

Tobacco Products Violate the Human Rights of Women and Girls in France

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I. Smoking among women in France

1. Smoking prevalence remains high among French women

Prevalence of smoking among women has evolved over recent decades. There was a strong rise in the 1970s until the loi Evin of 1991, followed by a decline in the mid-2000s. Then there was a consumption rebound until 2010, when levels stabilized until 2016, with over a quarter of women aged 18 to 75 using tobacco. Despite recent declines, 21.7% of women the 18 to 75-year-old smoke daily and 7.1% occasionally (1)-(2).

The situation is not uniform across age groups. Drops in consumption rates barely impact women over 50- in fact, consumption rates of women over the age of 55 match men.

Tobacco consumption among young girls remains a major concern. In 2022, by age 17, nearly 50% had experimented with a tobacco product. This smoking initiation as youth, with a first cigarette at age 15, is dangerous as one in three who test a tobacco product will become regular smokers for at least a part of their lives (3). By age 17, roughly 15% will be a daily smoker (15.6%).

Smoking remains a marker of inequity from an early age (4). Prevalence data underlines that no matter the indicator used – level of remuneration, level of education or activity – smoking evolves in an inversely proportional manner. The higher the income, the lower the prevalence of daily smoking. In 2022, smoking prevalence was 33.6% for lower-income groups and of 21.4% for higher-income. Smoking prevalence is much higher among the unemployed (42.3%) in comparison to students or the actively employed: 26.1% (5).

Given that women are more impacted by social and economic precariousness and more affected than men by unemployment issues, they are also more affected by smoking – a factor of social and health inequality (6).

The most recent consumer surveys show that women and people with qualifications below the *Baccalauréat* level (French high school diploma) are less likely to attempt to quit (7).

This inequality is further reinforced by the fact that it is more difficult for a woman to stop smoking than a man due to metabolism differences (8).

France has high smoking rates among pregnant women. An estimated 20-25% of women smoke during pregnancy in France, with the proportion being higher among younger and less educated women. This proportion has decreased during recent years. However, with over 16% of women smoking during the third trimester of pregnancy in 2015, France is particularly badly ranked in comparison with other European countries (10).

Some categories of the female population are not subject to specific monitoring of their smoking, such as LGBT or immigrant women. However, in the first case, the literature (11) suggests a particularly high smoking prevalence among the LGBT community. Conversely, data available concerning smoking among immigrants in France show a discrepancy, depending on the country of origin, with an overall, generally lower level of consumption and an important difference in smoking prevalence by gender, with men significantly more likely to smoke (12).

In France, data on exposure to passive smoking by gender are relatively scarce but suggest that women are more exposed at home (13). This is problematic given that globally an estimated 64 % of deaths related to second-hand smoke occur among women (14).

2. The ever-worsening health impact of smoking on women

The increase of smoking among women in recent decades manifests itself through the increase in women morbidity and mortality attributable to tobacco.

One out of every two regular smokers will die from smoking (15). Women are no exception and seem – for certain pathologies – to be more at risk than men.

In France, while the number of deaths attributable to tobacco among men has significantly decreased between 2000 and 2015 but doubled for women (16) – from 8 000 (3.1% of all female deaths) to nearly 20.000 (6.9% of all deaths) (17). One in fourteen deaths among women is due to tobacco, in the 35-64 age group the proportion is of 1/5.

The health damages from tobacco refer to all non-communicable diseases: cancer, cardio-vascular diseases, respiratory diseases. Incidence of lung cancer increased by 72% among women between 2002 and 2012. Lung cancer mortality has soared by 71% for women whilst it decreased by 15% for men. In France, in the 50-74 age group, the mortality level for lung cancer is higher than the level for breast cancer (19).

Similarly, exacerbations of chronic obstructive pulmonary disease (COPD) requiring hospitalisation, doubled between 2002 and 2015 in women, while they increased to a lesser extent + 30% for men. And COPD mortality rose over the same period from 2002 to 2012 for women while it went down by 21% for men.

