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Public Policies of Tobacco Control: The Process of Evolution of a Social Contract

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Abstract: *Social contract model though originally envisioned for justifying state control over citizens is being recently explored as a model of morality, especially morality in business. It stands merit over other moral theories primarily because it ensures (at least hypothetically) consent of all rational participants. So the process of moral reasoning is democratic and takes into account the pre contract discord in our 'original state of existence' and aims to provide a solution for the existing conditions of dissension and disparity. More importantly, this contract is specific to the moral domain. However, its applicability may have limitations determined by the specificities of a particular domain characterized by either issues, participants, time etc. The authors think that a social contract theory, known as the Integrative Social Contracts Theory (ISCT), is an emerging theory, which has the promising potential to deal with many of the ethical questions of not only the artifactual institution of business, but also issues in the wider areas of our socio-political living, namely public policy. The emphasis on extant contracts of relevant community, and the test of the authenticity and legitimacy of the community norms that are the outcome of these extant contracts, are unique to the features of ISCT. Public policies formulated by the Governments of various democratic nation states undergo certain phases of evolution of rage and resistance to acceptance and implementation. The challenge has always been the fairness of principles that treats everyone's interest equally. Rawls' "veil of ignorance" is a fantastic method for working out fair principles but cannot be executed in actuality. Rationality is a more practical tool and helps achieve a plausible fairness. Democracy is the most adhered system of governance because it is based on the human values of equality and freedom. Contract, as a framework as well as a procedure entails best results when it occurs among free and equal individuals. Hence, both democracy as a system and contract as a tool has certain mechanisms and objectives in common. This paper examines the process of introduction, change, renewal of public policy and the underlying social contract.*

1.0 Introduction

Public policy is not a fixed set of regulation or legislation. As society and nation states keep on evolving, so does the public policy, which is particularly true in democratic nation states. In democratic nation states, shaping public policy is a difficult task and

basically involves a tradeoff of interests of various affected parties. We make an attempt here to provide a contractarian justification of the ban on promotion of tobacco, even when manufacturing and marketing of tobacco and related products are still lawful till date. We are fascinated to exploit the contractarian reasoning since the contract model originally developed in the political domain as early as the sixteenth century. The initial postulation of the social contract model (Hobbes) aimed at establishing state power over citizen's behavior, thus making the state a *Leviathan*. The underlying argument was that everyone is better off in the state of 'state control' than in a 'state of nature'. Though Rousseau recognized the exploitative nature of a sacrosanct state power, he also recognized the inescapable nature of such a power. However, the way Locke postulated the contract, it limited the state power in favor of the individual's rights. One very important observation made by Wempe is that "In the case of classical social contract theories, the contract was used to specify the conditions of legitimate political authority, but not any concrete legislation" (2008, p.707). Contract theories basically remained silent about the content of the law. Modern contract theorists, like Rawls, used the model to "identify criteria which the basic structure of society should meet in order to ensure social justice" (Wempe, 2004, p.333). Rawls modeled the thought experiment more precisely with the device of 'veil of ignorance'. However, the underlying mechanism of all modern as well as classical social contract theory is to engage in thought experiment. These thought experiments establish the "objective background standards" (Donaldson & Dunfee, 1999, p19) to settle pre contract conditions. Similarly, ISCT models the thought experiment to bring out background standards of economic interaction. While ISCT does build upon the earlier contracts, at the same time, it is much more ambitious in modeling background conditions for economic interaction. It builds upon the already existing political institution of liberal democratic state and its allied institutions. The rational contractors of ISCT are not limited to any natural group bounded by territory of a nation; rather they are global contractors.

