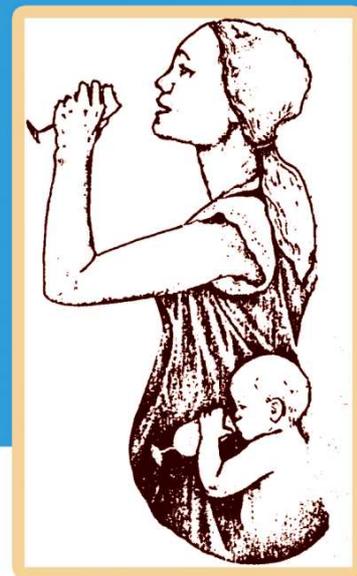
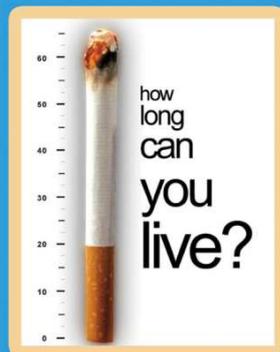




EXECUTIVE SUMMARY

Legal Aspects of Substance and Alcohol Abuse in Ethiopia

(A study conducted on behalf of the Ethiopian Public Health Association)



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Executive Summary

Substance abuse has long been recognized as one of the leading causes of human suffering and social turmoil in many parts of the world and history has shown that its control has for centuries, if not millennia, been a source of conflicts in many parts of the world. From a crime control perspective, the social and economic costs of drug abuse are quite immense. On the one hand, there is the harmful behavior that naturally follows consumption of such substances – the intoxication and addiction that, in certain circumstances, appear to encourage reckless and aggressive behavior. This in turn encourages circumventing the law by those involved in the illicit trafficking the drugs. Such crimes promote black market, violence among dealers, and the corruption of law enforcement officials. The theft and robbery committed by users to obtain money with which to buy the drugs are additional heavy burdens on the society. In societies where these conditions are common and well established, drug dealings are common, the criminals are more often heavily armed and open to violence more than they would be in other lines of work since they possess the motivation and the wherewithal for it. From another angle, studies have also proven that the fear generated by the armed struggle among drug dealers may encourage gun other citizens to acquire guns for self protection acquisition

among other residents, thereby nurturing the possibilities of crime, violence not to mention security problems associated with drug trafficking in terms of border conflicts between states, population displacements and transmigrations.

In realization of this fact, many governments have formulated policies and enacted laws that are meant to prohibit and to criminalize abuse of certain substances. The international community too has long recognized the harmful consequences of substance abuse and has adopted several policy and legal instruments to counter them. The three most important conventions adopted by the UN in this regard are: the 1961 Single Convention on Narcotic Drugs, the 1971 Convention on Psychotropic Substances and the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

Ethiopia is now a state party to these conventions. The African Union and its predecessor the Organization of African Unity had three five-year plans of agreed upon by members states in 1996, 2002 and 2007 with a view to combating the ever increasing threat of the drug problem in the continent. Although there were, it has to be some successes noted that overall implementation of these declarations and plans of action was impeded by political instability in some regions; resource constraints; absence of effective follow-up, monitoring and mobilization mechanisms; and inadequate institutional capacity.

In Ethiopia, even though there were laws and regulations during the imperial era for the control of narcotic drugs, the institutional capacity of the

government was not adequate enough to effectively address issue. In 1993 a National Drug Policy was adopted by the Transitional Government of Ethiopia, the first of its kind in the history of the Nation. A few years following the introduction of the National Drug Policy, the Federal Government enacted the Drug Administration and Control Proclamation No. 176/1999 that repealed all earlier laws on the subject. A semi-autonomous government regulatory body, known as the Drug Administration and Control Authority, was established with wide ranging powers and responsibilities. The law introduced a strict control regime on the manufacture and distribution of substances. Yet again, The Ethiopian Government did enact yet again a new law: the Food, Medicine and Health Care Administration and Control Proclamation No. 661/2009, that replaced Proclamation No. 176/1999. The need for a more stringent control and deter the illicit production, trafficking and use of narcotic drugs, psychotropic substances and precursor chemicals is espoused as one of the major policy reasons for enacting the new law. **Under the Country's Criminal Code of 2004, acts of producing, making, trafficking in or using poisonous or narcotic and psychotropic substances are described as crimes that entail severe penalty for contravention.**

