**What are the Indian laws on smoking in public places?**

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The simple activity of inhaling and exhaling the fumes of various plant material like marijuana, hashish, and tobacco, is called smoking. These plants are usually smoked in a cigar, cigarette, or pipe and this act came into practice by the American Indians first. The reason behind the fast addiction towards smoking is the presence of nicotine in tobacco which both stimulates and tranquilizes psychoactive effects which is addictive. In India every third person in a group five is found to be a smoker. From young adults to senior citizens, every age group has a significant amount of smokers available in India.

This hazardous activity has spiked the rate of respiratory diseases leading to death and contributed to air pollution too, which is a major global issue in today’s world. The unfortunate part is that the non-smokers are getting wrapped up in the havoc created by the smoking community due to the unwanted passive smoking they are subjected to. The inhalation of Environmental Tobacco smoke (ETS) or Secondhand Smoke (SHS) is equally injurious to health for the people who end up passive smoking.

This health crisis borne by the smoking community against the non-smoking community is a case of public nuisance that needed immediate attention. The duty of the justice system is to make sure no person is discriminated against. To safeguard the non-smoking community from the unjustified discrimination, the anti-smoking laws were established.

For the first time the hazardous effects of smoking in public were ever discussed in the country in the case of **Murli S Deora v. Union of India[[1]](#footnote-0)** where the harmful and dangerous effects of passive smoking were addressed for the first time and the Supreme Court recognised the absence of any statutory provisions regarding this problem. The court held that smoking in public places like railways, public offices, hospitals, auditoriums, court buildings, libraries, and other public places will be banned.

The Section 4 of the Cigarettes and Other Tobacco Products Act (COTPA), enacted in 2003, prohibits smoking at public places and came into application on 2nd October 2008. A public place in general terms is any place where the public has access like: hospitals, markets, public offices, auditoriums, hotels, restaurants, etc. and also includes open spaces like parks. Section 4 of the COTPA prohibits any person from smoking in these areas and disrupting the peace of the people around them. If a person is found guilty under this section their case is tried in accordance with the Code of Criminal Procedure, 1973. The wrong done under this COTPA is bailable and Compoundable in nature and it is tried according to the provisions of the summary trials. There is another provision which provides for a Rs. 200 fine against the offender and currently an amendment bill has been put up in the Parliament by the Government where this fine has been raised to Rs. 1000.

On February 27, 2005, the country became a party to the World Health Organisation Framework Convention on Tobacco Control and along with the regulatory acts and provisions brought changes in few existing rules too. The Health Ministry decided to raise the age from 18 to 21 as the legal age to buy any tobacco related product and this has been incorporated in the act too. In addition various guidelines have been laid out too to avoid any ambiguity regarding smoking in public and helping the society live in harmony and peace.

The High Court of Kerala for the first time in the history of the world made smoking an illegal act and stated that it is violative of the Article 21 of the Constitution of India, which is one the fundamental rights, and hence held it to be unconstitutional. Later cities like Chandigarh and Shimla took the initiative to go smoke free and hopefully the rest of the country will be soon following this noble cause too.

1. (2001) 8 SCC 765; AIR 2002 SC 40; 2002 (1) ALD 88 SC; 2001 (6) ALT 35 SC [↑](#footnote-ref-0)