ISCT as a contractarian theory of business ethics is criticized by many including Wempe (2008) on the ground that it is: not self disciplined, not argumentative, and not task directed. However, we wish to cash on these features of ISCT and argue that the postulation of the ISCT not only models business interaction but also public policies relating to business interaction with society. As Donaldson and Dunfee argue "the normative authority of any social contract derives from the assumption that humans, acting rationally, consent – or at least consent hypothetically – to the terms of a particular agreement affecting the society or community of which they are a member" (1999, p. 17). This consent, they argue, would justify principles, policies and structures of background institutions of our social living. Starting from the state, even other institutions of social, political and economic importance have come into being because of an underlying consent and/or contract of any particular group/community of people. As with institutions, all existing norms, practices, principles and policies of socio-economic-political existence enjoy some kind of consensus and agreement of the members of *community*, without which there would be no rational basis of their existence. We would make a sincere attempt to unveil the method of agreement in bringing out policies of

tobacco control grounding it in the procedures of the Integrative Social Contracts Theory (ISCT).

2.1 The Integrative Social Contracts Theory

In 1994 and 1995, Donaldson and Dunfee together developed an elaborate mechanism that is characterized as Integrative Social Contracts Theory (ISCT). The ISCT is founded on the belief that humans have a natural “tendency to organize into groups with shared values and goals” (Dunfee, 1991, p.26). It is on account of this natural human tendency that true agreement/contract takes place between key institutions and different components of these institutions. Consequently, mutual obligations arise to adhere to the terms and conditions of the agreement/contract.

The macro-social contract defines the normative rules for the extant micro-social contract. According to Donaldson and Dunfee, “the central idea of any social contract theory involves a manipulation of moral variables in the context of thought experiment designed to ensure procedural fairness in setting the terms of the contract” (1994, pp. 59-60). Hence the macro-social contract is the basis on which the terms of micro-social contract would be worked out. As far as the method for obtaining that fairness is concerned, Donaldson and Dunfee adhere to the principle of “consensus in adopting the terms of the contract”. This ensures what Rawls seeks to obtain through his notion of ‘veil of ignorance’.

The question now is, Consensus of whom? In the spirit of contractarianism, ‘community’ is the simplest and essential element for contract in ISCT. Human subjectivity is the most complex object in this world to study. It is beyond the reach of any science to capture human subjectivity in its variety and entirety. Within that variety, however, there are commonalities that help human beings associate with each other. Social contract or any theory for that matter will fail if it attempts to deal with each individual subject to bring out a consensus. Hence, the alternative process it relies upon is ‘community’, which seeks consensus of the group or at least majority. This process of seeking consensus, though is not immune from criticism, is probably the most viable alternative democratic procedure, contrary to pure subjectivism, which would rather impede theory building as well as ordinary living. The consensus and the process of reaching this micro contract is designed at the macro community level, where the participants *are* the entire humankind. Hence, it can only be a hypothetical contract and never an extant contract. The magnificence of ISCT, however, is that it accepts the evolution of humanity and hence the evolution of the macro terms as well. However, the processes of evolution of the macro terms are slow and infrequent and hence guarantee minimal objectivity. The terms of the micro-social contract are far less objective in their attempt to accommodate the variety and spice of human living. Nevertheless, these terms need to confirm to the terms agreed upon at the macro level (hypernorms), which are fairly objective.

Therefore, ISCT has two important advantages over other normative theories for evaluating issues of interest in ethics. Firstly, it “incorporates empirical findings as part of a contractarian process of making normative judgments” (D&D, 2007, p. 254) and also accommodates varieties of community. Secondly, “recognizes ethical obligations based

upon two levels of consent: first, to a theoretical "macrosocial" contract appealing to all rational contractors and second, to real "microsocial" contracts by members of numerous localized communities" (ibid). So the theory is considered integrative by Donaldson and Dunfee because of three following factors: (a) it attempts to unify both the normative and the empirical streams of research, (b) it comprises of two very different types of social contracts, i.e. hypothetical and extant, (c) it also acknowledges the fact that there can be more than one extant contract .

The global contract of ISCT is based on two assumptions. One, the "global contractors are aware of, and are concerned about" the bounded nature of rationality in the moral domain (D& D, 1999, p.44). By 'moral rationality' ISCT theorists contend that moral concepts are proper objects of rational (objective) analysis. To rule out arbitrariness and forms of moral or cultural relativism of extreme variety, they argue that moral rationality must possess minimal objectivity. It is minimal objectivity because it is also a part of the human mental evolutionary process. However, rationality is bounded by (a) finite human capacity, (b) limited reach of general ethical theories to resolve complex practical issues, (c) the artifactual nature of the economic practices and systems. The three factors (of bounded economic rationality) together create uncertainty in economic affairs.

