

**A REVIEW OF THE LAWS REGULATING TOBACCO CULTIVATION AND
CONSUMPTION IN UGANDA**

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**A RESEARCH REPORT SUBMITTED TO THE SCHOOL OF LAW IN PARTIAL
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DECLARATIONS

I, **NIWAGIRA BRIGHT** hereby declare that this is my own original work and has not been submitted in any institution of learning for any academic award. The sources of all information referred to in this work have been appropriately acknowledged.

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APPROVAL

I hereby certify that this research work was carried out by **NIWAGIRA BRIGHT**, Registration Number **LLB/36109/113/DU** a student of the Kampala international University under my supervision in partial fulfillment of the requirements for the award of the Bachelor of Laws Degree of Kampala International University and is hereby approved accordingly.

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ACRONYMS

ARI-	Acute Respiratory Infections
GYTS –	Global Youth Tobacco Survey
NCDs -	Non-communicable Diseases
NEMA –	National Environment Authority
TC –	Tobacco Control
TI-	Tobacco Industry
UDHS –	Uganda Demographic Health Survey
WHO-FCTC –	World Health Organization Framework Convention on Tobacco Control
BATU -	British American Tobacco – Uganda
CFI -	Certificate of Financial Implication
CSO -	Civil Society Organisation
CTCA -	Centre for Tobacco Control in Africa
DEO -	District Environment Officer
DHI -	District Health Inspector
DHO -	District Health Officer
FCA -	Framework Convention Alliance
FCTC -	Framework Convention on Tobacco Control
JLOS -	Justice Law and Order Sector
KI -	Key Informant
NEMA -	National Environmental Management Authority
POS -	Points of sale
TAPS -	Tobacco Advertising, Promotion and Sponsorship
UNTCA -	Uganda National Tobacco Control Association
WHO -	World Health Organization
UTCA	Shadow Report on Monitoring

ABSTRACT

Uganda ratified the World Health Organization's Framework Convention on Tobacco Control (WHO FCTC) in June 2007, and passed the Tobacco Control Act (2015) in September 2015 in compliance with (WHOFCTC) which requires signatories to pass local legislations aimed at controlling tobacco use in their states. Tobacco Control Act, 2015 is the primary law regulating tobacco cultivation and use in Uganda. However, there are some existing laws that lend limited support to tobacco control efforts, but these have not been effective. For example: The 1995 Constitution of the Republic of Uganda, under article 39 that provides for a right to a clean and health environment, The National Environment Act 1996, in section 58(1), The Public Health Act (1964), section 13(a) and section 13(b), The National Environment (control of smoking in public places) Regulations 2004, Occupational Safety and Health Act, 2006, Uganda standards 313; 2002 among others. Despite the existence of some tobacco control related laws and smoke free regulations, enforcement has remained the biggest challenge for agencies mandated to bring them to bear. There is very little awareness among the general Ugandan public of the existence of these laws, but even more worryingly, amongst statutory bodies such as the Judiciary, District authorities and the Ugandan Police Force. Some owners of public places do display 'No Smoking' signs on their premises, but this is only as far as they are willing to go. The tobacco industry in Uganda continues to advertise, promote and sponsor activities aimed at increasing demand for tobacco products especially amongst the youth. The Global Youth Tobacco Survey (GYTS, 2007) indicates that overall 15.6% of 13- 15 year old students have smoked cigarettes. The rate among boys that have used tobacco is significantly higher (19.2%) than among girls (11.2%). There are, however, some gains noted as tobacco advertising is less explicit than it was previously. For instance, there are virtually no billboards advertising tobacco products, although Point of Sale (POS) violations do stand out prominently. The findings of this report on Uganda's compliance with the FCTC with specific regard to Articles 8 and 13 on "protection from exposure to second-hand smoke" and "tobacco advertising promotion and sponsorship (TAPS)" respectively, suggests that there are glaring gaps in the implementation of the Convention that Uganda ratified in June 2007.

CHAPTER ONE

1.0 Introduction

1.1 Background of the study

Tobacco use is the leading cause of preventable death in the world and Causes more death than HIV/AIDS, Malaria, TB, maternal mortality, homicides and accidents combined. In the 20thcentury 100 Million died; 1 billion will die in 21stcentury¹

Globally tobacco use is responsible for about 6 million deaths every year, or one death every six seconds, and mostly in low and middle income countries, (WHO) estimates that 600,000 (10%) die every day due to exposure to tobacco smoke, Overall tobacco related disease contribute to 1 out of 10 adult deaths

By 2030, death toll will rise to 10 million per year and 70% occurring in 3rdworld countries like Uganda

Tobacco use and exposure to tobacco smoke causes diseases including respiratory infections and cancers such as oral, lung cancers and throat cancers. According to WHO, about 6 million people die to tobacco use, and In Africa, there are about 400 adult deaths due to tobacco smoke every hour of every day, Tobacco use imposes enormous public health and financial costs to African countries, costs that are completely avoidable, It happens in Uganda too

Swiftly, tobacco became a leading cash crop of Uganda and even after Uganda attained her independence, tobacco continued to be ranked number four on the list of Uganda's major foreign exchange earners only after the likes of coffee, cotton and tea. Most of this time, tobacco was mainly grown in North Western Uganda but these plantations have since spread to some parts of South Western Uganda in the districts of Kanungu and areas of Kabale².

¹ Action on Smoking and Health (ASH) (2008) BAT's African foot prints. (Retrieved 1st September 2016 from http://w.ash.org.uk/files/documents/ASH_685.pdf)

² Griffith G, Welch C, Cardone A, Valdomoro A, JC(2008) The Global Momentum for smoke-free public places best practices in current and forthcoming smoke-free policies Salud Publica Max, 2008. 50 suppl 3: S299-S308

Tobacco growing in Uganda took a major hit in the late 1970s and early 1980s due to the political insecurity just like many other agricultural and economic activities. It took the direct intervention of British American Tobacco Limited to resurrect the industry. It was not long before the company was purchasing approximately 16 million kilos of tobacco annually from local Ugandan farmers to feed mostly tobacco factories in over 20 countries in Europe, Asia and America at a devastating cost to Uganda's environmental state.

As the industry grew, new players followed suit such as the Leaf Tobacco & Commodities (U) Ltd and the Continental Tobacco Uganda (CTU) Ltd which is a subsidiary of Mastermind Tobacco Kenya (MTK) Ltd.

Fast forward, due to high taxes and other factors, the British American Tobacco Uganda limited 'was forced to set up its Jinja based tobacco-processing factory in 1928.

It is believed that tobacco was first discovered by the Native Americans who started using it for medicinal and cultural purposes. During their explorations, European explorers soon landed on tobacco and that is how it found its way to Europe, Middle East and thereafter the rest of the world. Today, tobacco is widely used around the world not for medicinal purposes but for recreation at a devastating cost on innocent lives.

This high death rate mostly amongst the working-age adults has devastating socio-economic ramifications on our communities. It has increased the number of orphans and vulnerable children, early death and loss of productivity which have directly contributed to strengthening of the circle of poverty, unnecessarily ballooned our health budget which remains largely overstretched and negatively impacting on key national development priorities.

On realizing this, in 1988, the 31st of May was marked as the World No Tobacco Day in efforts to encourage a tobacco-free world. It is now an annual event.

The National Environment (Control of Smoking in Public Places) Regulations 2004 prohibit tobacco smoking in public places in Uganda. The Tobacco Control Act, 2015 strengthen this ban

by extending it to areas where there are children and young people under the age of 21 and to any outdoor place where children are.³

The overall objective is “to protect people in both the present and future from the devastating health, social, economic and environmental consequences of exposure to tobacco smoke”, and ensure the country fulfills its obligations under the World Health Organization (WHO) Framework Convention on Tobacco Control.

Under the tobacco control act 2015, section 14 places a comprehensive ban on all advertising, promotion and sponsorships, including the tobacco industry’s contributions to, and publicity of, so-called social corporate responsibility activities. A Tobacco Control Committee is proposed under Section 5 of the Act, to implement and develop tobacco control policies among others.