Consequences on all the cardiovascular pathologies (20) are also major. Just as for men, smoking is the dominant risk factor for women for myocardial infarction before the age of 50 (21). More than a quarter of deaths from coronary diseases in women aged 35-49 are due to tobacco (22). In the same age group, smoking is the main factor for strokes among women (23);

Finally, certain risks are specific to women. The combination of tobacco with oestrogen-progestogen contraception induces an increased risk of cardiovascular events linked to tobacco (26). Female smoking also increases the risk of breast cancer (27), cervical cancer (28), disruption of menstrual cycles (29-30), decreased fertility (31), complications during pregnancy for mother and child (32-33) and the impact on the menopause and on increased risk of osteoporosis (34).

3. Other negative impacts of smoking that particularly affect women

Smoking embodies an important cause of health inequality between social categories.

Smoking increases economic inequalities, especially for women, who face other inequalities such as gender pay gap. Thus, 30% of women had a monthly salary under 1 471 euros in 2018, with the median salary for women in a full-time position of 1 737 euros per month. Among the smokers in these categories of wages, those who smoked an average of one packet of cigarettes a day spent up to 20% of their salary on them (35).

Expenses allocated to tobacco are made to the exclusion of other household spending on basic needs such as food, education, housing, leisure, etc

When household resources are limited, conflicts and a gender imbalance in decision making can occur more easily (36).

Tobacco products also infringe on the right to a healthy environment, which is a concern for the general population, and therefore also women. Indoor smoking is the first source of pollution; and the very life cycle of a cigarette weighs considerably on the environment, from tobacco culture to the elimination of cigarette filters and packaging. For instance, France has a considerable problem dealing with tobacco related waste, particularly cigarette filters which contaminate water.

Smoking can also increase the risks of suffering from severe symptoms of COVID-19. Early research indicates that in comparison to patients with COVID-19 who were non-smokers, patients with a history of smoking were more likely to be admitted to intensive care, need mechanical ventilation or suffer from severe health consequences (38).

4. The role of the tobacco industry

Smoking is an industrial epidemic that has been defined as: *“diseases or early deaths (between the ages of 15 and 70) triggered by the licit or illicit marketing of hazardous products to health or life, by powerful and organised industries which deploy coherent and long-term international strategies”* (40).

In fact, the development of the smoking epidemic among women is the direct result of tobacco manufacturers marketing strategies targeting women. France is no exception, as these massive promotional campaigns are designed on a global scale and adjusted to local characteristics.

Manufacturers have created a demand linking women’s needs and their products through sophisticated and highly-targeted marketing. They fully exploited the aspirations of women’s emancipation, the conquests of rights, the search for identity, social aspiration, compliance to body shape norms, etc. They created new brands for women, used aromas referring to the world of perfumes and transformed their products into new fashion accessories.

By doing so, they also sought to reassure women, who are more often concerned about health issues. The rise of women smokers in France is directly linked to the marketing of so-called “light” cigarettes, presented as less dangerous to health. Despite the ban on descriptions such as smooth, mild etc., manufacturers contributed to the indirect promotion of those products through colour coding, suggesting that some of those products were of lower risk.

Furthermore, manufacturers tampered with cigarette filters with a perforation system introducing tiny holes into the filters to falsify the results of tests to measure tar, nicotine and carbon monoxide levels in cigarette smoke emissions. This invisible ventilation system misleads smokers – and women in particular – who tend to ignore the real scope of the risks involved, the absorbed doses being far higher to those indicated (40).

Today, women continue to be specifically targeted by the industry’s harm reduction narrative associated with the presentation of their new products.

For the sake of their public image, manufacturers have – for years – sought to present themselves as progressive companies, allies of women’s causes, by financing various organisations (associations against violence to women, local and sports associations, etc) (41).

Facing a rapidly evolving legislative context banning the promotion of tobacco in France, the tobacco industry has set up indirect forms of promoting its products using marketing techniques such as product placement and placement in films and other cultural works. Packets, and cigarettes

themselves with refined designs, were for a long time the method of choice. Nowadays, new tobacco products partially covered by current regulations adopt the same marketing strategies, specifically targeting women.

Tobacco companies invest more and more into digital marketing to reach women, notably through networks of web influencers. The phenomenon does not exclude men, but remains nonetheless overwhelmingly feminine, with a predominance of female influencers (42).

Smoking among women has thus become a societal norm due to the high consumption levels. It has even become a desirable standard conveyed by the still favourable image of smoking among women.