The second assumption of the global contractors ensures economic efficiency by providing *moral free space* to the communities at the 'micro-social' level to have their own norms of operation. The 'macro-social' contractors, while acknowledging the bounded nature of moral rationality, also "recognize the need for a community based moral fabric as a necessary condition for both the generation of wealth and the maintenance of an environment conducive to a good and productive life" (ibid, p. 45). Any sort of cooperation among different members requires minimally agreed upon norms in the absence of which no social cooperation is ever possible. Hence, the rational contractors are to find an arrangement in the process of contract that "recognizes the key role of relationships and groups" and "tailor norms to fit into particular ...contexts" (ibid). To Donaldson and Dunfee, this activity is critically important. On account of the strongly bounded nature of moral rationality, the rational contractors would desire *precise norms* of interaction to ensure efficiency. These precise norms cannot be worked out at the 'macro-social' level as the context is not present before the global contractors. Hence, each specific community as long as it is recognized as a community can have its own norms for its smooth operation. However, the *moral free space* in question can pose serious challenges *prima facie*. The global contractors have taken care of it by two distinct and necessary tests of the norms generated within the community. The tests are (a) test of authenticity and (b) test of legitimacy.

Within the free space, the micro contractors bring out norms which may be either explicit or implicit and which occur among members of specific *communities*, including firms, departments within firms, informal subgroups within departments, national economic organizations, professional associations, industries and so on. By community, they mean "...self-defined, self-circumscribed group of people who interact in the context of shared tasks, values, or goals and who are *capable of establishing norms of ethical behavior for*

themselves”(emphasis added) (Donaldson and Dunfee, 1994, p.273). In this context, they believe that any set of reasonable rules will reduce uncertainty and enhance efficiency. This particular articulation of community being capable of establishing norms for themselves addresses the major shortcomings of ‘stakeholder theory’ where what is the exact stake of a stakeholder is not clear. The question then is, a community can bring out any set of norms, even disregarding minimal moral standards. Hence the first condition put by the global contractors is that the norms generated by extant contract(s) must go through an authenticity test. A norm is authentic if supported by the attitudes and behavior of a substantial majority of the members of a community (D & D, 1999b, p.94). This is the only test of the genuineness of the community norms. The ISCT also prescribes two additional requirements on the operation of a community. One, “the community must respect the rights of members to withdraw or exit from membership within the group” next, “individuals should have the opportunity to exercise voice within his or her economic community” (D& D, 1999, p. 45). This ensures even the individuals within the community have some moral free space and each individual can play a significant role in the evolution of the community norms, and can also participate in removing norms they find objectionable. A dissenting individual has the right to either leave the community or try to change the norms. Norms will constantly change at the community level and members will exercise voice and exit in response to the evolution of norms. Norm may evolve in variety of ways; the process is *sui generis* to each community. There is no set formula which designs fixed set of norms. Since all norms are not results of explicit contracts, there are certain proxies provided to identify authentic norms. They are: common knowledge of the norm, inclusion in professional codes, inclusion in corporate codes, media reference, reference by business leaders, identification of norms in competent surveys etc. (D & D, 1999b).

There is an additional test i.e. test of legitimacy. A micro-social contract norm, to be obligatory, “must be compatible with hypernorms”. A *hypernorm* is “a norm sufficiently fundamental so as to serve as a guide for evaluating authentic but less fundamental norms. ...hypernorm is a “first-order” norm, capable of evaluating “second-order” norms” (D& D, 1999, p. 46). Hypernorms are fundamental moral principles reflected in the heritage of human existence. They do not settle the question as to which general ethical theory, but provide room for and presume support from all acceptable theories of morality. Hypernorms constitute a set of standards that are somewhat objective and can be accepted by all societies, at least in principle. A second-order norm is legitimate if it passes the test of hypernorm. In a way, hypernorms can be viewed as norms that block out relativism. However, the hypernorms are not fixed and they are in the process of continuous evolution. Nevertheless, they do define a general framework within which the second order norms can be generated. The ISCT theorists did not attempt a complete list of hypernorms but “assume only that some hypernorms exist and that an initial list of hypernorms should include, at a minimum, the following two concepts: Core human rights, including those to personal freedom, physical security and well-being, political participation, informed consent, the ownership of property, the right to subsistence; and The obligation to respect the dignity of each human person” (D & D, 1994, p. 267). There are three types of hypernorms discussed in ISCT. They are *substantive*, *structural* and *procedural* hypernorms. Substantive hypernorms specify the fundamental conception ‘of