Be that as it may however, research shows that there has been an increasing trend of substance abuse in the country over the past two few decades. On the contrary, there has not been developed appropriate and compatible provision of jurisprudence in our legal system that would help deter the current



upsurge in substance abuse and the alarming rise in *kchat* chewing in almost all parts of the country. New areas of *kchat* plantation have been on the rise over the past three decades so much so that even parts of the country in which *kchat* cultivation and chewing was virtually inexistent have now become important centers of production, distribution and consumption of this substance. The small town of Zenzelema, a few kilometers north of Bahir Dar, is a case in point. As may be expected, the youth is the most severely affected social group by the addiction to *kchat* . The growing number of substance related crimes that end up before the courts testify to this reality. Alleged cultivation and circulation of narcotic substance and drugs in some parts of the country such as Shashamene and around the capital, by both Ethiopians and foreigners, have long become common public topics. Yet one does not witness any meaningful and concerted national or regional effort to look the matter. Studies have also shown that there is no nationwide study done to assess the extent of the problem of substance abuse except some substantial ones attempts at some selected schools and communities. It is thus high time that due attention be given to the problem to lay down the required legal and institutional infrastructure to deal with it.

The situation in substance trafficking has also been aggravated in terms of trans-boundary movements. There are reports that disclose the increasing use of Addis Ababa Airport by international drug traffickers, and this has also been noted by the Government's security services. Police reports have it that several drug traffickers of foreign nationality have been apprehended at the Addis Ababa Airport. In two of the cases, the individuals arrested were carrying 3500 to 3800 grams of heroin. These reports have unveiled that

even the postal service was not immune from it: Dispatches of more than 100 kilograms of cannabis were discovered in the period between March 2008 and October 2010.

Similarly, it is common knowledge that the excessive consumption of alcohol is another social problem with considerable economic costs affecting many countries including ours. The World Health Assembly has also identified the abusive use and consumption of alcohol as the leading for diseases and disabilities in developing countries and the third in the developed ones. The bare facts are indicative of the fact that the harmful use of alcohol results in the death of 2.5 million people every year out of whom young people between 15–29 years of age account for 320,000 deaths. With a major impact on protection of public health, it is now ranked as the third leading risk factor for disease and disability in the world. Unlike the substances issue, however, we do not have an internationally integrated legal regime for the control of the undesirable consequences that stem from the use and/or abuse of alcohol. This deficiency of a culture of international control is thus the crux of the alcohol policy debate.

Hence, in Ethiopia, for example, in addition to the manufactured imported alcoholic beverages, there are domestically produced ones and, because they part takes as common knowledge that traditional home-produced beverages constitute part of the local culture part of the traditional culture, they are dealt with as being harmful so much. In fact, traditional beverages such as *tella*, *tej* and *ara'ke (katikala)* are produced in large quantities in many parts

of the country and are often made available for sale. These have for long been and continue to be important means of earning livelihoods for most single and landless women in the rural areas, not to mention the commercialization of these products in the urban centers of the country as genuine businesses. With the exception of some control having to do with business licensing and taxation in a limited way, no meaningful effort seems to have been made to bring this industry into the mainstream of alcohol regulation.



Statistical data on the use and abuse of alcohol in Ethiopia are also difficult to come by. This is mainly due to the fact that the making, distribution, sale and consumption of traditional alcoholic beverages, largely unaccounted for. The fact that a sizable proportion of the population decisively depends on the production and sale of alcohol in both the urban and rural calls for devising reliable alternative sources of income generation for these people in order to bring about meaningful results in the national endeavor to do away, or at least to substantially reduce, the ill effects associated with alcohol abuse. Several studies on Alcohol Policies in Africa have highlighted that alcohol consumption has been on the increase with the underage and young people of both sexes predominating. According to a recent WHO survey, several African countries have some of the highest levels of per capita alcohol consumption in the world when traditional beverages are included in the

estimates. The estimated proportion of deaths attributable to the practice shows the rate as being 2.1% in 2000 and 2.2% in 2002.

The connection between substance/alcohol abuse and crime is likewise one prime area that a meaningful study on the problem should look into. Police reports reveal that a substantial proportion of motor vehicle accidents are attributable to drunk-driving and the great majority of these accidents are caused by persons within the age bracket of eighteen and fifty, thus causing harm to the health and wellbeing of the most productive group of persons in the society. Yet, the new traffic regulations that prohibit drunk-driving do not carry provisions on maximum blood alcohol concentration (BAC) level and use of random breath testing (RBT).

A look at modern laws too reveals that the Ethiopian laws promulgated to date do not carry explicit provisions that are meant to criminalize drunkenness despite the fact that several laws and regulations have been enacted discouraging alcohol use. The existing Criminal Code does not criminalize state of drunkenness but there are provisions in it that criminalize certain behaviors associated with drinking. Though their implementation leaves much to be desired, laws on the working hours of bars and other beverage vending shops; and on licensing of manufacturers; was introduced during the imperial era. Moreover, regulatory norms provided that supervisors mandated by the pertinent government organs may, at any reasonable time, have access to and inspect any part of the factory premises and documents, including all books of accounts and records related to the production and disposal of alcoholic beverages.