The major gaps in the tobacco control Act relate to the fact that it concentrates on the exposure relating to smoking, and is silent on the exposure through farming, handling and processing of tobacco, and to other forms of tobacco use, including chewing, sniffing and leaking of tobacco and tobacco derivatives.

Within the tobacco growing communities, the practice of consuming unprocessed tobacco is a major concern, and tobacco exposure is an even bigger problem for HIV-affected people, largely due to its association with tuberculosis, the biggest killer of HIV-positive people.

The industry continues to engage in advertising campaigns through indirect advertising such as product launches, corporate social responsibility initiatives, branding, cigarette price increase adverts in local media, cigarette branded vehicles etc to recruit new and young customers; children as young as six continue to have uncontrolled access to purchasing a stick of cigarettes at the nearest kiosk.

³ The World Health Organization. *TB and HIV* <http://www.who.int/hiv/topics/tb/en/>, 10th November 2016.

1.4 Statement of the Problem

The Uganda Tobacco Growers Association (UTGA) has been very vocal against the UTCB, recently petitioning the Ugandan Government to withdraw key clauses in the Tobacco Control Act 2015. In an appeal to the Ugandan Parliament signed by over 5,000 farmers, the UTGA stated “We have not experienced the exaggerated negative effects of tobacco growing,” and went on to request the clause in the Tobacco Control Act 2015 that prohibits voluntary contributions, incentives or privileges that promote tobacco business in Uganda

The Centre for Tobacco Control in Africa estimated that 13,500 Ugandans die every year from smoking-related causes.⁴ The results of the first ever Global Adult Tobacco Survey in Uganda, released 4 July 2014, revealed that 1.3 million adults currently use tobacco products.⁵ The survey also concluded: 73% of 20-34 year-old males who had ever smoked daily began smoking before they were 20; only one out of every two (56.4%) Ugandans believed that smoking causes stroke, heart attack, and lung cancer; Four out of ten smokers had made an attempt to quit in the past year. According to the Global Youth Tobacco Survey 2011, 19.3% of male youth and 15.8% of female youth (ages 13-15) currently use tobacco products.⁶ Dr. Sheila Ndyabangi, the Ministry of Health’s representative for tobacco control, stated that 19% of secondary school students and 35% of tertiary school students smoke.⁷ The study therefore seeks a review of the laws regulating tobacco cultivation and consumption in Uganda.

1.5 Objectives of the study

The main objectives of the study have been broken down into general and specific objectives.

⁴ Uganda National Tobacco Control Association, Shadow Report on the Status of Implementation of the World Health Organization Framework Convention on Tobacco Control (WHO-FCTC) Articles 8 and 13 in Uganda 2012, May 2013

⁵ Global Adult Tobacco Survey, Global Adult Tobacco Survey: Executive Summary 2013, Uganda, 4 July 2016, accessed June 2016

⁶ Global Youth Tobacco Survey, [nccd.cdc.gov/gtssdata/Ancillary/DownloadAttachment.aspx?ID=1175 Uganda 2011 Ages 13-15 Global Youth Tobacco Survey Fact Sheet], 2016, accessed June 2016

⁷ New Vision, MPs Start Scrutinizing the Tobacco Control Bill 2014, 10 March 2016, accessed June 2016

1.5.1 General Objective

The general objective of this study was to critically review the laws regulating tobacco cultivation and consumption in Uganda

1.5.2 Specific Objectives

The specific objectives of the study included the following:-

1. Tracing the evolution of the tobacco cultivation and consumption in Uganda.
2. Examining the legal law framework regarding tobacco cultivation and consumption in Uganda.
3. Critically analyzing the application of the laws and review their effect on regulating tobacco cultivation and consumption in Uganda
4. Suggesting a revision of the laws governing tobacco cultivation and consumption in Uganda

1.7 Significance of the study

The study enabled the researcher to analyze the existing laws governing the tobacco cultivation and consumption in Uganda.

1.8 Scope of the Study

The study focused on laws regulating Tobacco cultivation and consumption in Uganda

1.9 Literature Review

Already in existence in Uganda is the Tobacco (Control and Marketing) Act Cap 35 and the National Tobacco Corporation Act Cap 316, which came into force in 1967 and 1978, respectively. However, these laws are now regarded to be outdated, especially in light of the recent global and local developments in tobacco production, consumption and control. Furthermore, the minimum requirements stipulated by the WHO FCTC (such as protecting passive smokers, dictating the packaging and labeling of tobacco products) are not reflected in the Tobacco (Control and Marketing) Act Cap 35. It is therefore envisaged that the Tobacco Control Act 2015 which provides for a wider scope and enforcement mechanisms, strengthen the

enforcement of the National Environmental (Control of Smoking in Public Places) Regulations 2004, which primarily focus on the prohibition of smoking in public places.

Summary of the objectives of the Tobacco Control Act 2015

The ACT seeks to protect the present and future generations from the devastating health, social, economic and environmental consequences of tobacco use and exposure; give effect to the obligations Uganda has undertaken to protect her people against tobacco-related harms; promote health and other human rights as a Party to the WHO FCTC and other related treaties; and regulate the manufacture, sale, labeling, promotion, advertising, distribution and public use of tobacco products as well as sponsorship of tobacco products.

Scope of the Tobacco control act 2015

The Act covers a range of issues in respect to tobacco control. This includes: creating an oversight mechanism under Clauses 3 to 9; prohibition of smoking in public places, work places and public transport under Clause 11; banning advertisement and promotion of tobacco products under Clause 14; placing restrictions on the sale and display of tobacco products under Clause 16; introduction of specific packaging and labeling requirements under Clause 15; prohibition on supply of tobacco products to minors under Clause 17.

POSITIVE ASPECTS OF THE ACT

The UHRC welcomes the efforts made towards enactment this Act in order to bring Uganda in line with its international obligations as per the WHO FCTC. The Act seeks to enhance public health by reducing the consumption of tobacco and exposure to tobacco smoke. The Act could primarily contribute to the realisation of the right of every Ugandan to the enjoyment of the highest attainable physical and mental health as stipulated under Article 12 of the International Covenant on Economic, Social and Cultural Rights (CESCR). In addition, the Act further seeks to protect the right to a clean and healthy environment as stipulated under Article 39 of 1995 constitution of Uganda.

Establishment of oversight and enforcement mechanisms

The Act provides for the establishment of mechanisms such as the Tobacco Control Committee;⁸ appointment of authorized officers, establishment of the public health officer, environmental inspectors, standards inspector and customs officers, all as authorized officers, The mechanisms highlighted would ensure effective monitoring and implementation of the Act and compliance with its requirements. This is in line with Article 5(2) (a) of the WHO FCTC that requires State parties to take measures to establish or reinforce and finance a national coordinating mechanism or focal points of tobacco control.

Restriction of Sale and display of Tobacco products

Under Clause 16 (1) of the Act, a person is prevented from selling or buying any tobacco products in the public places specified in the fourth schedule, which include hospitals, health and education institutions, public transport places, terminal stations and public vehicles, among others. The clause further restricts the display of tobacco products at points of sale, other than being visible momentarily at the time of sales transaction.⁹ The sale and display of tobacco products especially in public places amounts to advertising and promoting tobacco use, which would increase accessibility of the tobacco products especially to those tobacco users who would wish to quit and the children/youth that are vulnerable to promotional effects of product display.¹⁰ Furthermore, Clause 16 (5) of the Act prohibits the sale of single cigarettes in line with Article 16 (3) of the WHO FCTC, which would reduce accessibility and affordability of the tobacco products.

Right to a tobacco smoke free environment

Clause 11 of the Act provides that everyone has a right to a tobacco smoke free environment. It further places a duty on a tobacco product consumer to ensure that he/she does not expose another person to tobacco smoke. This clause is reflective and recognisant to, Article 9 (1) of the

⁸ Centres for Disease Control and Prevention ; 'Smoking and Tobacco use' available at www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/

⁹ Article 8 of the WHO FCTC provides for protection from tobacco smoke and Article 11 looks at packaging and labeling tobacco products Clause 3(3)

¹⁰ Ibid

WHO FCTC, which identifies scientific evidence as having unequivocally established the fact that exposure to tobacco smoke causes disease, disability and death.