the right and the good'. They are mostly abstract principles and understanding. Hence, they are not specified by the ISCT theorists. They do not evolve out of the procedure of contract (not part of ISCT) rather they exist out there in society. Structural hypernorms are necessary for socio-political-economic "organization and are instantiated in background political and legal institutions" examples of which are "right to own property, right to fair treatment under law" etc (D& D, 1999b, Ch. 5). Probably economic efficiency is one such hypernorm implicit in ISCT. Under structural hypernorms, the citizens are required to honor institutions of justice and economic welfare. The two norms of 'right to exit' and 'right to voice one's concern' are procedural hypernorms in ISCT. They are identified while talking about the process of micro-social contract. Authentic norms are illegitimate if *exit* is unreasonably restricted; and/or *consent* is coerced or the environment is coercive where employee mobility is restricted; and/or meaningful participation in the norm generation process is denied; and/or employee is accepting extreme risk (ibid).

Hypernorms are the *key* limits on moral free space. They are essential to establishing consent in micro-social norms while recognizing values common to most people, and they are "higher order norms by which lower order norms are to be judged". It is not practically possible to have exhaustive list of hypernorms. Hypernorms may emerge from any and either of the following and more: global institutions of rights and justice; a widespread consensus that the principle is universal; components of well known global industry standards; support meted out by prominent non-governmental organization; consistently referred global ethical standards by media; global business organizations; percepts of major religion; percepts of major philosophies and ideologies; relevant international community of professionals; findings concerning human values; law of many different countries etc.

Whenever the hypernorm test does not provide a clear indication or if all authentic norms in a complex situation confirm to hypernorms, then ISCT devises another solution known as priority rules. Though the freedom of individual communities to develop ethical norms is emphasized, at the same time, it is also required that sufficient attention be paid to see that the norms do not adversely affect the freedom of other communities. Conflict of norms between communities is fair enough so long as the impact of the norms is limited to the community of origin. In case of cross-cultural transaction, the likelihood of conflict of the norms of the concerned communities is high. Donaldson and Dunfee[1999b, ch], keeping this in view, worked out a set of six priority rules. They are:

1. Transactions solely within a single community, which do not have significant adverse effects on other humans or communities, should be governed by the host community's norms.
2. Community norms indicating a preference for how conflict-of-norms situations should be resolved should be applied, so long as they do not have significant adverse effects on other humans or communities.

3. The more extensive or more global the community, which is the source of the norm, the greater the priority which should be given to the norm.
4. Norms essential to the maintenance of the economic environment in which the transaction occurs should have priority over norms potentially damaging to that environment.
5. Where multiple conflicting norms are involved, patterns of consistency among the alternative norms provide a basis for prioritization.
6. Well-defined norms should ordinarily have priority over more general, less precise norms.

3.0 Evolution of Tobacco Control Policies and the Underlying Social Contract

3.1 Evolution of Policies of Tobacco Control

Tobacco appeared in mass manufactured form only during 19th century though it was prevalent much before, and was chewed or smoked in pipe. Thereafter, manufacturing, marketing, and smoking cigarettes have spread in a massive scale. Later phases of commercialization created huge markets for tobacco by targeting teenagers and also positioned tobacco related products by associating the brands with life styles. Today, according to the World Bank report, more than 1.1 billion people worldwide smoke and are subject to wide variety of diseases including the dreaded disease of cancer. A century ago, we as a society were not even aware that tobacco could cause such health hazards. Today, medical science has extensively researched and established facts about the ill effects of tobacco on human health. The effect is not limited to smokers alone but to non-smokers who are affected by environmental tobacco smoke, which is one of the major reasons for lung cancer and respiratory track infections.