Generally speaking, though, the current legal climate is not good enough to address this rising social problem.

Given the ever increasing reality of the excessive use of alcoholic beverages in the country, the current policy and legal environment has still got a long way to go to deter the practice if our commitment to this cause is to extend beyond mere avowal of words. Among a host of many others, laws should provide the infrastructure for alcohol education to our young; drunk-driving laws, if any, should be strictly enforced; drinking environments need to be clearly spelt out; standard drinks should be enumerated; national and enterprise policies on drinking in the work place should be adopted; and



mechanisms for protection of at-risk population groups such as young people, pregnant women, and those living with HIV/AIDS require to be devised. It is, therefore worthwhile for policies and laws to look into ways and means of clearly setting

the minimum legal age for alcohol consumption, the hours and dates for the sale of alcohol, restricting the number of alcohol outlets, effective control over alcohol advertising, prohibition or restriction of alcohol sale in pubs and taverns that are located in residential areas, and provision of treatment and support services for alcohol dependant persons. Current laws, if any, do not have much to give us on these and related problems. To date, no alcohol policy is adopted and the adequacy of existing laws to address the multi-faceted problems of alcohol abuse in the country leaves much to be desired. That is where the crux of the matter is – the need for a swift legal

and institutional infrastructure that would bring about meaningful results in the fight against the practice of alcohol abuse with all its ramifications.

Much also requires to be done from the regulatory perspective which is quite lax by international standards. There is no comprehensive policy for controlling the production or sale of alcoholic beverages; and no clearly spelt out laws and regulations on alcohol consumption in Government offices, health care establishments and schools. The beverage industry is free to sponsor public events including those catering for youth welfare and sporting activities. Nor is there any restriction on hours of sale, days of sale and places of outlet. No special license is needed for alcohol trade, only a general trade license which applies to all merchandise. Although advertising in electronic media is prohibited for beverages containing over 12% alcohol by volume, there is no restriction on advertisements of beer and wine. On the other hand, the print media is free to advertize any kind of alcoholic beverages. It is also possible to do the same on billboards.

Needless to state, a meaningful alcohol policy is one that addresses the multi-faceted relationship of alcohol with public health concerns and social welfare issues. It is thus a purposeful effort on the part of governments and non-government groups made with a view to preventing and/or minimizing the adverse consequences of alcohol consumption. In so doing, different policy options may be considered for the alleviation of the social and public health risks associated with undesirable alcohol consumption. The options need to take account of the effects of alcohol on the individual, the family

and the society at large with a combination of population and individual-based approaches. One should as well take note of the health and social determinants of alcohol use; the institutions available for the treatment of problem drinkers; the overall impact of the policy on the beverages and the entertainment industry; revenues the public treasury may be deprived of as a result of the policy; as well as the social and political dividends accruing there from. It is thus worth balancing the health and social risks of alcohol use on the one hand and the economic and commercial interests of groups that benefit from trade in alcohol and their ability to influence policies at the highest echelon of power, on the other. Alcohol policy development may involve a range of partners, each having separate functions and responsibilities. These partners include, among others, government and intergovernmental organizations, nongovernmental organizations and civil society, the private sector, public health specialists and health workers, researchers and academics, the media, consumers and religious establishments.

Though there are corners that have doubts on the efficacy of such moves, fixing higher prices and levying high rate of taxes are also good means of reducing the harm associated with alcohol in as much as they are important revenue sources to the public sector. Ethiopian laws have long recognized the two-faceted benefits of imposing a higher rate of tax on manufactured alcoholic beverages as the ones that are produced traditionally are almost out of their reach. These are the use of tax as a means of deterring excessive alcohol consumption and as an important source of public revenue. But since taxation has particularly limited impact in markets where much of the

alcohol produced and sold is noncommercial and thus outside the reach of government regulation we need to look into ways of limiting the harm resulting from this unregulated and noncommercial aspect of alcohol consumption.

Another area of consideration is that of placing the requirement of indicating



the health risks of alcoholic consumption on the labels, bottles and cans of such alcohol beverages. Some areas are also required to be alcohol-free by law and these, among others, include schools, hospitals, work places and places for the conduct of sporting events. These alcohol-free environments may be subject to regulations that specify complete or partial restriction of consumption of alcoholic beverages.

