

CHAPTER 4

ANALYSIS ON THE REASON OF BANGLADESH

RATIFICATION TOWARDS THE WHO FCTC

Bangladesh, one of the low-and-middle-income countries, has faced a unique tobacco epidemic in the society. Both smoked and smokeless tobacco are consumed in Bangladesh. Yet, smokeless tobacco is consumed by more people and it is something acceptable for the society. The danger of smoking cigarette has been known and realized by most people. In fact, the use of smokeless tobacco is not less dangerous than the smoked one. As the consumption of tobacco has been something inherited in the culture of the society, local regulations seem not enough to tackle the problems especially in health and social aspects which significantly affect the people of Bangladesh. Therefore, a solution to overcome the problems on tobacco use has been regulated by an international regime through the WHO Framework Convention on Tobacco Control (FCTC). As tobacco epidemic has grown as a global issue, this regime has been ratified and adopted by most of the world's countries.

Bangladesh signed the WHO FCTC in June 16, 2003 and ratified it in June 14, 2004. Facing some challenges such as threat from tobacco industries, a dilemma related to tobacco use in both smoked and smokeless form, and tobacco cultivation as a source of job, the reason of why Bangladesh ratified the WHO FCTC is proposed as the core problem in this research. The data and information structured in the second and third chapter will be used to construct an analysis to

address the core problem of the research. Using some theories and a framework of

International Relations stated in the theoretical framework section as tools of analysis, the writer concludes that there are three reasons or key factors of why Bangladesh ratified the WHO FCTC in 2004.

A. Similar Principles and Norms on Tobacco Control between FCTC as International Regime and Bangladesh

Bangladesh, in the national level, has the similar principles and norms as what are agreed in the WHO FCTC in terms of the importance of tobacco control. FCTC is established to respond the global epidemic tobacco. It aims at reducing the prevalence of tobacco use in the society by implementing certain strategies focusing on the control of the demand and supply of tobacco by controlling the mechanism of tax, price, advertisement, sponsorship of tobacco products, enforce the pictorial health warning in the packaging of tobacco products and also regulating the sale of tobacco product to the minor. Bangladesh has realized early about the danger of high rate tobacco use in the country. Bad impacts of tobacco use in health, economy and social aspects have generated a huge cost to spend. Some principles of the FCTC have been applied by Bangladesh even before the WHO FCTC. Bangladesh has established some acts or policies which regulate the prohibition to smoke in the train – in *The Railway Act of 1890-* and the ban of tobacco sale to the minor – in *The Juvenile Smoking Act of 1919*. Those acts and some other acts were established even before the WHO FCTC. Bangladesh has also imposed fines for any infringement of the act. However, those legal instruments' implementation and enforcement cannot be effectively done without

Some factors have made the issue on tobacco a dilemmatic one in Bangladesh: the high tobacco consumption rate, the influence of tobacco industry, the economical, health and social impact on tobacco and also the production or cultivation of tobacco. Bangladesh has been long in the effort to solve the tobacco problems in the country. Therefore, the idea of FCTC establishment is proven as a way to accomodate the need to strengthen tobacco control and make the national legal instruments which have been established in Bangladesh more effective and powerful. FCTC as an international regime contains very clear principles, norms, and regulations on tobacco control which can be implemented and adopted in the national level. By ratifying the FCTC, Bangladesh has the guidance to create its tobacco control policies effectively and in comprehensive way.

The similar ideas and goals shared by the FCTC and Bangladesh can also be seen by the important roles played by Bangladesh activists and actors in the FCTC negotiation process. The anti-tobacco NGOs along with some Bangladesh experts and those who worked in the Ministry of Health were actively involved in the FCTC negotiation even since the regime formation process. They participated in the WHO meetings and discussion and contributed their ideas and recommendations. Their inputs jointly created a comprehensive international regime on tobacco control which can guide countries to establish their policies and effectively solve tobacco problems in the national level which would relatively reduce the global tobacco epidemic.