In the initial years of human civilization, the socio economic order was not extant. The economy was not structured as in stock market economy today; but it was street economy. Since human beings inherited the culture of their primitive living, the law of the jungle predominated during initial years of civilization. Many were poor and oppressed; and they were unhappy with their conditions and the social order. Apart from the threat from nature, the second greatest threat was the threat to their security of life and possession from the co-living beings. It is in this context that Hobbes postulated a contract between these citizens to empower 'state' with supreme power (Leviathan) which will have the sole authority to control individual's behavior for a possible coexistence and world order. The individual action and behavior is regulated by state – in whatever form it is manifested. Hobbes' notion stands merit and relevance even today, though the concept of power and means of acquiring power have undergone vital changes. After human beings started living in a civilized manner, they cultivated their special knowledge, skill, and ability to pioneer many creative endeavors, shifting focus from minimal security and gathering food for living to enterprise, art, entertainment and

culture. They started cultivation, took interest in art, culture, music and other avenues of entertainment and amusement. The industrial revolution slowly changed the face of human existence and living.

It is unknown when tobacco was discovered as a consumable substance. The initial use of tobacco was very limited and so was its impact. The very fact that any cultured human action can have certain unintended effects on others was not realized. The harm and benefit of such actions were believed to be limited to its users only. Moreover, the economy was controlled by the state. So, the social agreement on the consumption of tobacco as a reasonable human behavior was clear and undisputed. Since the impact of its use was believed to be limited to individuals, the underlying agreement was non interference.

Post industrialization experiences show that mere formation of state and governance could not create a perfectible social order. The need for a more perfectible social order arose in the modern era when industrial revolution, and extension of trade and commerce, witnessed further oppression of co-living being. Ever since the modern era, the search for a perfectible social order is still on. However, keeping pace with its demand, tobacco was available in mass manufactured form the 19th century. Primarily it is an agricultural product and can be used in medicines and also used as organic pesticide. However, the increase in demand and supply of tobacco is due to its non medical consumption. It proved to be a very profitable commodity for trade as it generated huge profit for the trader and lavish tax for the government. The prevalent economic system at this stage was the traditional model of corporate that centered on competition, efficiency and profit. Labor was recognized only as a factor of production and no intrinsic value was attached to these human species. In the light of the prevailing social condition, we can presume that the early years of tobacco manufacturing centered on few *communities*. They were people who were basically involved with tobacco industries in some way or were people who smoke and the government. The non smokers were having very limited stake. The then medical science was not developed enough to predict the effects of tobacco use on health and environment. The overriding concern was the profit it generated. The industries evolved seeing an opportunity to market a product highly in demand. Slowly, tobacco was commercialized enough and associated with life style, celebrities, and other aspiring personalities of the teenagers giving rise to a sharp increase in demand and extended scope of customers and therefore rise in price. As the industry grew extensively, it gradually became a very important part of the economy of nations. A substantial portion of farmers depended on tobacco cultivation as their sole means of livelihood. The industry tried to highly reinforce smoking behaviors in men, women and for the pursuit of profit. Slowly, there was increase in the market segment with teenagers smoking; a habit mostly influenced by the endorsements of their real life heroes. Commercials used models and life style advertisements. The use became rampant and so did the effect.

The *communities* were widening at this stage of societal development. However, the societal contract was more influenced by the notion of 'free market' by Adam Smith and 'profit motive' by Milton Friedman during the whole of 20th century. All community norms were oriented to giving maximum free rein to the producers to prove their product

as superior and better and in demand in a perfectly competitive market. Generating a handsome profit out of it is argued extensively as a legitimate business goal. That notion gave rise to increase use of promotion of products. Hence, tobacco was extensively advertised using all means of persuasion for consumers to develop smoking behavior. Especially, teenagers were the target audience of these promotions.