This clause directly relates to the right to a clean and healthy environment, which is guaranteed under Article 12 (2) (b) of the International Covenant on Economic Social and Cultural Rights (CESCR),¹¹ Article 24 of the African Charter on Human and Peoples' Rights (ACHPR) and Article 39 of the 1995 Constitution of Uganda. This clause is further in line with the provisions of Article 18 of the WHO FCTC, which urges State parties to ensure the health of persons in relation to the environment. The right to a clean and healthy environment interlinks with various human rights such as the right to life,¹² which would be violated due to exposure to tobacco and tobacco smoke; the right to health¹³ which recognizes good health as a key component of a fulfilled life that extends beyond one's individual physical and mental well being, to societal and environmental conditions.¹⁴ Article 9 of the WHO FCTC notes that there is scientific evidence which shows that exposure to tobacco will lead to diseases. Therefore, creation of a right to a tobacco free environment is in line with the State's duty to protect the right to life, the right to health and the right to a clean and healthy environment.

Prohibiting of smoking in public places, work places and on means of public transport

Clause 12 of the Act prohibits smoking in public places, places of work and in any means of public transport. This clause seeks to reduce the exposure to second hand smoking of non-smoking individuals, given the dangers of second hand smoke. According to WHO, the tobacco epidemic kills nearly six million people per year, of which 600,000 deaths are as a result of non smokers being exposed to second hand smoke.

¹¹ UN Committee on ESCR stated in General Comment 14 that the right to a healthy environment includes among others the prevention and reduction of population exposure to harmful substances.

¹² Article 22 (1) of the 1995 Constitution of Uganda and Article 6 of ICCPR

¹³ Objectives XIV of the National Objectives and Direct Principles of State Policy of the 1995 Constitution of Uganda; Article 12 of the ICESCR.

¹⁴ C. Dresler & S. Marks; "The Emerging Human Control to Tobacco Control" ; Human Rights Quarterly, Volume 28 , 2006; the Project Muse.

Packaging and labeling

Clause 15 of the Act requires that all tobacco products shall be packaged and labeled in accordance with the regulations issued by the line Minister but must include health warnings and messages. In addition, the clause requires that all labeling or packaging done is not false and misleading. This clause therefore seeks to enhance public awareness by ensuring that those who wish to consume tobacco products are fully aware of the health risks that are associated with tobacco consumption. The clause also ensures that the potential tobacco consumers are armed with accurate information regarding tobacco products and their health consequences.

Comprehensive ban on tobacco advertising, promotion and sponsorship

Clause 14 of the Act provides that all forms, methods or means of advertising, promotion and sponsorship of tobacco products are banned.¹⁵ This is in line with Article 13 of the WHO FCTC. A 1999 World Bank Report stated that:

*“... policy makers who are interested in controlling tobacco need to know whether cigarette advertising and promotion affect consumption. The answer is that they almost certainly do. The key conclusion is that bans on advertising and promotion prove effective, but only if they are comprehensive, covering all media and all uses of brand names and logos.”*¹⁶

A related study of the data from 22 countries concluded that “tobacco advertising increases tobacco consumption. The empirical research also shows that comprehensive advertising bans can reduce tobacco consumption, but that a limited set of advertising bans will have little or no effect. A limited set of advertising bans will not reduce the total level of advertising expenditure but instead will simply result in substitution through the remaining non-banned media. When more of the remaining media are eliminated, the options for substitution are therefore also eliminated.”¹⁷ Accordingly, for a tobacco-advertising ban to be effective, it must cover all media

¹⁵ Section 14 of the Tobacco control Act 2015

¹⁶ World Bank Report, ‘Curbing the Epidemic Governments and the Economics of Tobacco Control’ 1999, p. 49.

¹⁷ H. Saffer & F. Chaloupka, ‘The effect of tobacco advertising bans on tobacco consumption’ Journal of Health Economics 19(2000) 1117-1137.

and all forms of promotion. If it is only partial, then promotions will merely shift from the banned to the unbanned media and methods of promotion.

Although counter arguments have been put up stating that a comprehensive ban on tobacco advertising, promotion and sponsorship would result in the violation of the freedom of commercial speech and expression¹⁸ as well as socio-economic and intellectual property rights, it should be pointed that these rights/freedoms are not absolute.¹⁹ Under Article 43 of the 1995 Constitution, limitations can be placed upon such rights if they prejudice public interest (or in this case, public health); and they are therefore acceptable and justifiable in a democratic society.

Protection of minors

Clause 17(1) of the Act seeks to protect minors from cultivation, harvesting, growing, curing, manufacturing, importing, distributing and selling tobacco. In addition, Clause 17(2) prohibits a person from importing and manufacturing for, or distributing and selling to, a minor a tobacco product. However, the main focus of the said clause is principally on tobacco production and particularly, on the employment of children as laborers to grow tobacco and produce tobacco products. The International Labour Organisation (ILO) describes '*harzardous child labour*' to involve '*work that is performed by children in dangerous unhealthy conditions that can lead to a child being killed, injured or made ill as a result of poor safety and health standards or environmental conditions.*'²⁰

In Uganda, 25% of children between 5 to 17 years are engaged in child labour, with 51% of these children doing work that exposes them to health hazards, including handling pesticides, carrying heavy loads, and using adult tools that can be dangerous for them. The highest percentage of child labourers (34%) is under the age of 12.²¹

¹⁸ Article 29(1) (a) of the 1995 Constitution of Uganda.

¹⁹ O. A. Cabrera & L.O. Gostin, 'Human Rights and the Framework Convention on Tobacco Control: mutually enforcing system' International Journal of Law in Context, 7,3 Cambridge University Press, p. 295.

²⁰ ILO Convention 182 on the Worst Forms of Child Labour.

²¹ <http://www.eclt.org/project-countries/uganda/> Eliminating Child Labour in Tobacco Growing in Uganda (ECLT) Foundation.

Insulation of public health policies from commercial and other vested interests of the Tobacco industry

The Act under Clauses 20 to 23 restricts the interactions of the tobacco industry with Government agents/institutions that are involved in the formulation, implementation, administration, and enforcement or monitoring of public health policies on tobacco control. This provision is also provided for under Article 5(3) of the WHO FCTC as a protection measure to help prevent conflict of interest and undue interference during occupational activities. This provision will therefore ensure that such interactions with the tobacco industry are only strictly necessary under transparent and accountable circumstances. There is no doubt that partnerships, payments, gifts, contributions or incentives solicited for, or offered by, the tobacco businesses to government institutions, officials or employees can create conflicts of interest.

Prohibition from smoking within 50 meters from a public place and work place

As previously stated, the UHRC welcomes the prohibition of smoking in public places, work places and means of public transport as provided for in the Act under section 12 which is aimed at obtaining a smoke free environment and reducing the exposure of individuals to second hand smoke. In addition, such prohibition is in line with the provisions of WHO FCTC as stipulated in Article 8..

UHRC is concerned with the rationale of requiring smokers to stand at least 50 meters away from a public building before they can smoke. A thorough perusal through the WHO FCTC and its guidelines for implementation reveals that smokers are not necessarily required to stand any distance away from public buildings or places. There is therefore no universal requirement for smokers to be a certain distance from a public building or public place before they can smoke; and the issue for consideration should therefore be what would be considered to be reasonable in this regard without necessarily exposing others to second hand smoke or negatively affecting public health.²²

²² Section 33 of the Kenyan Tobacco Control Act 2007 simply states that smoking in public areas is prohibited. There is no provision stipulating how far a smoker should stand from a public building before they can smoke. The

- *The distance of 50 meters from a public building should be reviewed and brought in line with Article 8 (2) of the WHO FCTC and consultation should be done with health professionals to determine the most reasonable minimum distance.*

Composition and Funding of Tobacco Control Committee

Clause 3 of the Act establishes a Tobacco Control Committee (hereinafter the Committee) with its functions laid out in Clause 5 of the Act. Clause 8 further provides that the Committee shall have a secretariat. Concerns have been raised over the practicality and financial implications of coordinating and operating a large Committee comprised of 19 members. There are proposals for the strengthening and reinforcing the National Tobacco Control Focal Point within the Ministry of Health to take on the functions of the proposed Tobacco Control Committee as a 'more practical and cost effective manner of implementing the tobacco control programs and policies as opposed to creating a whole new committee.

