Can Tobacco Executives Be Held Responsible for the Tobacco-Related Deaths of Their Customers?

Kelsey Romeo-Stuppy
Staff Attorney, Action on Smoking and Health

Romeo-stuppyk@ash.org
"In the world, eight million people die each year from smoking tobacco. This is mass murder."
- President Mujica, Uruguay

“If we admit that smoking is harmful to heavy smokers, do we not admit that BAT has killed a lot of people each year for a very long time?... I foresee serious criminal liability problems.”
- Ernest Pepples, Attorney for Brown & Williamson (U.S. tobacco manufacturer)
What potential charges?

**Domestic**
- Manslaughter
- Criminally negligent homicide

**International**
- Violation of right to health,
- Violation of the right to life,
- Violation of women’s and children’s rights
- Crimes against humanity
ACTION ON SMOKING AND HEALTH

**Domestic**
- Convince an Attorney General to open an investigation in a U.S. State

**Foreign**
- Open an investigation in another country

**International**
- Bring a human rights case in an international regional court

ASH Global action for everyone's health
TRACK 1:

Domestic

Convince an Attorney General to open an investigation in a U.S. state
“Philip Morris's actions...would constitute at least second-degree manslaughter, a Class B felony...Thus, the possibility of severe criminal sanctions, both for any individual who participated and for the corporation generally, put Philip Morris on notice that Oregon would take such conduct very seriously.”


“If Philip Morris chooses to market an inherently dangerous product, it is at the very least perverse to allow the company to escape liability by showing only that its product was used for its ordinary purpose.”

DOMESTIC

Domestic Criminal Liability For Tobacco Executives

Crime

Manslaughter

Definition

The unlawful killing of a human being without malice. Involuntary manslaughter is without due caution and circumspection, of a lawful act which might produce death.

Elements of manslaughter

Without due caution or circumspection

A lawful act

Which might produce death

Are these elements met by tobacco executives?

The dangers of smoking have been well documented for decades and Tobacco corporations have long had knowledge of the harms of cigarettes. As the court in U.S. v. Philip Morris observed, the tobacco industry’s own words establish this fact.

The Penal Code specifically allows for the act that caused the death to be lawful, as is the marketing of cigarettes.

Cigarettes cause death. Health warnings about the dangers of smoking have appeared on packs of cigarettes since as early as the year 1965. Some courts have even taken judicial notice of the fact that tobacco smoke is a carcinogen and causes lung cancer.

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TRACK 2: Foreign

Open an investigation in another country
Legal Options

- Stand alone case
- As a way to exhaust domestic remedies before moving into a regional or international system

Considerations

- Legal system
  - Criminal law structure
  - Corporate law
- Political climate
- Financial considerations
TRACK 3:

International

*Bring a human rights case in an international or regional court*
“No other consumer product in the history of the world has come even close to inflicting this degree of harm on the world community. If anything else posed a threat to life of this magnitude, whether human induced or naturally occurring—be it world war, genocide or “ethnic cleansing”, natural disaster, or disease—it would demand immediate international action.”

- Neil Francey, Tobacco Control Journal
# ACTION ON SMOKING AND HEALTH

## INTERNATIONAL

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- Everyone has a right to life and to health
- Government have a duty to enforce those rights
- Allowing the tobacco industry to function at the status quo violates that duty
- Remedies are available through international or regional courts
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