The tobacco industry's responsibility is also reinforced by the steps manufacturers take with allies to counter public policies to reduce tobacco consumption in France, particularly among women. Manufacturers constantly work to prevent measures from being adopted, to weaken their scope and to delay their implementation (43). In addition, once in force, they continue to develop practices of circumvention or even deliberate violations of the provisions. Each year, tobacco manufacturers are thus condemned by the French courts for violating the provisions of the Public Health Code. These sentences concern in particular advertising methods targeting young girls (44).

II. Violation of women's rights and of France's international commitments

The behaviours of the tobacco industry that increase smoking prevalence and governmental inaction to reduce smoking constitute a violation of human rights and an obstacle to the Sustainable Development Goals. Reducing smoking, especially among women, is also an obligation for France by virtue of its international human rights and development commitments.

1. Violation of international human rights instruments – to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

Tobacco products are a violation of human rights because of their negative impact on the right to life, the right to health, the right to education and in particular the rights of children and women.

Tobacco prevents the fulfilment of the highest possible level of health that France committed itself constitutionally (45) to achieve national public policies, as well as within the framework of its responsibilities as a member state of the European Union (46).

Tobacco causes the violation of certain provisions of the Convention on the Elimination of All Forms of Discrimination Against Women – CEDAW.

Women are specific targets of tobacco manufacturers, which segment their consumers according to gender, age, social background etc. (47).

Moreover, a large proportion of women remain exposed to passive smoking at home and the workplace such as in the hospitality industry where compliance with smoking bans is often insufficient.

Likewise, methods to prevent access to tobacco products like prohibiting the sale to underage minors are not properly applied by tobacco retailers, especially in regard to young girls.

Finally, access to information and to healthcare services allocated to tobacco is often of poorer quality for the most precarious social categories where women are more represented (48).

Thus, as a whole, tobacco goes against several Convention CEDAW's articles including Art. 11 (1) (f) and Art. 11 (2) (d) as well as Art. 12(1) and Art. 14(2)(b).

2. International Covenant on Economic, Social and Cultural Rights (General Comment No 14 (2000))

The Committee on Economic, Social and Cultural Rights established in its General Comment 14 (49) adopted in 2000 (50), that *“failure to discourage production, marketing and consumption of tobacco”* constitutes a breach to the *“the obligation to protect”* under article 12 of the International Covenant on Economic, Social and Cultural Rights, ratified by France in 1980.

3. Violation of the Convention on the Rights of the Child (General Comment No 15)

General Comment 15 of the Committee on the Rights of the Child on *“the right of the child to the enjoyment of the highest attainable standard of health,”* article 24 of the Convention on the Rights of the Child that France ratified in 1990, noted that governments must implement and enforce the FCTC as part of their obligations to the Convention on the Rights of the Child (51-52).

4. France’s commitments to the Sustainable Development Goals and the Global Monitoring Framework for Non-Communicable Diseases

France is committed to the UN Sustainable Development Goals. (53 – 54) The reduction of tobacco consumption is particularly identified through Target 3.a, which urges countries to *“strengthen the implementation of the WHO Framework Convention on Tobacco Control.”*

The tobacco industry undermines not only women’s health, but also progress towards SDG Goal 5 to achieve gender equality and empower all women. Manufacturers are pursuing their promotional operations – even strengthening them – as a part of a strategy to win back markets and expand the offer for new products labelled as *“less risky”* and aimed particularly at women through the narrative of harm reduction when the health effects of such products remain little-known.

To rehabilitate their image and gain credibility, tobacco companies communicate through *“corporate social responsibility”* claiming concerns for their consumers’ health, protection of the environment and the promotion of gender equality.

In order to comply with Goal 5 of the Sustainable Development Goals tobacco companies must, at a minimum:

- Stop commercialising their products to women and stop presenting themselves as beneficial to society, when in France, the social cost of tobacco represents 156 billion euros per year (55).
- Cease their opposition to effective public health measures and respect their implementation
- Ban any promotion of the industry’s activities in relation to gender, as this conveys misconceptions on the real role of the tobacco industry and women’s health.
- Compensate victims for the harm caused by tobacco consumption.

Similarly, France is committed to the Global Non-Communicable Disease Action Plan adopted in May 2013 (56 – 57). This plan aims to reduce tobacco consumption by 30% among people aged 15 and over by 2025 (58 – 59). On the basis of the current data available on prevalence, this goal seems feasible for men, but not for women.