In the subsequent stage of economic growth and societal development, there was increase concern about the various 'stakeholders' of business; a concern that became more prominent through the writings of Freeman. The unintended effects of even cultured human action on others became prominent. Development and findings of medical science about tobacco related diseases were established. There was increased awareness of the misuse and ill effects of tobacco. In the 21st century, various activist groups stood against tobacco and its production and promotion, in their continued attempt for a more perfect world order. Clearly, this is the critical era when the communities are ever widening. Also, there arises the conflict of interest of a large number of communities. Conflict is inherent; coexistence is a necessity; hence the role of contract. The communities now involved in the issue of tobacco range from tobacco farmers, tobacco industries, smokers, nonsmokers, interest groups, environmental groups, ideology groups, policy makers, to territorial and national governments. This is a time when it is recognized that everybody around can have a stake in the activities of a particular group or organization. With the increase in number of communities, the conflict of interest is more fastidious. With the environmental protection group demanding a complete ban of such products, the liberals are demanding a free choice for the consumers. A complete ban would not only be an infringement of free choices and rights but also may be a cause of loss of livelihood for the tobacco farmers. Hence, a comprehensive ban on production and distribution of tobacco pose unique challenges for the policy makers in a liberal and democratic society with conflicting community interests. Considering the livelihood of the farmers, the huge amount of tax generated for the governments, the huge employment opportunities offered to the economy, and the subsequent challenges ensued by consumer sovereignty groups were all for the production and use of tobacco. Hence, there are two major and active communities who are all for manufacturing and marketing of tobacco. First, is the consumer sovereignty activists. In the present stage of evolution/development of society, the consumer is regarded as the king who decides all about his/her consumption. Market only provides choices to consumers, and the role of government and any regulation is severely limited. Secondly, there broader community who supports the economic efficiency of tobacco. As per World Bank report production and consumption of tobacco have a very significant impact on the social and economic resources of the entire world. Cigarettes are extensively traded and are highly profitable commodities. Therefore, the economic aspects are critical to the question on its regulation and control. These challenges mentioned above are further challenging the process of drawing a consensus on the production, promotion and use of tobacco. It entails questions like should tobacco be manufactured in mass scale, when it is manufactured is mass scale can it then be freely promoted, if it is freely promoted then should its use be regulated etc. It seems that public authorities across the world cannot put a complete ban right away on the manufacturing of the product itself. What is actually coming up in the form of control and

ban on tobacco related products is an example of evolving social contract in the pursuit of maintaining a better world order. This evolving consensus is possible because of the following reasons: the communities who are for its production and use are either not having the norms which are both legitimate (not having consensus) and authentic (not confirming to hypernorms) or these *communities* are subservient to some other broader communities (arrangements of priority rule). Let us illustrate why and how contemporary public policy for tobacco control evolved through time. To do so we need to focus more on the authenticity and legitimacy of the norms of the communities that have evolved in recent times.

3.2 Communities

Let us make an attempt to identify the communities that somehow concerns the business of tobacco and they are also communities as per the definition of ISCT. In an ambitious attempt the author believes that all the following groups can be identified as communities: the tobacco industry (the business people), tobacco users, civil society, government, consumer activists, consumer sovereignty ideologists group, and supporters of free market. Some of these communities can have overlapping norms. We would try to club them wherever possible.

3.2.1 Tobacco business community

The tobacco industry deals with the economic aspects of Tobacco. Tobacco is one of the largest cash crops, hence, encourages huge business investment. There are giant multinationals in this industry as well as local firms. They support government's policy of employment, contribute revenue to the government. The first thing that any business takes care of is undoubtedly profit. Profit requires more investment in producing, manufacturing, and marketing of tobacco. However, the changing business requirement is profit within the confines of law, morality, and responsible business. The emergence of social responsibility of business necessitated business to focus on the social and environmental impact of its activity apart from the economic impact. This is an acceptable principle and practice of the present age. Though the control on production and promotion of tobacco will adversely impact its economic impact in terms of loss of jobs, and loss of government revenue but these are no longer the only thing that matters for business. A complete ban is possible will be too hasty leading to other evils like smuggling as long as the demand exist. Hence the most viable option available is interventions to reduce its demand in the market. Reducing demand may not be achieved by reducing supply alone and reducing supply will not be possible unless production and manufacturing is controlled. The measure which can be more effective is raising consumer awareness about the ill impacts through promotion. Hence, promotion of tobacco is the first thing to be controlled. For taking care of the economic impacts measures like crop substitution can help the farmers retain their occupation and living. Stopping subsidies to tobacco farmers can act as a deterrent for its production.