Prohibition and/or strict regulation of activities relating to advertising of alcohol and sponsorship of events by alcohol manufacturing and/or distribution companies are also used as instruments for portraying drinking as socially undesirable behavior since advertisements of alcoholic beverages are proved to have a tendency of recruiting new drinkers and exacerbating the drinking habits of those already involved. Still another policy measure is that of placing the requirement of indicating the health risks of alcoholic consumption on the labels, bottles and cans of such alcohol beverages. Some areas are also required to be alcohol-free by law and these, among others, include schools, hospitals, work places and places for the conduct of sporting events. These alcohol-free environments may be subject to

regulations that specify complete or partial restriction of consumption of alcoholic beverages.

A related area of concern to the substance–alcohol abuse issue is the problem that stems from tobacco consumption. Researches in most parts of the world show that tobacco use continues to be the leading preventable cause of death and disability among adults in the world today. About half of all persistent smokers both in developed and in developing nations die eventually of causes associated with tobacco use. With its multidimensional effects on the environment, trade, taxation, social policy, direct and indirect health care costs and labor relations, tobacco use also poses a big challenge to the economy and sustainable development. Tobacco is estimated to cost the world some 200 billion dollars annually in increased health–care costs.

To protect the public from the manifold harms that stem from tobacco use, therefore, our laws need to go a long way to stand the test of international standards. There is no law that prohibits or even puts some kind of restriction on smoking in public; no nationally adopted policies or laws in relation to smoking in work places; and no laws that protect secondary smokers from harms that may be caused by smokers in their surroundings. Even the newly proclaimed public health law does not have much to offer in this respect. Only the Broadcast Proclamation to a limited extent prohibits cigarettes and cigarette–related advertisements.

By way of general measures it is forwarded that implementation of the recently adopted Strategic Framework for Prevention and Control of Chronic

Non-Communicable Diseases 2011–2014 will largely fill in the lacuna in the fight against drug and alcohol abuse. These are:

1. Ratification and implementation of the Framework Convention on Tobacco;
2. Banning the advertisement of alcoholic drinks in public media, *sports fields and events*, and restricting the sale of alcohol around the school environment and to adolescents;
3. Regulation of the production and marketing of *khat*;
4. Ban the advertisement of *khat* and other addictive substances in public media, shops and markets, and restrict the sale and use of khat in the school environment;
5. Promotion of awareness about the health effects of substance abuse and misuse;
6. Improving access to sports, arts, cultural and other entertainment facilities at schools, work places and in the community, in order to improve healthy and productive lifestyle behaviors; and
7. Avoiding exposure to tobacco smoke, including second-hand smoke.

In a nutshell, it is time for all concerned to launch a concerted national effort to reduce the harmful consequences of substance and alcohol abuse as well as the use of tobacco, if not to fully do away with it. Relevant governmental institutions at the federal and state level need to conduct timely research and maintain appropriate data. Doing so would help the Government to design and implement



commensurate intervention mechanisms. Apart from support activities to be accorded to them from both domestic and international non-governmental organizations, civil society groupings and professional associations, sector ministries have likewise much role to play in this endeavor. The Ministry of Health and the newly reorganized FMHACA can gather and keep information about drug, alcohol and tobacco related health complications including deaths, and mental and physiological injuries. The Ministry of Labor and Social Affairs may discharge its mandate of gathering and recording annual data concerning related occupational health and safety hazards. Furthermore, the Ministry is required to live up to its expectations of keeping records of the number of persons falling victims of drug abuse; develop a comprehensive reporting system and database for work-related accidents and for diseases attributable to drug and alcohol abuse. Law enforcement organs including the judicial system, the Ministry of Justice, the Police and prisons administration should collect and record data of persons arrested for drug abuse related offenses, the punishment or other measures they received; seizures of articles made; and the resource deployed for the arrest, trial and correction of the offense. The traffic police should collect and keep data of persons arrested for traffic infractions related to drug and alcohol abuse, the number of lives lost and physical injuries and property damages sustained. The Ministry of Education can gather and keep a record of information on alcohol and substance abuse problems at universities and schools. The media has a significant contribution to make by launching concerted awareness creation exercise. Others such as the Ministry of Industry, the Ministry of Trade and the Revenues and Customs Authority can

come up with and keep a record of the amount of alcohol produced, imported and sold in the domestic market and the revenues generated, at least in the formal sector.

Taking note of the long-term dividend it and the Ethiopian society may reap from prevention and control of substance and alcohol abuse and the substantial reduction in the use of tobacco, the Government may also need to look for alternative sources of employment and income generation, both in terms of tax revenues and corporate profits, in order to do away with dependence on this sector.

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