The objectives of the new Europe’s Beat Cancer Plan (60), and especially in France (61-62), are in line with the approach to reduce the burden of non-communicable diseases –cancer in particular. However, currently, 25% of women’s cancer deaths between the ages of 35 and 69 are due to tobacco; and the proportion of women’s cancers attributable to tobacco continues to worsen (63).

5. Violation of FCTC provisions

France ratified the World Health Organization Framework Convention on Tobacco Control (WHO FCTC) in 2004, which came into force in February 2005. The FCTC raises the alarm about increased smoking among women and the necessity to expand appropriate strategies accordingly, a concept recalled in the guiding principles of the treaty with article 4.2 (d).

Moreover, the FCTC makes explicit reference to the international text on the defence of human rights, and, in particular, to CEDAW, which provides that the *Parties to the Convention, including France, take all appropriate measures to eliminate the discriminations made against women in healthcare.*

The FCTC sets out best practices to reduce tobacco consumption, including among women, and to counter the practices of the tobacco industry.

The extent of smoking among women in France underlines the necessity for the country to fully apply the provisions of the FCTC and even go beyond, as specified in article 2.1, which states that *“In order to better protect human health, Parties are encouraged to implement measures beyond those required by this Convention and its protocols, and nothing in these instruments shall prevent a Party from imposing stricter requirements that are consistent with their provisions and are in accordance with international law.”*

III. Decreasing smoking among women: France’s legislation and provisions in force

1. Health and tobacco control in France

Today France, has a general strategy that includes smoking prevalence objectives: with the aim of reaching a target of 16% or lower of smokers in the 18-75 age group by 2027, and to achieve the first non-smoking generation by 2032, i.e. less than 5% of smokers among people born in 2014.

This policy was reaffirmed in February 2021 with the launch of the new cancer plan. The President of the Republic explicitly expressed the will for France to achieve a tobacco-free generation for people of 20 years of age by 2030 (67).

Over the past years, a series of measures for the fight against smoking have been implemented, and they are yielding positive results. They concern the entire population, but apply in particular to women.

- **Tax increase reflected on the price**
- **Plain tobacco packaging**
- **Mois Sans Tabac (tobacco-free Month)**
- **Reimbursement of tobacco dependency treatments**
- **The Protocol to Eliminate Illicit Trade in Tobacco Products of the FCTC**
- **Smoking Denormalization:**
- **European measures including the European Directive on Tobacco Products of 2014.**

The results of these policies are already perceptible.

The latest consumer surveys show an important general downward trend of smoking prevalence, through both smoking cessation and reduction of smoking initiation. Within 5 years, from 2014 to 2019, smoking decreased by 3.9 points and daily smoking by 4.5 points in the 18-75 age group. Among women, daily smoking decreased from 26.4% to 21.7% (70). This drop is attributable to the cut in tobacco consumption among the 18-50 age group.

Among underage people, consumer surveys show that tobacco experimentation among 17-year-old adolescents decreased between 2014 and 2017 from 68.4% to 59%, even though more young girls than boys experiment with these products: 59.9% compared with 58.1%.

For daily consumption, between 2014 and 2017, the overall prevalence at this age also declined: from 32.4% to 25.1%, with a 23.8% proportion for girls.

Other indicators also show a greater uptake of cessation assistance devices since the introduction of reimbursement schemes: in 2019 there was both an increase in regard to cessation attempts (+33%) and in the number of treatments covered by the health insurance system: +52% between 2018 and 2019 (71).

The latest surveys reveal that smoking is gaining an unfavourable image. Evaluation studies on certain measures, such as plain packaging have reinforced their effectiveness, principally in the perception for the dangers associated with these products (72).

2. Various protective provisions are still insufficiently respected and implemented

Despite a relatively comprehensive and robust legislation combined with a real political will, several provisions are still not adequately implemented, resulting in high smoking rates among women in France.

For example, the latest provisions adopted banning smoking in vehicles with a minor or in playgrounds in outdoors parks frequented by women have not been the subject of any communication, education or a real follow-up. There is no existing data about the effectiveness of these measures.

