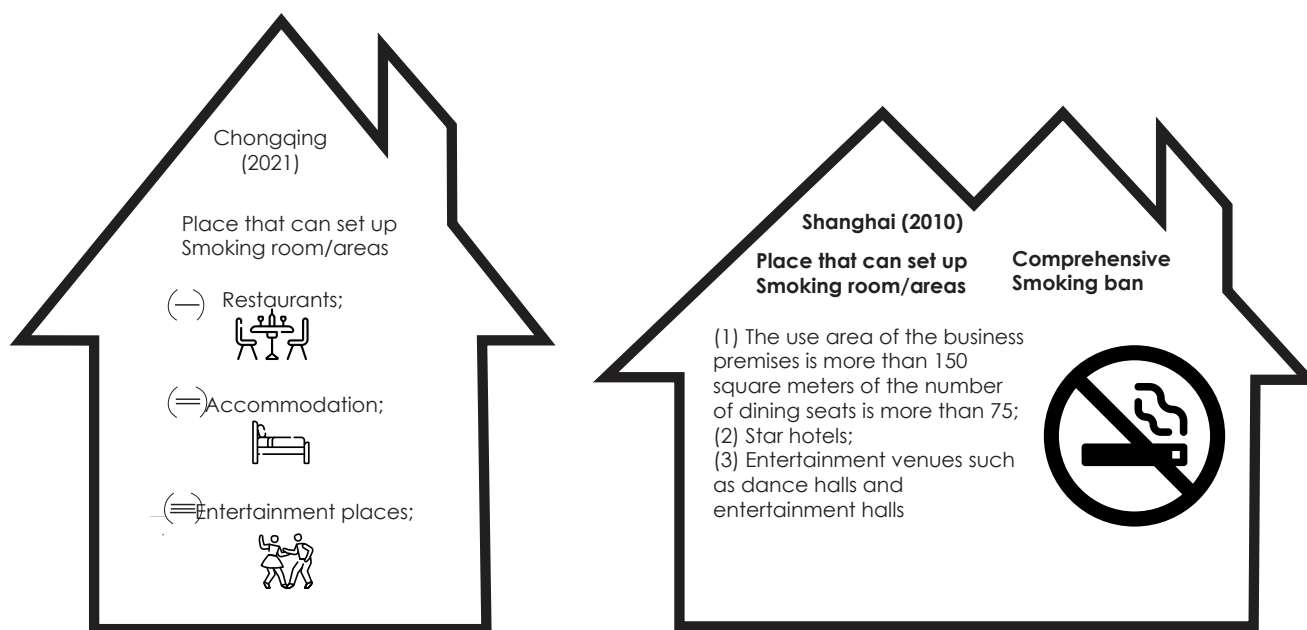
Figure 1. Smoking legislation process in China



In addition to temporal differences, the coverage of existing smoking regulations varies between cities. As of 2022, only 24 cities have implemented comprehensive smoking bans, while the remaining cities allow smoking rooms/areas in certain public places. Recent smoking bans in China have been vague on the extent to which restaurants and hotels can set up smoking rooms / areas in the legal text. For example, the 2010 partial smoking ban in Shanghai provided specific definitions of the size of restaurants and hotels that could have smoking rooms/areas, while the 2021 smoking ban in Chongqing lacked such specific definitions (Figure 2).

FACTORS CONTRIBUTING TO THE UNEVEN SMOKING BAN LEGISLATION

Our study found that the tobacco industry in China has a significant influence on the development of smoke-free legislation. Policy-makers can engage with the industry and make compromises during legislative discussions that can delay or weaken legislation. In some cities, the tobacco industry has a strong voice and may even prevent tobacco control regulations from being passed unless policy-makers agree to allow smoking rooms or areas in certain public places.