Although the UHRC agrees that the membership of the Committee is large, it is of the view that the establishment of a multi sectoral Committee²³ with representatives from selected Government sectors and the civil society is necessary especially since their mandates pertain to tobacco control, production and consumption. Furthermore, due to its multi sectoral nature, the Office of the Prime Minister is best suited as the Chairperson to coordinate the Committee.

I therefore recommend that:

- *The number of members of the Committee to be reduced from 19 to only include key representatives from the Government Sector (whose participation shall be funded by the line ministries) and the civil society;*
- *The Committee should be chaired by representative from the Office of the Prime Minister as suggested in Clause 3 (2) (a) of the Act; and*

Smoke Free Environment Act 2013 of Australia states one must be 4 meters from the entrance of public building before they can smoke. In Alberta Canada, the law provides that one has to be 5 meters away from the doorways of public buildings before they can smoke. In California, USA, one cannot smoke within 6 meters of a public building.

²³ Article 5 (2) of the WHO FCTC.

- *The establishment of a Tobacco Fund with its sources of funds indicated to cater for activities such as research, documentation and dissemination of information on tobacco and tobacco products and to promote national cessation and rehabilitation programmes.*

Price and tax measures to reduce the demand of tobacco

Article 6 of the WHO FCTC provides that price and tax measures are an effective way to reduce tobacco consumption especially among the youth. The Act however does not provide for any specific price and tax measures that should be put in place to deter tobacco consumption especially among the vulnerable groups such as the youth. There is no duty imposed, for instance, on the Ministry of Finance to implement the relevant tax policies and where appropriate price policies on tobacco products.²⁴

I therefore recommend that:

- *The Bill should contain a provision that places a duty on Ministry of Finance to implement tax policies and where appropriate price policies on tobacco products.*

Labeling and Packaging

As noted already, I welcome the mandatory labeling and packaging requirements that will enhance the potential consumer's knowledge of the risks associated with tobacco products. Clause 15 (2) of the Act requires that the pictures and texts comprising the health warnings and messages shall appear together and shall occupy no less than 65% Article 11 (1) (b) (ii) of the WHO FCTC requires that the health warnings should cover at least 50% of the display area.

The Tobacco Control Act 2015 imposes 65% display cover, which is 15% above the standard WHO FCTC requirement. At 50%, the writings and pictorials containing the health warnings would cover half the unit and as such, would be clearly visible and prominent to all.

I therefore recommend *the 50% display cover for health warnings as stipulated in Article 11 of WHO FCTC is sufficient enough.*

²⁴ Section 12 of the Kenya Tobacco Product Act 2007 provide for implementation of tax and price policies where appropriate on tobacco and tobacco products

Education and public awareness

The UHRC noted that the Bill does not provide specifically for public awareness, education and training in respect to Tobacco Control. Article 12 WHO FCTC is clear in this respect, and requires State parties to implement measures including legislative, that ensure access to educational and public awareness programs as a key element in the endeavors for the realisation of decline in tobacco consumption.

'Article 12 (1) of International Covenant on Economic, Social and Cultural Rights provides for the right to highest attainable standard of physical and mental health, which is one of the main rights that this Bill seeks to protect. The UN Committee on Economic Social and Cultural rights in interpreting Article 12 stated that the right to health is an inclusive right, including access to a health related education and information²⁵. The Committee further stated that the right to health must encompass information accessibility which includes the right to seek, receive and impart information and ideas.

In addition to this, in interpreting Article 12 (2) (c) which requires States to prevent, treat and control diseases, the UN Committee on Economic Social and Cultural rights stated that the States should establish prevention and education programmes for behavior-related health concerns, which certainly applies to the health risks of using tobacco products.²⁶ However, the Bill has no provisions relating to the need for educational information or training in respect to tobacco control, which is a minimum requirement stipulated in Article 12 of WHO FCTC. Similarly, there are no provisions in the Bill or a national policy that provides for preventive educational programs yet, education on the health risks of tobacco consumption is an obligation of State parties to the CESCR according to the General Comment 14 interpretation of the Article 12 (2) (c), as explained above.²⁷

I therefore recommend that:

²⁵ UN Committee on ESCR General Comment 14, para 15.

²⁶ Article 5 (2) of the WHO FCTC.

²⁷ Section 9 of the Kenya Tobacco Control Act 2007 provides for comprehensive public awareness, education and information campaigns.

- *The development of national initiatives and programmes for public awareness, education, training, information and communication that relate to tobacco control should be provided for in the Act to bring it in line with Article 12 of WHO FCTC; and*
- *A national policy be developed to comprehensively provide for public awareness, education, training, information and communication that relates to tobacco control.*

1.10 Research Limitation

The researcher encountered a number of limitations in the course of undertaking research. The limitations include shortage of research materials carried out on the topic.

Time was yet another limitation encountered in the course of carrying out the research. This is coupled with the fact that the research had to be carried out during weekends because I had no time during weekdays.

1.11 Methodology

Walking tour observations were conducted, group discussions held and desk research executed to generate data for this report.

The walking tours were conducted during the months of June and July 2015, in three selected major cities in Uganda, namely: Kampala Capital City, in the central region, Gulu town, in the northern region, and Kanungu town, in the western region. In each of the three selected towns, ten strategic streets were sampled for assessment of Tobacco Advertising, Promotion and Sponsorship. In each of the selected streets we looked out for Points of Sale (POS) and outdoor bill board advertising.

A data collection workshop organized by Uganda National Tobacco Control Association (UNTCA) whereby focus group discussions were held with representatives of key tobacco control stakeholders, these included: CSO's active in Tobacco Control, members of selected media houses and representatives from the Uganda Police. The workshop also involved presentations by Key Informants (KI) in Tobacco control.

The purpose of this workshop was to share and collect views on articles 8 and 13 of the FCTC. Desk research and literature review was conducted on Article 8 and 13 with regard to Uganda's

compliance to the FCTC. Journal publications (Pub Med, Tobacco Control), press articles, reports such as Global Youth Tobacco Survey (GYTS), and WHO reports among others contributed to the content of this report.

In Article 8 of the FCTC, Parties recognize that scientific evidence has unequivocally established that exposure to tobacco smoke causes death, disease and disability. It also states that each Party, including Uganda, is required to adopt and implement effective legislative, executive, administrative and/or other measures, providing for protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places.

The WHO FCTC Guidelines for implementation of Article 8 further recommend that countries enact and enforce 100% smoke-free environments. There is no safe level of exposure to tobacco smoke and notions such as a threshold value for toxicity from second-hand smoke should be rejected as they are contradicted by scientific evidence. Approaches other than 100% smoke free environments, including ventilation, air filtration and the use of designated smoking areas (whether with separate ventilation systems or not), have repeatedly been shown to be ineffective and there is conclusive evidence, scientific and otherwise, that engineering approaches do not protect against exposure to tobacco smoke.

1.15.1 STUDY AREA

The researcher looked at areas of Kanungu where tobacco is cultivated and Kampala where tobacco consumption is rampant.

1.15.2 Type of Data

The study involved the use of both primary and secondary data. The primary data was used in order to acquire first hand information. The secondary data was used to relate the information that was obtained on the ground with the already existing information on the problem under investigation.

1.16.0 Chapterisation

The research report/dissertation divided into different chapters each dealing with particular chapter. There are five chapters as indicated below.

1.16.1 Chapter one

1.16.2 Chapter Two

This Chapter traced the origin of tobacco cultivation and use in Uganda.

1.16.3 Chapter Three

This chapter critically analyzed the review of laws regulating tobacco cultivation and consumption and their role in the settlement of disputes.

1.16.4 Chapter Four

This chapter contains the research findings, the effectiveness of laws regulating tobacco cultivation and consumption and whether they have done their work or failed in delivering their work.

1.16.5 Chapter Five

This chapter dealt with the, recommendations and wrapped and concluded the research work in relation to laws regulating tobacco cultivation and consumption in Uganda.

1.17 Research Questions

The following are the questions that were answered by the study.