By this shared principles, norms, and visions on tobacco control, the FCTC

problems. This has shaped the behavior of Bangladesh to act in accordance with the FCTC rules and regulations and has ended up with ratification.

B. Bangladesh' Less Conflicting Domestic Components

As an international regime, the WHO FCTC should pass through a legislation process in both international and domestic level. International components of the whole negotiation process is a lot less complicated than the ones in the domestic level. The members of the negotiation in international level usually have more alike visions. When the FCTC was in the formation process, experts, governments and the representatives sat in the same place and gave out ideas on how to create an internationally-applied regulation on tobacco control. Most of the members of the meetings showed that commitment. The process of FCTC formation took a quiet long process to be finally ready to establish. The formation negotiation then was followed by governance negotiation and regime adjustment. So in the end, very clear regulations were set in the FCTC and were ready to be adopted and implemented in the national level. By the role of local NGOs and the establishment of several organizations in order to succeed the FCTC such as Framework Convention Alliance and Tobacco Free Initiative, it makes the process of negotiation of FCTC international level becomes easily conducted.

However, once FCTC is established, negotiation in domestic level remains urgent. The main goal of the FCTC is in the success of implementation in national level through applicable tobacco control policies. Now the negotiation of post FCTC agreement is needed to be brought to the legislation process in country level.

As FCTC needs to be ratified by at least 40 countries in order to enter into force, it

is important for the member states of WHO to decide whether or not they would ratify and comply to the WHO FCTC.

In the process of ratification negotiation, there must be some considerations which come from the internal aspect of the country. According to the data and information about Bangladesh tobacco problems and tobacco control in the previous chapter, the writer concludes that Bangladesh's negotiation process on deciding is not a very conflicting area since some internal aspects of Bangladesh tend to support rather than against tobacco control. This conclusion is based on the analysis on several aspects related to tobacco problems in Bangladesh as the followings:

i. Economy Aspect

The high rate of tobacco consumption does not give significant benefit for Bangladesh. The profits, which come from the tax by the tobacco purchase, cannot cover the higher cost of the loss that occurs. The tax, which is claimed by the tobacco industries as an economic contribution, does not come from the tobacco industries themselves. It comes from the money of Bangladesh people who purchase tobacco products. Tobacco industries will keep on promoting tobacco to get as many customers as possible so that the tax seems big and beneficial for the country. Instead, the more tobacco product consumers are, the more health risk and higher poverty rate occur. In health aspect, more people suffer from the use of tobacco products. The active smokers definitely get the direct impact of smoking and there is, most of time, health care cost that the smokers themselves and the government need to spend. Moreover, secondhand smokers, or whom usually called passive smokers, are not supposed to suffer the danger of cigarette smoke and to

deal with the increasing health care costs. Maintaining strong tobacco industries does not give benefit for Bangladesh, instead it increases the number of tobacco consumption which create more loss. Moreover, tobacco leaves and tobacco products which were assumed as a source of more profits when imported or exported do not affect Bangladesh financial situation. Adopting the FCTC in Bangladesh national level on the other hand can help it reducing the cigarette consumption as the negative trade balance caused by the minimal role of tobacco in the international trade of Bangladesh could be reduced as well. In consequence, domestic resources such as goods and services can be produced in higher quality and quantity (WHO, 2007). Moreover, Bangladesh could eliminate the cost of tobacco-related illness which will be a huge cost without effective tobacco control policies adopted from the WHO FCTC.

ii. Social Aspect

If smoking is part of the culture and habit of the society in some areas which causes tobacco control so difficult to enforce, the social condition in Bangladesh shows higher acceptability. Bangladesh is an agricultural country where tobacco is cultivated in some areas of the country. In fact, tobacco cultivation is not a dominant sector in Bangladesh agriculture. Bangladesh is not one of the leading producer countries for tobacco leaves. Moreover, in the years of FCTC making and establishment, the rate of tobacco leaves export was extremely low. It means that there is no significant advantage gained from tobacco cultivation sector in Bangladesh.