Figure 2. Different definitions of setting smoking rooms / areas

Cities that rely heavily on the economic contribution of the tobacco industry, such as those with large tobacco-producing regions, may face greater challenges in enacting smoke-free legislation due to their dependence on local tobacco tax revenues. The study also found that most stakeholders were reluctant to discuss tobacco industry interference in the legislative process.

In addition to opposition from the tobacco industry, policy-makers views on indoor smoking and the transition period are also important in influencing the progress of smoke-free legislation. Interviews with policy-makers and experts showed that many look at the experience of other cities when developing local tobacco control laws. Some policy-makers and experts believe that the creation of smoking rooms or areas in certain public places can serve as a necessary buffer period for the implementation of a comprehensive indoor smoking ban.

“Buffer period” refers to the transitional period during which smoking rooms/areas may be designated in certain public places before they become completely smoke-free. During this buffer period, smoking is allowed in these designated areas. However, once the buffer period ends, these public places must become completely smoke-free.

The implementation of a comprehensive smoking ban in China has been slow due to a number of challenges. Two approaches have been adopted to transition smoking bans in the country. The first is to set a specific target date for the transition in the legislation. Shenzhen, Lanzhou and Xining have adopted this approach, specifying the timetable for moving from partial to full smoking bans. Shenzhen gave some entertainment venues a buffer period until 31 December 2016, after which they were required to become smoke-free. Currently, all three cities have successfully transitioned to comprehensive smoking bans.

The second approach is to use major events hosted by the city to transition to comprehensive smoking bans. According to interviewees, Shanghai introduced its earliest smoking ban during preparations for the World Expo, while Hangzhou is in the process of moving from a partial to a full smoking ban during preparations for the Asian Games. Such events offer policy-makers an opportunity to weaken the tobacco industry’s resistance. However, these opportunities are rare and cannot be relied upon as a primary strategy for implementing comprehensive smoking bans in other cities.

It is therefore critical for policy-makers to recognize that progress towards legislative

change is slow, and remain vigilant to tobacco industry tactics to delay or weaken tobacco control regulations. It is equally important for policy-makers to understand the role of designated smoking rooms and areas and the need for a transition period. While a transition period can give local cities some time to prepare for the enforcement of the smoking ban regulations, this should not be used by decision-makers as an excuse to delay the legislative process.

FACTORS AFFECTING UNEVEN ENFORCEMENT OF TOBACCO CONTROL REGULATIONS

Our study shows that cities with partial smoking bans have low rates of enforcement cases and fines. This may be due in part to the ambiguous language of smoking regulations, particularly regarding the size of public spaces for smoking areas / rooms, and the ventilation and airtightness requirements for such areas / rooms. The lack of precise definitions makes it difficult for both, smokers and enforcement officers, to identify designated smoking areas / rooms, leading to low compliance with smoking bans and their enforcement.

In addition, the limited law enforcement resources available for tobacco control have a significant impact on the effectiveness

of enforcement. In China, most cities have adopted a multi-agency joint law enforcement model, where each department is responsible for tobacco control within its jurisdiction. However, smoking bans have increased the workload of multiple departments without additional human resources and funding, resulting in less effective enforcement.

Furthermore, the lack of a designated department to coordinate and promote tobacco control work leads to low enforcement efficiency. In 2017, Shanghai established the Municipal Health Promotion Committee to coordinate the enforcement of tobacco control regulations and issue reports on tobacco control. However, in Chongqing, the lack of a dedicated association for tobacco control work leads to a lack of channels for law enforcement officers to report problems, which may weaken their enthusiasm. Failure to designate a specific department responsible for coordinating and publicizing smoke-free policies in public places, and instead making the government responsible for this task, may delay the effective implementation of tobacco control regulations due to unclear allocation of responsibilities.