1. What is the evolution of the tobacco cultivation and consumption in Uganda?
2. What is the legal law framework regarding tobacco cultivation and consumption in Uganda?
3. Critically analyzed the application of the laws and reviewed how these laws have regulated tobacco cultivation and consumption in Uganda.

CHAPTER TWO

THE ORIGIN OF TOBACCO CULTIVATION AND USE IN UGANDA

2.1 Introduction

2.2 Tobacco consumption

Current estimates of tobacco smoking rates stand at 49% for males and 8% for females in low- and middle-income countries, and 37% for males and 21% for females in high-income countries. Tobacco smoking is the single most preventable cause of death in the world today. It kills more than 5 million people per year, with more than 80% of those deaths occurring in the developing world. In Uganda, the prevalence of smoking among adults is approximately 17% but can range from 15% to 26% depending on the region²⁸.

In Ntwetwe sub county, the survey found that tobacco is largely consumed through smoking, mostly by the youth. Unprocessed tobacco is also consumed, because it is readily available. It is rolled and smoked directly, chewed as leaves, leaked as ash or ground and sniffed. Tobacco consumption in its different forms has several implications:

Tobacco farming communities have higher exposure to tobacco during cultivation, harvesting, drying and marketing. Since tobacco farming engages entire households, exposing everyone in the household to the odor from tobacco leaves. This suggests that people living with HIV, who tend to have compromised immunity, may be at a higher health risk given that they are in an environment where they cannot avoid tobacco.

Tobacco use is one of the leading preventable causes of disease and death in the world, estimated to kill 6 million people annually compared to 3 million annual deaths due to HIV AIDS.²⁹ The World Health Organization (WHO) estimates that tobacco's death toll will be 10 million, 70% of these in the developing countries as the tobacco industry is steadily relocating to the poor South

²⁸ Muwanga-Bayego H, Tobacco growing in Uganda: the environment and women pay the price. *Tobacco Control*, 1994; 3.

²⁹ Guindon E, Boxcar D., *Past, current and future trends in tobacco use. HNP Discussion Paper, Economics of Tobacco Control Paper*, No.6, Geneva, WHO/World Bank, 2003

due to tighter regulation in the developed countries³⁰. According to the World Health Organization tobacco use prevalence in Africa was 29% in males and 7% in females in 2000. In addition, there were 200,000 tobacco-related deaths³¹. Africa's tobacco related fatalities are expected to rise because its countries are projected to experience some of the highest increases in the rate of tobacco use amongst developing countries. Moreover, Africa has one of the world's weakest tobacco regulatory and policy frameworks. Africa's tobacco related figures are consistent with the model of the smoking epidemic based on evidence from countries with longest history of tobacco use, which describe evolution of cigarette smoking and the subsequent mortality. Africa is in stage 1, where health consequences are not yet apparent on a large scale and fewer women than men have taken up the habit. Many of tobacco's future victims are today's children because tobacco use is initiated in adolescence and continues through adulthood as a result of addiction to the habit. This is a major challenge in African countries where the majority of the population is under 18 years. The increasing tobacco related disease burden thus represents an enormous challenge and drain on the continent's impoverished public health services already grappling with severe health challenges that include the twin burdens of HIV/AIDS and Malaria. Uganda has ratified the World Health Organisation Framework Convention on Tobacco Control (WHO FCTC); the world's first public health treaty on tobacco control. The WHO FCTC urges countries to develop action plans for public policies, such as bans on direct and indirect tobacco advertising, tobacco tax and price increases, promoting smoke-free public places and workplace.

2.2 Distribution of tobacco seed.

The commissioner shall cause to be distributed to growers through such persons as he or she shall authorise in writing tobacco seed for the purpose of planting.

³⁰ Guindon, E, Boxcar D., *Past, current and future trends in tobacco use. HNP Discussion Paper, Economics of Tobacco Control Paper*, No.6, Geneva, WHO/World Bank, 2003

³¹ WHO, *The World Health Report 2002: Reducing risks, promoting health life*, Geneva, World Health Organisation, 2002.

No person, other than a person authorised by the commissioner in writing, may distribute tobacco seed to any grower for the purpose of planting.

No person, except with the permission in writing of the commissioner, shall plant tobacco seed which has not been distributed by or on behalf of the commissioner in a growing area.

A grower shall receive tobacco seed from the person authorised by the commissioner in such quantities as the person distributing the seed may determine in proportion to the acreage for which he or she has been registered.

Tobacco seed distributed under the provisions of this section shall be distributed free of cost to the grower unless the Minister otherwise directs.

Nothing in this section shall apply to any tobacco seed which is grown for domestic consumption.

2.3 Declaration of markets.

(1) The Minister may, by statutory instrument, establish tobacco markets within a growing area for the buying and selling of tobacco from or by a grower.

No grower shall sell tobacco to a buyer and no buyer shall buy tobacco from a grower at any place other than at a tobacco market declared under subsection (1).

Subject to section 8(1) and (4), nothing in this section shall be construed as affecting the rights of a cooperative union or a cooperative society to collect tobacco grown by its members within a growing area in which it operates

Any person who willfully obstructs an inspecting officer acting in the due execution of his or her duties; buys or takes delivery of tobacco from a grower other than in a buying season; buys tobacco from a grower other than at a tobacco market; or being a person not authorised by the commissioner distributes tobacco seed, other than tobacco seed exempted by the commissioner, to any person within a growing area, commits an offence and is liable on conviction for each offence to a fine not exceeding one hundred and fifty pounds.

(5) Any person who plants tobacco seed in a growing area without the commissioner's authority; fails to destroy diseased tobacco plants or seeds when required to do so by the commissioner under section 6 fails to comply with any regulation made by the Minister under this Act; being an unregistered grower grows tobacco for sale in a growing area.

2.4 Regulations.

(1) The Minister may, by statutory instrument, make regulations for all matters which by this Act are required or permitted to be prescribed and for the proper carrying out or giving effect to the provisions of this Act.

(2) Without derogating from the generality of subsection (1), the Minister may make regulations—regulating the production of tobacco, including the acreage a grower may plant; prescribing the method by which growers may be registered, the method by which tobacco seed may be dressed, stored and distributed, the time and places for growing and harvesting tobacco and the manner and place where tobacco may be stored; prohibiting the storage of substance or articles other than tobacco in any place in which tobacco is stored; governing the marketing of tobacco or the specifications to which tobacco shall conform; prescribing the method by which tobacco shall be cured and the grades into which it shall be graded;

(f) prescribing the manner in which buying shall be conducted, any records which buyers shall be required to keep and the manner in which those records shall be submitted, the submission of returns by buyers, and the notice or notices to be displayed by persons buying or otherwise dealing with tobacco;

(g) Providing for the payment and collection of fess;

(h) providing for the appointment of inspecting officers, the inspection of tobacco, the submission of samples of tobacco and the manner in which such samples should be taken; (i) prescribing the type or types of containers that may be used for tobacco when it is being weighed and the manner of use of those containers; (j) prescribing the amount of tobacco which may be weighed at any one time and the types of persons who may weigh tobacco; (k) prescribing the forms of application for and the form of any licences required under this Act and the fees to be charged for any licence to be issued under this Act; (l) prescribing anything required by this Act to be prescribed.

CHAPTER THREE

3.0 THE REVIEW OF LAWS REGULATING TOBACCO CULTIVATION AND CONSUMPTION AND THEIR ROLE IN THE SETTLEMENT OF DISPUTES.

Introduction

July 2015, the Parliament of Uganda passed its new Tobacco Control Law after long negotiations and engagements with relevant stakeholders. The law requires 100% smoke-free public places, including a ban of smoking within a distance of 50 meters of any public place. The ban covers cigarettes sticks, shisha, electronic cigarettes and chewing tobacco.

In addition, no sales of tobacco products are permitted within 50 meters of educational and health institutions, cinemas, police stations, prisons or other places where children are cared for. The law under section 14 of the tobacco control act 2015 also introduces a comprehensive ban on tobacco advertising, promotion and sponsorship and requires that cigarette packs “shall not prominently display” at point of sale.