Not overcoming the problems of tobacco consumption can only create more degradation on the life quality of Bangladesh society. Firstly, it lowers the

health quality of the people by the increasing number of mortality and several diseases (cancer, heart diseases, respiratory disorders, etc) caused by smoking. It also causes poverty since most of smokers who purchase tobacco products are poor people who cannot fulfill their daily needs but instead buying tobacco products. This also caused the increasing number of malnutrition in 2001. Tobacco product has replaced the priority rank of sufficient meals with nutrition.

Bangladesh has also realized that job opportunity available in tobacco sector only accounts for minimum percentage. Employment in tobacco farming accounts for less than 0.5% of the total agricultural employment. Though they get some money from tobacco industries to keep growing in their fields, the money they get in return does not equal with their needs and even they have to spend more cost to cover the health care costs as the consequence of the direct health impact of cultivating tobacco and infertile land, evenmore, if the tobacco farmers smoke. Tobacco cultivation is also proven causing environmental damage such as degradation of land quality and 30 percent of deforestation in Bangladesh in which causes additional spending.

The most important reason of why Bangladesh ratified the FCTC is because of the strong anti-tobacco movements and supports for Bangladesh government by the civil society organizations and NGOs. Many organizations gave huge support for Bangladesh to enforce tobacco control in the country. Not only by directly involved in WHO meeting when they prepared the FCTC, those anti-tobacco organizations also provided the sufficient information to the government of Bangladesh about the importance of FCTC and the urgency of implementing tobacco control policy. They also provided the society the adequate materials about

the impact of tobacco consumption and tobacco cultivation and why tobacco control remains important. The active role of Bangladesh society to sensitize the government has strongly influenced Bangladesh's national tobacco control efforts and its role in international tobacco control through FCTC negotiations.

iii. Political Aspect

The emergence of WHO FCTC as international regime does not face complicated obstacle when it is proposed to Bangladesh national government. It happens because of the active role of Bangladesh experts and NGO activists in communicating the FCTC to the government. Moreover, the demand to establish and to implement an effective tobacco control policy in Bangladesh has existed years before the FCTC was established. When the local acts on tobacco were established, there were roles of civil society as well. But those acts cannot effectively affect the high number of tobacco problems of Bangladesh. Those acts needed more adequate guidelines and foundation, more power and also legitimacy which could be gained from the role of international agreement and institutions. Therefore, once FCTC was formed and finally established, the demand and support by civil society organizations to have more effective regulations and policies on tobacco control became even stronger. They collected more and more supports by conducting public hearings and surveys and made the reports to the government. Because of the NGOs high demand and positive supports, it is more possible for the government to articulate and aggregate the demand of the society and finally produce a policy as the consequence of FCTC ratification. Moreover, because the international communities through the WHO bring about a strong influence in

Bangladesh, and there is strong influence from Bangladesh's NGOs, Bangladesh's political will to ratify the FCTC is very predictable and possible.

Bangladesh government puts a high trust on the majority voice and has a strong commitment to protect the people from the danger of tobacco use. Another reason for Bangladesh to ratify the FCTC from the political aspect is that, even though the promotion and sale of tobacco product is massive, the lobby of tobacco industries is not positively responded by the government. It can be seen from how the government through the High Court does not hesitate to impose fines to tobacco industries and warned those who infringe the regulations on tobacco advertisements and promotion. This limited influence of tobacco industries is also a key factor of Bangladesh FCTC ratification compared to other countries in which tobacco industries' role may be too strong within the legislation.

C. Incentive Received by Bangladesh from Ratifying the FCTC and Consistency in Strengthening National Tobacco Control

Ratifying FCTC does not only guide Bangladesh to create and establish comprehensive policies on tobacco control by following the regulations written on the text of the convention. Bangladesh also gets the opportunity to be financially and technically supported by the WHO and some other donors. Through the Tobacco Free Initiative (TFI), the interim secretariat of the WHO FCTC, support and donors are gained in collaboration with many organizations and NGOs and are given to countries in all WHO regions including Bangladesh which is part of South East Asia Regional Office (SEARO). The financial support is given through projects such as seed grants and technical assistance as a support for Bangladesh national capacity building. The funding is given so that Bangladesh can strengthen

