

The making of a convention on tobacco control

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"In this one bowl, there is rice from a thousand households." The saying of Zen poet Ryokan (1758–1831) well describes the contribution of many parties towards the WHO Framework Convention on Tobacco Control: WHO, other UN agencies, Member States, nongovernmental organizations (NGOs), academia, the media, and even the tobacco industry.

The idea for a Framework Convention was seeded far from Geneva, in an academic paper. In 1993, Allyn Taylor, in the *American Journal of Law and Medicine*, called upon WHO to use legal mechanisms to attain its goal of "Health for All by the Year 2000". Ruth Roemer, the redoubtable Adjunct Professor of Health Law at the UCLA School of Public Health and author of *Legislative action to combat the world tobacco epidemic* (World Health Organization: Geneva; 1982 and 1993) saw the article, met with Allyn Taylor, and suggested she applied her ideas to tobacco control.

On 26 October 1993, Ruth Roemer invited me for an unforgettable breakfast during a conference in San Francisco. Had WHO ever considered a convention on tobacco? she asked me. I replied that WHO had meetings all the time – some might say too many! Ruth patiently explained that she meant a UN-style convention and asked me to convey this idea to WHO.

I immediately passed on the suggestion to WHO in Geneva and to UNCTAD (UN Conference on Trade and Development and the then UN focal point for tobacco). The idea of a convention that utilized international law to further public health was new. The initial reaction outside the tobacco unit was cautious, ranging from neutral to negative: it was just too difficult, would not get the support of Member States, would run into strong opposition from the tobacco industry, and would take at least ten years. I replied that, having lived in China for decades, ten years seemed a short time in human history to me. But, like a toddler taking its first steps, the FCTC was off to a hesitant start.

The NGOs immediately embraced the idea. In October 1994, the 9th World Conference on Tobacco or

Health in Paris passed a resolution which Ruth Roemer had drafted and asked me to introduce. It read: "This conference resolves that National Governments, Ministers of Health, and the World Health Organization should immediately initiate action to prepare and achieve an International Convention on Tobacco Control to be adopted by the United Nations...".

In Spring 1995, WHO's Director-General, Dr Nakajima, asked me to conduct a formal review of the WHO Programme on Substance Abuse (which included tobacco), and I strongly recommended an FCTC as a core component of future development. In May 1995, World Health Assembly Resolution WHA48.11 outlined the concept of an international strategy for tobacco control, which marked the start of the formal WHO process.

Ruth Roemer and Allyn Taylor prepared a background document for WHO, which served to direct WHO formally towards the concept of the FCTC with protocols. Myriad meetings, papers and discussions followed during and between Executive Board and World Health Assembly meetings. The process was slow, but in July 1998, Dr Gro Harlem Brundtland became the Director-General of WHO, made tobacco a cabinet project and energized the FCTC process.

A WHO meeting on the Convention was held in Vancouver, Canada, in December 1998. In October 1999 the Working Groups, followed by Intergovernmental Negotiating Body meetings, started in earnest. The toddler was beginning to walk firmly.

The lengthy process and the interminable discussions were often wearisome, but had the advantage of "buy-in" from the key players, especially the Member States. Even before it was adopted by the World Health Assembly in May 2003, the process itself had mobilized technical and financial resources for tobacco control, encouraged governments to take action ahead of the finalization of the Convention, and raised awareness among other government ministries. As the Convention will be ratified by national governments, the FCTC has broadened the perspective of tobacco to an issue that

requires ongoing commitment from all government departments, not just ministries of health. This was evident even in the negotiating process: China's team, for example, included members from a wide range of government departments. Similarly, the Convention expanded responsibility for tobacco issues from WHO to other UN agencies, some of which had hitherto been minimally involved with tobacco.

The FCTC has had a major impact on NGOs. Prior to 1993, there were only a handful of international and regional NGOs devoted solely to tobacco issues and most of them functioned independently of one another. The FCTC changed this isolation, giving birth to alliances and coalitions throughout the NGO community. NGOs attended all the Working Group and Intergovernmental Negotiating Body meetings, some as members of government delegations. They lobbied highly creatively, supported or criticized governments, and ran an effective media campaign. Their published comments on the Chair's text were used extensively by delegates. And NGOs will be crucial in the implementation stage ahead.

Not surprisingly, the tobacco industry was not in favour of a strong, legally binding FCTC, and instead sought to promote self-regulating marketing mechanisms and voluntary agreements. The industry complained it was not invited to be an integral part of the negotiations, but there have been many avenues for it to make its views known, for example, directly to governments, as members of delegations, at the Public Hearings on the FCTC in Geneva in October 2000, and through its public relations machinery. All voices were heard, and the FCTC has received widespread support from civil society around the world.

The FCTC is still some distance from adulthood. There are lengthy procedures ahead involving signing and ratifying the treaty, developing protocols, and establishing a Conference of Parties and a reporting mechanism. But there is genuine hope that the FCTC will mature into making a difference to the tobacco pandemic. ■

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