Further, it calls for pictorial health warnings covering 65 percent of all display areas. Tobacco products are not to be sold to any person under the age of 21 and duty free tobacco products will no longer be available for sale.

The law prescribes imprisonment to the government officials who are involved in the formulation of public health policies for tobacco control if they interact with the tobacco industry contrary to Article 5.3 of the WHO FCTC and the related implementation guidelines.

Proving causation of disease by smoking would be particularly challenging in Uganda because of difficulty in tracing the necessary personal medical records of claimants. The paucity of data makes it difficult to bring suits against the tobacco industry to recover costs of treating tobacco-related illnesses. It is unclear whether the Ugandan government has the political will to sue tobacco companies. Furthermore, Uganda does not have a federalist political system to facilitate this type of litigation. However, in Nigeria the Federal government and three state governments,

inspired by the USA, are suing British American Tobacco, Philip Morris International and International Tobacco Limited for costs of treating smoking-related diseases. These cases demonstrate to Uganda and the rest of Africa the evidential value of incriminating internal tobacco industry documents, the potential (via media coverage) for public education on tobacco control and the importance of international collaboration in supporting product liability litigation.

Modest progress in FCTC implementation in Africa with many countries having legislation or policies on the protection from exposure to tobacco smoke, however, only a handful of countries meet the standards of the FCTC Article 8 and its Guidelines particularly with regards to designated smoking areas. Little progress on packaging and labeling of tobacco products, with few countries having legislation meeting the minimum standards of the FCTC Article 11 and its Guidelines. Mauritius is the only African country with graphic or pictorial health warnings in place and has the largest warning labels in Africa. On the policy of packaging and labeling of tobacco products section 15 Slightly better progress in banning tobacco advertising, promotion and sponsorship has been shown by African countries, although the majority of legislation falls short of the standards of the FCTC Article 13 and its Guidelines. Despite their efforts, African countries' FCTC implementation at national level has not matched the strong regional commitment demonstrated during the FCTC treaty negotiations.

Tobacco, which is not an indigenous crop, has been grown in Uganda since the 1920s, having been introduced during British colonial rule. Since independence in 1962, tobacco has been one of the oldest export crops for Uganda. By 2006, it was cultivated in about 22 districts of Uganda, which are amongst the poorest and most food insecure.

The tobacco industry in Uganda is dominated by British American Tobacco Uganda (BATU), which has about 80% market share. Tobacco products are widely available and openly sold in supermarkets, small retail shops, markets, kiosks, liquor stores and by roadside vendors.

The industry also controls the crop farming system in Uganda through provision of inputs for tobacco growing, such as seeds and fertilizers, construction of kilns (through loans) and deducts such monies from the farmers when they sell their tobacco leaf. Because of the domination of BATU in monopolistic market conditions, farmers only have access to one principal buyer for

their products. Due to the lack of competition, and hence unfavorable prices, tobacco farmers operate in a form of bondage to tobacco companies while the industry reaps huge profits (Musoke D, 2008).

Although tobacco is not a priority crop in Uganda, the government levies tax on tobacco products to generate public funds, rather than as a public health strategy, hence disregarding public health concerns associated with tobacco use. The tax revenue accruing from tobacco is only about 1% of the total tax revenue (excise taxes, VAT and customs duty) (UBOS, 2009; URA 2011).

Currently, Uganda is largely a tobacco leaf exporter. Hence most of the tobacco products consumed are imported. Imports of manufactured tobacco products have increased by about 112% from 2006 to 2010 and contribute to about 0.3% of the total import bill of Uganda. Substantial profits derived from tobacco business benefit the industry at the expense of the farmers who only sell the leaf in its raw form.

A study conducted by Tayebwa in 2011 shows that tobacco growing districts are among the most food insecure, malnourished and impoverished. A lot of time is spent on tobacco related activities and less time is devoted to food production. It should be noted that some tobacco growing districts, which have alternative cash/food crops, are not as food insecure as those which solely rely on tobacco (Tayebwa, 2011). It has been estimated that tobacco growing requires 3000 hours of labor per hectare per year compared to beans, which requires 298 hours and maize, which requires 265 hours (Varashim VM et al, 2004). This implies that ten times more labor effort is needed on a hectare of tobacco than a hectare of maize or beans.

Tobacco farming requires vast acreages of land to be cleared of natural forests. In addition, curing of tobacco consumes a lot of firewood. These practices have led to the destruction of the environment with detrimental effects on bio diversity. Tobacco is a heavy feeder crop requiring constant application of fertilizers and herbicides, leading to contamination of soils, ground water and degradation of biodiversity (Tayebwa, 2011).

Child labour is common in tobacco growing areas. Children work on family farms from a very early age, which disrupts their education (WHO, 2004).

The Global Youth Tobacco Survey (GYTS 2002) found out that 47.3% of children live in homes where others smoke in their presence and 66.9% are around others who smoke in places outside their home. It also reported that about 7 out of 10 students were in favor of a ban on smoking in public places. Most students who were current smokers expressed a desire to stop smoking: 80.7% for Arua, 77.9% for Kampala and 76.8% for the rest of the Central Districts and almost similar numbers attempted to stop smoking but failed. Furthermore, 80.6% of students, over three

In Article 8 of the FCTC, Parties recognize that scientific evidence has unequivocally established that exposure to tobacco smoke causes death, disease and disability. It also states that each Party, including Uganda, is required to adopt and implement effective legislative, executive, administrative and/or other measures, providing for protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places.

The WHO FCTC Guidelines for implementation of Article 8 further recommend that countries enact and enforce 100% smoke-free environments. There is no safe level of exposure to tobacco smoke and notions such as a threshold value for toxicity from second-hand smoke should be rejected as they are contradicted by scientific evidence. Approaches other than 100% smoke free environments, including ventilation, air filtration and the use of designated smoking areas (whether with separate ventilation systems or not), have repeatedly been shown to be ineffective and there is conclusive evidence, scientific and otherwise, that engineering approaches do not protect against exposure to tobacco smoke.

3.1 Existing legal and Policy Framework in Uganda

The existing legal framework that regulates tobacco cultivation and consumption in Uganda.

1. National Environment (Control of smoking in public place) regulations 2004.

The regulations ban smoking in 'public places', which are defined as public transport, bars, restaurants, airports, among others. Owners of public places in Uganda are mandated to erect 'No Smoking' signs on their premises. The mandate of enforcing the regulations on smoke free places is placed on local governments.

The regulations are not fully FCTC-compliant and were enacted prior to Uganda's ratification of the FCTC in 2007. The 2004 regulations provide for 'smoking areas' in fully enclosed areas and 'non- smoking areas'. The law was enacted from a solely environmental health perspective by the Uganda National Environmental Management Authority (NEMA) after a court order.

According to Jackie Tumwine (2011), Uganda's smoke-free legislation was a result of a public interest litigation provided for under Article 50 of the 1995 Constitution of Uganda, which states that any individual or organization (whether aggrieved or not) is given leave to bring an action against the violation of another person's or group's human right. The High Court held that smoking in public places violated the rights of non-smoking members of the public and ordered NEMA to put in place regulations banning smoking in public places.

2. Tobacco regulations (313)2002 require that a single text –only health warning appear on cigarette packs only without any specifications for size. The Tobacco control act 2015 requires the minister of health to issue new regulations on health warnings, however these regulations have not been issued by the ministry to date, and therefore the requirements of US313 are still in effect.

3. The tobacco control act 2015 is the primary law in Uganda regulating tobacco products and tobacco use and regulates restrictions on smoking in public places, advertising, promotion and sponsorship of tobacco products, measures to protect against tobacco industry interference and tobacco packaging and labeling measures among others.

Enforcement of Article 8 in Uganda, Uganda has existing regulations against exposure to second hand tobacco smoke and Smoking is banned in all indoor workplaces and public places but they are not fully enforced. Uganda's smoke- free regulations do not meet the FCTC standard the regulations mandate The National Environment Management Authority (NEMA) and the local

government authorities to enforce the regulations. At the district level, enforcement is under the supervision of the District Environment Officer (DEO), the District Health Officer (DHO)

Article 8, UNTCA Shadow Report on Monitoring WHO-FCTC implementation in Uganda, 2012 Uganda National Tobacco Control Association and his District Health Inspector (DHI) and other officers. Local councils have the power to grant and revoke the licenses of facilities in the hospitality sector but these powers seem unutilized since there is no known record of their application. Local governments are empowered by the regulations to pass smoke-free byelaws declaring smoking or non-smoking areas in their districts. Districts are oblivious to this mandate even when the Local Governments Act of 1998 empowers them with byelaw legislative powers. There appear several competing development priorities as a result of a low appreciation of the public health, environment and development dimensions of tobacco use among their constituents.