The execution of these protective measures even appears to be deteriorating, particularly in the hospitality and catering sectors, where passive smoking exposure via terraces transformed into verandas remains substantial. The issue of the illegal reintroduction of smoking areas in secondary education establishments is a problem, notably in professional schools frequented by socially less-advantaged groups with relatively higher levels of smoking.

The political will is not being matched by the application of controls.

This failure to implement is even more serious with regard to compliance with the ban on the sale of tobacco products to minors. This measure was first introduced in France in 2003 to protect the under 16 age-group and was extended to the under 18s in 2009. Although the municipal police have been empowered since 2016 to monitor compliance and issue fines, there is still no control enforced. In ten years, only three tobacconists in France have been sanctioned by a fine – and only after a lengthy legal procedure initiated by civil society. Lessons from the international literature reveal that the ban on the sale of tobacco products to minors is efficient only if it is enforced (73-74); the simple enactment of a law has had no impact on the smoking prevalence of young people. An assessment of the effectiveness of the measure was carried out in 2019 as part of a mystery shopper study on a representative sample of tobacco retailers. Two groups of minors, of 12 and 17, with an equal number of girls and boys, attempted to purchase cigarettes. The results show that approximately 10% of tobacconists agreed to sell cigarettes to children in the 12-year-old group, and two-thirds sold them to 17-year-old minors. When the minor was a girl, the frequency of sale was even higher. If the young buyer was a 17-year-old smoker, the sale took place 93% of the time.

When people who smoke (especially women) want to quit, the offer of medical support and the reimbursement for addiction treatment falls short of demand. Due to a lack of training, many health professionals lack capacity to take care of smokers. The specialised consultations created in hospitals in the form of a Tobacco Coordination Unit lack human resources. The government can do more.

3. A mechanism to apply, adapt and strengthen

Circumventing public measures is a common practice for tobacco companies. When the scope of prohibition is only partial, tobacco manufacturers strive to shift consumption from one product to another.

In addition to this, there is an important challenge for health authorities: that of countering the strategy of tobacco producer's deployment of new so-called harm reduction products. In order to maintain and develop sales and profit margins, the industry must get a maximum of teenagers, especially girls, addicted to nicotine. Because of the highly unfavourable image of its current traditional products, the industry has turned to the production of new so-called heated tobacco products. It has a three-fold objective: to dissuade smokers from stopping by changing the tobacco product, to attract a young and vulnerable audience to sustain the market and to renormalize tobacco consumption.

By maintaining that its products are now of "lower risk" and part of a harm reduction strategy, the industry seeks to come back to the decision table and exert influence to serves its own best interests which are exclusively financial – and not health – goals (75). This is essentially a cover-up of its new marketing strategy which targets young girls and women in particular (76).

The aim for the manufacturers is to ensure several entry points for nicotine addiction and to obtain favourable regulatory conditions for new products, such as vapes.

IV. Recommendations

The following recommendations consolidate the public policies that are making positive change on female smoking in France.

1. Monitor and improve measures to protect the right to health

Several FCTC provisions need to be better applied in order to strengthen effectiveness and efficiency.

For example, the ban on selling tobacco products to underage girls (Article 16 FCTC – Art. L. 3512-12 of the Public Health Code). A policy of tobacconist monitoring must be defined and implemented, and combined with the adoption of dissuasive sanctions, notably in the event of repeated illegal sales to minors. In addition to these financial penalties, licence withdrawal must be a consequence, and dedicated inspectors must be appointed and trained.

Furthermore, according to the provisions of Article 14 of FCTC, the guarantee to provide for healthcare in regard to the treatment of tobacco dependency by trained healthcare professionals should be ensured on a life-long basis and especially at certain sensitive periods, such as during pregnancy. In 2020, new recommendations were made about the clinical care of pregnant smokers (78). Whilst information on tobacco consumption and other addictions does appear on medical records, the prevention component – through the diffusion of key messages, self-questionnaires and other means – are not systematic. Efforts to co-ordinate screening and prevention actions in maternity hospitals are underway, but, according to health professionals, much improvement is needed.

The therapeutic arsenal available to healthcare professionals to help smokers to quit is similar for women and for men; it is mainly based on cessation counselling, motivational interviewing, behavioural support, cognitive behavioural therapy and drug treatments. To date, the overall therapeutic offer is still insufficient. For women, this offer could and must be systematically offered, during pregnancy, but also, for example, when prescribing contraception or assistance with conception and screening for breast or cervical cancer (79).