its national tobacco control process. By being consistent in keeping up the effectiveness of its national tobacco control, Bangladesh will be able to develop more projects and research so it can improve the implementation of FCTC in the national level. The funding is important for the recipient country as Bangladesh to conduct and incorporate project activities into the national public health agenda by adopting what are agreed in the WHO FCTC. So, Bangladesh compliance to the FCTC is not merely because of the same principles and norms they share. As financial and technical supports are provided, Bangladesh should keep up its national tobacco control quality and should ensure that its efforts will be sustained. Without funding and technical assistance, it will be quiet hard for a country to make a policy implementation effective and sustained as in the process there might be some technical obstacles as well.

In addition, besides the supports from the WHO TFI and its in-partnership organizations, Bangladesh also gains more respect and appreciation from other governments and global society in response to Bangladesh commitment to strengthen tobacco control efforts. Ratifying the WHO FCTC allows Bangladesh to develop many sectors, not only in term of tobacco control as the direct impact, but also a healthier and wealthier society with improvement of knowledge about tobacco control and the ability to overcome tobacco problems in Bangladesh.

For Bangladesh as one of low-and-middle countries in which poverty rate is still high, ratifying FCTC gives more benefit rather than disadvantage. Besides there is incentive given, ratifying and implementing the FCTC gives Bangladesh more opportunity to develop its economy through a more positive trade balance, low and impact is higher than export, and a decrease of unexpected cost to be

spent as the impact of tobacco consumption mostly in health care spending. Therefore, it is much more beneficial for Bangladesh to ratify the WHO FCTC rather than ignoring it.

The fact that there is incentive received by Bangladesh by ratifying the FCTC and complying to the principles of the FCTC, it proves the hypotheses of this research which has been stated earlier that Bangladesh compliance to the WHO FCTC is based on the enforcement school of compliance in which Bangladesh, as the actor of negotiation, comply and implement the result of negotiation, here refers to the FCTC rules and regulations, because there is reward or incentive. Bangladesh gains more benefits from the cooperation held under the agreement compared to what Bangladesh should spend by not ratifying the FCTC.

The three reasons of why Bangladesh ratified the WHO Framework Convention on Tobacco Control (FCTC) which have been stated and explained above are the answers of the question of this research. Ratifying the WHO FCTC regime is crucial for Bangladesh as it has realized how an applicable international regime on tobacco control can help countries to reduce the prevalence of national and global tobacco epidemic.

In the same year of FCTC entry into force, Bangladesh also established the Smoking and Using of Tobacco Products (Control) Act 2005. This act is *'an act to provide provisions for controlling production, use, sale and purchase of smoking and tobacco products and advertisements thereof.'* It also states: *'it is expedient and necessary to control smoking and production, use, sale, purchase and advertisements of tobacco product for the purpose of implementing the*

provisions of the convention in Bangladesh'.⁷⁹ The establishment of this smoking act has brought Bangladesh to be one of the first countries which has national legal instruments on tobacco control as the FCTC has entered into force and ratified by sufficient number of parties. It remains as a high level multisectoral National Tobacco Control Taskforce in which the health sector was dominant. In assistancy matter, Bangladesh is monitored through the taskforce including governmental departments and agencies such as health and family welfare, foreign affairs, trade, finance, education, agriculture, information, women and children affairs, home affairs, legal and justice, development affairs, industry enterprises responsible for licensing and data collection on tobacco production and representatives from media groups. The emergence of this act in the tobacco control has been one of the highlights of the history of tobacco control in Bangladesh since it shows how Bangladesh commits to the WHO FCTC by implementing the regulations into the national agenda. In international scope, Bangladesh gains more respect and attention from many countries and anti-tobacco activists as a country which can adopt an international regime on tobacco control early so that it does not take too long time to establish its own tobacco control policies in accordance with the WHO FCTC principles and norms.

⁷⁹ A. A. Hossain, 'Enactment of Bangladesh Smoking and Using of Tobacco Products (Control) Act