The regulations seem unpopular amongst the public considering the widespread abuse and records indicate that no one has been tried in court for breach of the control of public smoking regulations since their enactment in 2004.

The national police commissioned an environmental police unit, which has an enforcement mandate for these regulations, but they have limited resources, both human and financial, to enforce these regulations.

In some places 'no smoking signs' exist as required by the regulations and in other places they are not very visible or are placed in non-descript areas instead of 'prominent' areas as required by law.

Passing of the draft Tobacco Control Act (2015), which is an FCTC-compliant law, is a key instrument for enforcing the ban on smoking in public places as it clearly defines the phenomenon of smoking in public places and proposes penalties for offenders and an enforcement regime.

There is a need for extensive media campaigns and mobilization of all sectors of the public to increase awareness and education on the dangers of environmental smoke in order to develop a sense of civic vigilance that will demand for smoke-free environments. Smoke-free legislation

should be emphasized while involving public sector implementing agencies, such as the Environmental Police Unit, the

Justice Law and Order Sector (JLOS) and District local governments who are mandated to enforce the laws.

There is a need to strengthen the Ugandan public sector monitoring and regulatory mechanism for Tobacco control by giving it autonomy, visibility and increasing the levels of available funding .

Civil Society activism and advocacy to enforce smoke -free places needs to be strengthened through capacity building on a multidimensional scale, including participation by a wider range of stakeholders.

Article 13 of (FCTC) and section 14 of the tobacco control act 2015 places a comprehensive ban on Tobacco Advertising, Promotion and Sponsorship

The FCTC recognizes that a comprehensive ban on tobacco advertising, promotion and sponsorship (TAPS) would reduce the consumption of tobacco products. It therefore calls on countries to undertake a comprehensive ban of all tobacco advertising, promotion and sponsorships, including a ban on cross-border advertising originating from their territory, Uganda answered the call in 2015 when it passed the tobacco control act in 2015 and incorporated article 13 of the FCTC in section 14 of the act.

3.3 Enforcement of TAPS in Uganda

The tobacco industry in Uganda continues to advertise, promote and sponsor activities aimed at increasing demand for tobacco products in direct contravention of the ministerial directive of 1995.

This report compiled shows considerable pictorial evidence of outdoor advertising in the form of posters, branded sign posts, company vehicles and buildings in the sampled districts of Kampala, Mbarara and Gulu.

Under section 26 of the tobacco control act 2015 states that; (1) that the minister shall appoint a person or class of persons to be authorized officers for the purpose of enforcing the provisions of

this act. Although the laws have been put in black and white, the main challenge remains the enforcement of these laws, during my research especially around Kampala where tobacco use is rampant, I have not seen any enforcement officer enforcing these laws

3.4 Point of Sale Violations

The findings of this report suggest strongly, that Point of Sale violations (POS) are very widespread in Uganda. In all three towns sampled of Kampala, Gulu and Kanungu, Point of Sale violations were abundant at super markets, kiosks and stalls, bars, gas stations and several other establishments categorized as 'public places'. The violations are in the form of posters, umbrella shades, branded display cases and branded tobacco company vehicles.

3.5 Advertising, Sponsorship and promotional events³²

The Ugandan tobacco industry is using promotional events including nightclubs among others to market brands.

BATU has also been reported to engage in advertising through promotional events in a published study in the industry journal (Tobacco Journal, 2007). In 2006, BATU launched 'Dunhill' cigarette brand at a promotional event at Munyonyo Speke Resort.

Earlier in 2000, a BATU competition dubbed 'Think and win' was arranged where anyone, including children, who picked five sticks of the 'Embassy' cigarette brand could enter a draw for a luxury holiday in South Africa. Other events are community based where by Tobacco products are displayed at a temporary point of sale in places like trading centers around the suburbs of the city; below is a picture showing such an event.

In 2007, the tobacco industry journal World Tobacco reported that BAT Uganda 'is aggressive in the promotion and marketing of its products including through widespread advertising and competitions in the press' (ASH, 2008).

³² Section 14 of the Tobacco control Act 2015

The same journal also reported that BAT Uganda uses Corporate Social Responsibility to market its products such as its sponsorship of a Jua Kali exhibition in 2006 as a means to 'deflect criticism and avoid unwanted regulation'. Such sponsorships attract press coverage, and target young clients as they get a chance to meet local celebrities (ASH, 2008)

The Bloomberg news service has reported on BAT Uganda's advertising of its tree planting scheme of 2.5 million trees for curing through newspaper advertisements.

BATU is adept at using media reports filed by business reporters in the mainstream media as a way these photos were taken in September 2012 in front of Kabalagala Market, a city suburb in Kampala. The tobacco industry erected a tent and displayed their products clearly for the public to see, including children. They also used loud speakers to indiscriminately call members of the public to take a look at their display and buy the products of indirect advertising. News reports of BATU's corporate social responsibility schemes are widely reported in the media disguised as ordinary news reporting. BATU recently helped build a maternity ward in Hoima district Hospital attracting widespread press coverage.

Billboard Advertising³³

During the data collection process in the towns of Kampala, Kanungu and Gulu, and in the sampled streets, bill board advertising was not seen. The tobacco industry in Uganda conducts self regulation on TAPS and there is no direct advertising on bill boards and in the media.

However there are other innovative tactics the industry uses including advertising in new media such as the internet and social media and indirect advertising through engineered news paper articles, brand stretching and 'corporate social responsibility' as shown.

Most media outlets in Uganda are privately owned, such as FM radio stations, making enforcement of

TAPS difficult as their commercial interests compromise this.

Advertising in the entertainment industry in Uganda through local songs, like Shisha by Ragga Dee, soap operas, such as the Hostel and television shows are alternative approaches of the

³³ Section 14 of the Tobacco control Act 2015

industry to avoid TAPS as it reaches out to its target audience of young people. There is no clear law banning such new media, nor elaborate monitoring mechanisms to check such approaches.

Article 1(c) defines “tobacco advertising and promotion” as “any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly”. Article 1(g) defines “tobacco sponsorship” as “any form of contribution to any event, activity or individual with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly”.

1. Advertising through display of tobacco brands at display points in hotels, social meeting places and on ash trays.
2. Promotion programmes such as brand stretching where different non-tobacco products such as umbrellas, torches and graph books are branded with tobacco company insignia as shown below;
3. Sponsorship through financing community based projects using construction as in the cases of a Hoima hospital wing and tree planting charity walk campaigns.

Therefore there is a need to enforce the provisions of section 14 of the tobacco control act such that these types of advertising are curbed down and the government must find ways in which members of the public can respond to breaches of these laws.

Comprehensive tobacco control laws are effective in creating a total ban on TAPS. The CSOs and Government have a major role to play in meeting this end. Their combined efforts support the struggle to sanction the self regulating tobacco industry with the help of strong public education and community awareness programmes.

Creation of appropriate monitoring mechanisms such as a centre for TAPS, as provided for by Article 13, would allow for a unified front for all stakeholders to participate in monitoring and evaluating exercises that hold the tobacco industry accountable for their conduct, in relation to TAPS policies. This centre would also to be tasked with keeping up to date with new methods

and trends, including technologies, used by the tobacco industry to promote their products such as using social media and viral adverts on You Tube, Twitter and Facebook as illustrated.

Law enforcement agencies must be trained and well funded to deal with practical enforcement of the FCTC guidelines which most of the environment police are currently not aware of, preferring to only deal with issues such as land disputes or noise pollution. This will involve basic training of the police and other legally mandated enforcement agencies to protect the public from all tobacco related offences, especially TAPS which encourages more people to smoke; leading to higher rates of cancer due to increased consumption of carcinogens.