Ineffective enforcement of smoking bans can result in inadequate awareness among



Photo: WHO

the target population, and significantly hamper the implementation and promotion of tobacco control measures. The general public is a critical target group for these regulations, and their support and cooperation are crucial. A lack of public awareness and action to discourage smoking in public places may be due to a poor understanding of tobacco control regulations, even though most cities have enacted such regulations and provided reporting channels. We found a significant difference in citizen engagement between the two cities. Specifically, policy experts in Shanghai have observed a significant level of citizen engagement, evidenced by the receipt of thousands of complaints related to

smoking ban violations within the first month of implementation of the comprehensive smoking ban. Conversely, enforcement officers in Chongqing have acknowledged a comparatively lower number of public complaints regarding smoking ban violations.

Finally, owners and operators of public venues are another important target group. Weak enforcement of tobacco control regulations may lead to a lack of awareness among them of the importance of complying with smoking bans. The limited penalties imposed on public place operators may not sufficiently raise awareness that it is their responsibility to discourage smoking in public places.

3. IMPLICATIONS AND RECOMMENDATIONS

SHORT-TERM IMPLICATIONS

Recognize tobacco industry interference: call for greater awareness among policy-makers

Policy-makers need to recognize the peculiarities of China's anti-smoking law changes, which show a relatively small trend of legislative change. They should recognize the negative consequences associated with transitional laws and designated smoking rooms / areas, and avoid using transitional laws as an excuse for incomplete smoking bans. Policy-makers also need to be aware of the ambiguity in the definition of smoking rooms / areas during the last smoking ban, which is a consequence of tobacco industry intervention. Therefore, policy-makers need to understand the seriousness of the situation and take action to address it.

Designate a specialized department for the enforcement of the smoke-free law: promote coordination and advertising

To improve tobacco control efforts, a dedicated department or organization should coordinate and promote these efforts, with clearly defined responsibilities to avoid shirking. Cities should establish a dedicated department or assign responsibility to an existing department with relevant expertise, and

work with enforcement officials to assess and address challenges. By reporting indicators to higher authorities and holding regular meetings, this approach can increase accountability, effectiveness, and continuous improvement.

Promote the publicity intensity

Canada and other countries have shown that smoking bans can become self-enforcing within 3-6 months if the target population is aware of how to comply with the policy (8). This means that little action is required by law enforcement agencies. Hence, it is essential that the target population is fully aware of how to comply with and effectively enforce smoking bans.

Effective promotion and publicity therefore require a comprehensive public education campaign that focuses on three overarching activities: raising awareness among enforcement officers, educating the general public, and conducting targeted outreach to businesses and employers (9). Effective dissemination of enforcement cases can act as a strong deterrent to non-compliance with smoking bans (10). In particular, tougher enforcement cases can serve as a better warning to offenders. To have a wider impact, good examples of strong tobacco control legislation and enforcement should be shared

at the national level, as China lacks a national law and a standard for designing local laws. Cities with strong regulations should share their experiences at national or academic conferences.

LONG-TERM IMPLICATIONS

Reduce reliance on the tobacco industry in the economic structure and specify the selection criteria for patriotic cities

A large body of scientific evidence shows that the tobacco industry has interfered with government policies and tobacco control activities [11-13]. The increasing power and influence of the tobacco industry, particularly in China, is a major challenge to tobacco control efforts. Shared interests between the industry and policymakers often make it difficult to exclude the former from the legislative process.

Nevertheless, some policy-makers and scientists involved in tobacco control remain steadfast

in their values and actively disseminate accurate information to the media. However, such efforts are only a first step in the fight against the tobacco industry. As China is the country with the largest number of tobacco farmers and workers (14), it is pivotal that the government enacts policies and implements programmes to help people whose livelihoods depend on tobacco production shift to economically viable alternatives. This can also help them out of poverty and exploitation by the industry (11), which can fundamentally address the situation of many cities dependent on the tobacco industry for profits.

An important way to better promote effective smoking ban legislation at the sub-national level in China is to include smoking legislation as one of the criteria for selecting patriotic cities. However, the current unbalanced legislation suggests that the scoring scale should more specifically assess compliance with the FCTC for each part of the smoking ban.

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