The benefits of tobacco control for health, especially for children and future generations, are clearly established by medical science research. As per World Bank report tobacco is

one among the greatest cause of preventable and premature deaths. The expected consequences of tobacco control are more promising for the world order than allowing it in free market. The fears related to its economic aspects, that deter action, may have been unfounded. “Policies that reduce the demand for tobacco, such as a decision to increase tobacco taxes, would not cause long-term job losses in the vast majority of countries. Nor would higher tobacco taxes reduce tax revenues; rather, revenues would climb in the medium term. Such policies could, in sum, bring unprecedented health benefits without harming economies” (World Bank report). Hence the contract drawn here supports control of both demand and supply of tobacco.

Moreover, as a society we have already reached a stage where social institutions and corporate are not only expected to achieve an appropriate balance between efficiency, equity and ethics, but there is also a requirement to be concerned with transcendental values of protecting the environment.

3.2.2 The Community of Smokers and the Consumer Sovereignty Advocates

Advocates of consumer sovereignty group believe in free choice of consumers. Modern economic theory holds that consumers are the best judges of their own consumption. This view is quite clearly influenced by the free market theory of Adam Smith. However, this principle of consumer sovereignty influenced by the morality of free market is based on certain assumptions which may not hold very strong grounds.

By the beginning of 21st century, we have seen many instances where the free market principle of efficiency has failed terribly. Let us examine it from the point of view of a consumer. Let us examine the incentive to smoke and further examine whether the choice to smoke is like their other consumption choices. Do smokers know the risk of smoking?

Consumer sovereignty group argues that the consumers make rational and informed choices. Researches show that many smokers are not at all aware of the high risks associated with the smoking behavior. Those who are aware about the risk they perceive it to be minimal. Smoking eventually forms a habit and it usually starts in adolescence. Assuming that these people take a rational choice about their consumption behavior would be a grievous mistake. Either these folks do not know the risk, or if they know they underestimate the risk. There is no rational cost benefit analysis they involve in. World Bank report says most “societies generally recognize that adolescent decision-making capacity is limited, and restrict young people's freedom to make certain choices; for example, they are denied the vote or to marry until a certain age”. Similar, strategies should be adopted for smoking and societies cannot be so open about smoking.

3.2.3 The Community of Civil Society and Consumer Activists

The civil society norm is usually the good and better society in general understanding. It is the civil society which influences the public decision to a great extent. Good life, good health, good facilities ... and all that which brings order harmony peace to societal

existence. Anything, which causes a visible and significant distortion to general health, is to be avoided to the extent possible. The consumer activist group focuses that the consumers should not be lured into false promises. They must get proper information and proper value for their money in the market exchange process.

4.0 Control on the Use of Tobacco

Health is a not only an individual but also a shared responsibility of the society. A collective defense against transnational threats like tobacco related diseases is probably a hypernorm in pursuit of world order. In the case of the governments' intent on improving health, control on tobacco is an inescapable choice. Actions to control smoking can include implementation of higher taxes to bans on advertising and promotion to restrictions on smoking in public places.

Any failure on the part of any *community* to respond to these broad social norms in broader socio-political *communities* may result in subsequent stringent implementation of legislation. Such legislations may also further public policy changes and deteriorate public relations for the organizations concerned. The evolving authentic norms of broader *community* (society as a whole) typically require aggressive changes in the way in which the organizations act and present themselves. It is best to adopt proactive strategy and seek to keep ahead of the change. More often, this does not appear to have been the chosen strategy, leading to outrage in society.