Frequent relapses are common during smoking cessation. They readily occur for women during a period of stress or weight gain. As such, it is necessary to improve smoking cessation-related care by integrating the psychological and dietary impacts in the overall treatment plan. France must implement reimbursement for consultations with a psychologist to be covered by the Assurance maladie, to contribute to the reinforcing cessation treatments.

Gaining weight is another major hurdle to stopping smoking, which is more prevalent among women. While nutritionist's consultations are already covered up to 70% by the Assurance maladie, this provision is still little used by doctors or tobacco specialists. It is imperative to valorise it in the eyes of the general public, as well as to the healthcare professionals, to render it an automatic step in attempts to stop smoking.

Finally, the French law regarding of the prohibition of advertising, sponsorship, and promotion in favour of tobacco (Article 13 FTCT – Art. L. 3512-4 and Art. L. 3512-4 of the Public Health Code) is comprehensive and the case law in this area supports the already existing legislation. However, manufacturers resort to means to circumvent the ban and pursue the promotion of their products and the normalisation of smoking particularly utilising cultural works. Films, by pursuing with product and behavioural placements, remain an important means of promoting tobacco in France - and beyond, with film exportation. French cinematographic creation is financed by the public authorities. While respecting the liberty of creation of the director, the obligations laid down in terms of prevention in

regard to the protection of the young should be further considered in terms of financing films and/or their classification and with the inclusion of obligatory warnings.

2. Complete the current protective mechanism to deal with the targeting of women by tobacco companies

The current cigarette manufacturers 'strategy involves marketing new tobacco products and the manipulation of harm reduction notion. The tobacco industry continues to target women and young girls.

It is, therefore, important to harmonise the existing legislation to all tobacco products and novel tobacco products, particularly taxing them and regulating their composition and their presentation according to the same rules that apply to combustible cigarettes.

In this perspective, various FCTC provisions particularly apply in terms of regulation of these new products:

- Relaunch of a strong tax policy and taxation of heated tobacco mini cigarettes, Heets, aligned on the taxation of manufactured cigarettes, (Article 6 FCTC – Art. 575 of General Tax Code) – this would delay initiation of consumption of such products by young girls,
- Strict application of the ban on smoking and on the consumption of these products in common areas in the workplace and more generally to all areas where smoking is prohibited (Article 8 – Art. L. 3512-8 of the Public Health Code),
- Application of the ban on attractive flavours – including menthol – for new products, as flavoured products are particularly popular among women and young girls (Article 9 – Art. L. 3512-16 of the Public Health Code),
- Extend to all tobacco products – including to new tobacco products – the regulation on labelling and packaging applied to manufactured cigarettes: large health warnings and plain packaging to no longer have the packet as a support for advertising. This recommendation applies to new tobacco products and all other tobacco products not yet concerned by the measure: cigarillos, cigars, shisha, ingredients etc. Additional messages – complementary to those already in force – should be designed with a more gendered view communication (Article 11 – Art. L. 3512-20 and 21 of the Public Health Code),
- Reminder of the ban on all tobacco advertising, including all new products and devices, which target women especially (Article 13 – Art. L. 3512-4 and Art. L.3512-5 of the Public Health Code),
- To control the supply chain of these products, establish a monitoring and tracking system of products, independent from the tobacco industry, that also applies to new products (Article 15 and WHO FCTC, Article 8 of the Protocol to eliminate illicit trade of tobacco products, Article 8 and Art. L. 3512-23-24-25 of Public the Health Code).

3. Pursue a general tobacco control strategy – including a component focused on smoking among women

Beyond the current tobacco control plan, a new tobacco control action plan with a view to achieving a tobacco-free generation in 2030 must be defined, in accordance with the FCTC provisions and best practices – and even go beyond this treaty on the basis of its article 2.1.

More specific targets for reducing the prevalence of female smoking must be set, refined by age categories, given the relatively specific profile of female smoking in France with age groups with increasing prevalence rates.

Similarly, more prevention messages better suited to women's attention and care must be integrated into this new plan. It is also necessary to push for gendered studies on smoking funded by the government in order to highlight the issue of gender disparities in smoking behaviour and tobacco exposure and better understand the interventions in cessation assistance tailored for women.

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