“Consent is the justificatory linchpin of any social contract method”, either hypothetical or real and it is valid only when it is “uncoerced and informed” (D& D, 1999, p. 48). ISCT theory holds that the consent of community social contracts must be informed by broader principles of society, hypernorms, and participants' consent. So, contractualism promotes reciprocal cooperation among persons who seek to treat one another as free, equal, reasonable and rational. The concern here is reasonableness and fairness of actions or arrangements. This kind of transaction can be envisioned only in a liberal democratic or communitarian society. The contract here allows business interests and all other individual and communal goods to function in decision-making, along with the interest to justify decisions to others. So, we are capable not only of having a rational good but also of regulating and justifying our actions according to reasonable principles that all can accept.

The Integrative Social Contracts approach is “designed to take existing artifactual institutions and business practices into consideration, thus providing the essential context for rendering normative judgments concerning economic behaviors” (ibid, p. 42). On the one hand, the context specificity in contractarian ethics, say Donaldson and Dunfee, may constitute an ideal source of normative standards for the actual process of stakeholder management. On the other hand, this social contract theory being empirically based will be able to isolate the “boundaries of *general public expectations* concerning obligations to stakeholders” (ibid, p. 50). What is important is to articulate and/or reveal the responsibility in question. Without such an articulation, these responsibilities again would be clouded by the *general public expectations*. Integrated Social Contracts Theory has the

potential to articulate the boundaries of stakeholder interest and the limits of social and moral responsibility. Even regulations/laws “are most likely to be effective when they are consistent with the most generally accepted societal norms, and reflect the collective morality of society”(http://en.wikipedia.org/wiki/Public_policy_doctrine).

References

- Bowie, Norman E. 1982: *Business Ethics*, Englewood Cliffs, NJ: Prentice-Hall.
- Donaldson, T. 1982: *Corporations and Morality*, Englewood Cliffs, NJ: Prentice Hall.
- Donaldson, T. 1989: *The Ethics of International Business*, New York: Oxford University Press.
- Donaldson, T. and Dunfee, T. W. 1994: “Towards a Unified Conception of Business Ethics: Integrative Social Contract Theory” *Academy of Management Review*, 19(2), pp. 252-84.
- Donaldson, T. and Dunfee, T. W. 1995: “Integrative Social Contract Theory: A Communitarian Conception of Economic Ethics” *Economics and Philosophy*, 11(1), 85-112.
- Donaldson, T. and Dunfee, T. W. 1999: Social contract approaches to business ethics: bridging the “is-ought” gap, *in A Companion to Business Ethics* (ed R. E. Frederick), Blackwell Publishers Inc., Malden, Massachusetts, USA.
- Donaldson, T. and Dunfee, T. W. 1999b: *Ties That Bind: A Social Contracts Approach to Business Ethics*, MA: Harvard Business Press.
- Dunfee, T. W. 1991: “Business Ethics and Extant Social Contract” *Business Ethics Quarterly*, 1, 23-51.
- Frank, R. H. 1993: “A New Contractarian View of Tax and Regulatory Policy in the Emerging Market Economies” *Social Philosophy and Policy*, 258-281
- Gauthier, D. 1986: *Morals by Agreement*, Oxford: Clarendon Press.
- Hobbes, T. 1651: *Leviathan*, New York: Collier (1968).
- Hodapp, Paul F. 1990: “Can there be a Social Contract with Business?” *Journal of Business Ethics*, 9, 121-131.
- Keeley, Michael. 1988: *A Social Contract Theory of Organizations*, IN: University of Notre Dame Press
- Locke, J. 1690: *Second Treatise of Government*, Indianapolis, IN: Harcourt Brace (1980).
- Rousseau, J. J. 1762: *The Social Contract*, Indianapolis, IN: Hackett, (1987)
- Scheppele, Kim L., “It is just not right: The ethics of insider trading.” *Law and Contemporary Problems*, 56(3): 123 -230
- Smith, A. 1776: *The Wealth of Nations*, Chicago: Chicago University Press.
- Wempe, B. 2004: “On the use of the social contract model in business ethics: *Business Ethics: A European Review*, 13(4): 332-341
- Wempe, B. 2008: “Four Design Criteria for any Future Contractarian Theory of Business Ethics” *Journal of Business Ethics*, 81:697–714
- Wempe, B. 2009: “Extant Social Contracts and the Question of Business Ethics” *Journal of Business Ethics*, 88:741–750