Community policing should be encouraged as this has seen positive results in countries such as Malaysia with their policy of, “everything works.” Under this policy, citizens’ work with police to enforce the law since most of the population know their rights and are well conversant with the law on tobacco smoking and the hazards of second hand smoking.

Alternately, using a system of good-will ambassadors, such as celebrities or political figures, to act as faces for the campaign in favor of tobacco control as a public platform can also produce effective results.

They can focus on specific issues that are relevant to tobacco control and associated hazards, such as: control reducing maternal and child mortality rates and number of cancer cases. Politicians come with media attention and political influence to help push the agenda of tobacco control since they represent the will of the entire populace.

3.5 Milestones

Uganda has made some achievements as far as the implementation of Article 8 and 13 of the FCTC are concerned, as noted below:

1. Articles 39 of The Constitution of the Republic of Uganda 1995 provides for a right to a clean and healthy environment.
2. There also exists The National Environment (Smoking in public places) Regulations 2004 - although these have been poorly enforced.

3. Uganda signed and ratified the WHO FCTC in 2005, 2007 respectively and is in the process of domesticating this treaty.
4. Billboard advertising of Tobacco products in Uganda has largely declined due to self-regulation by the industry and there are no visible violations on Ugandan roads.
5. The biggest of all has been the passing of the tobacco control bill into law last year in September which among others provides (a) a right to tobacco smoke-free environment provided under section 11, (b) prohibition of smoking in public places, workplaces and means of public transport provided under section 12, (c) display of notices under section 13, (d) prohibition of the supply of tobacco and tobacco products to and by minors provided under section 17 among others as already seen above.

3.6 Challenges

In the implementation of FCTC in Uganda, the government faces a number of challenges that include but not limited to:

1. Limited specialized personnel in government to enforce the laws regulating tobacco cultivation and use in Uganda.
2. There are high levels of ignorance among the general Ugandan public, Government and Judiciary on the existence of tobacco control laws. Government has failed to sensitize the public on the different laws and regulations that have already been put in place including the National Environment (Control of Smoking in Public Places) Regulations 2004.
3. Lack of adequate funding to facilitate raising awareness at community level and enforcement of the tobacco control policies, It is notable that the government does not consider health issues as a key priority in its National agenda. Tobacco Control receives no support funding neither does the tobacco control focal office within the Ministry of Health.
4. A fragmented approach and lack of coordination among CSOs in tackling tobacco control has made it hard for CSOs to be able to monitor and evaluate tobacco based activities, which is a key tool in tobacco control as stipulated in Article 13 of the FCTC at national, district and sub county level.

3.7 Conclusion

In general, the Tobacco Control Tobacco Control Act 2015, commendably seeks to domesticate Uganda's obligations under the WHO FCTC, in order to protect the present and future generations from the devastating health, social, economic and environmental consequences of tobacco consumption. However, the Tobacco Control Act 2015 does not ban the sale, purchase, marketing or growing of tobacco. Its purpose is to regulate the consumption of tobacco products and exposure to tobacco smoke, through the inclusion of measures like restrictions on the sale and display of tobacco products; prohibition of smoking in public places and provision for the relevant oversight and enforcement mechanisms. There are however, some human rights concerns in the Tobacco Control Act 2015. For instance, the definition of a minor, the 50 meters radius rule, lack of provision for price and tax measures, lack of measures for public awareness, cessation of tobacco use and viable economic alternative options that need to be addressed in order for the Tobacco Control Act 2015 to be good law.

CHAPTER FOUR

4.0 RESEARCH FINDINGS, THE EFFECTIVENESS OF LAWS REGULATING TOBACCO CULTIVATION AND CONSUMPTION AND WHETHER THEY HAVE DONE THEIR WORK OR FAILED IN DELIVERING THEIR WORK.

4.1 Introduction

The research work unearthed a number of facts concerning the application of the doctrine in Uganda. The doctrine generates mixed reactions and divides the public into two different categories with one group being against its application and the other in favour of it.

4.2 Research Findings

Tobacco Burden/Prevalence in Uganda

In Uganda, about 13,500 people die every year due to tobacco related illnesses 75% of all patients with oral cancers reported in Mulago hospital in 2008 had a history of tobacco smoking. NEMA 1998, reported acute respiratory infections (ARI) as 2nd leading cause of infant visits to health centers as result of exposure to tobacco smoke

UDHS 2006 estimated that 22% males and 4% female adults are habitual smokers,

GYTS 2010 stated that 15% of boys and 13% of girls in secondary schools start smoking annually

Exposure to tobacco smoke remains one of the four main behavioral risk factors that contribute to NCDs, WHO global status report on NCDs 2011

Tobacco takes an enormous toll in health care costs, loss of productivity

Inflicts pain and suffering on smokers, passive smokers, and often the unseen silent victims and their families

Despite the existing National Environment (Control of Smoking in Public Places) Regulations of 2004, which prohibits tobacco smoking in public places, it is still being abused, there is limited enforcement and interventions being pursued by the relevant authorities to enforce the citizens' right to a clean and health environment provided under Article 39 of the 1995 Constitution of the Republic of Uganda,

Millions of Cigarette butts which have less organic fibers and residually release toxins into the environment are still discarded and littered everywhere

The Burden of Tobacco on Poverty

In 2010; Uganda had high household expenditure of Ushs 357 billion spent on tobacco products, which was more than government budget for health of Ushs 310 billion. Money spent on tobacco use crowds out expenditure on other necessary items of expenditure

Tobacco being a heavy feeder crop requires constant applications of fertilizers.

- Controlled by tobacco industry. They often dictate how much to pay to farmers.
- Tobacco growing areas are among the poorest in Uganda
- Tobacco is extremely labour intensive –3000 hrs per hectare as against 298 and 265 for beans and maize;
- Child labour is common in tobacco farming contributing low levels of education

Loss in Productivity

- Cost of loss in productivity is twice the amount spent on medical treatment.
- Current Studies at Uganda Cancer Institute (UCI) indicate expenditure of > 3 USD on a cancer patient, while Tobacco Industry contributes <1.0 USD
- 75% of cancer patients have a history of tobacco interaction
- 15-20% tobacco dependents among drug addicts young people/youth (15-35)

Factors contributing to the burden

- Accessibility –anyone can access
- Affordability –anyone can afford to buy
- Lack of enforcement mechanisms
- Low levels of awareness among the general public
- Lack of alternative livelihoods
- Tobacco Industry Interference
- Addiction –users get addicted

CHAPTER FIVE

OBSERVATIONS, CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

This chapter highlighted the observations, conclusions and recommendations of the study.

5.2 Observations

The Uganda experience provides quite a number of lessons that can be used as reference for future initiatives in Africa. We highlight some of the key lessons learnt.

The enactment of the tobacco control act 2015 in fulfillment of the requirements of the (FCTC)

During the advocacy and sensitization forums, it is important to emphasize the public health argument as the driving factor for the legislation. It is critical to highlight the fact that the law is intended to primarily protect the health of citizens particularly children and involuntary users against second hand smoke.

Continuous engagement with Parliament

Whereas Parliament has the mandate to pass laws, efforts must be made to build capacity for tobacco control among legislators and to continuously engage them to sustain the momentum. In the case of Uganda, both the TC actors and the farmers constantly engaged the legislators.

Capacity building for the Parliamentary Technical Team

Considering that parliament has a technical team responsible for drafting legislations, this team needs to be prioritized for capacity building at an early stage. Where possible, they should be supported to undertake training in tobacco control legislation. If this team is not sensitized or

Developing TC champions

TC advocates cannot possibly reach out to all sectors of the public, let alone having the resources to do so. It is therefore useful to create champions who, by virtue of their positions, are able to reach out to various categories of people and sensitize them about the laws that regulate tobacco

cultivation and consumption in Uganda. The TC partners proactively gave them the necessary information, empowered them to own the subject and even promoted them through the media. In the end, it is the champions in parliament who helped in tracking the Bill, reached out to cabinet members, carried out one on one and group sensitization sessions within parliament. They also spearheaded the opinion survey for parliamentarians.

Providing for a policy framework for Alternative Livelihood

In my review of the laws regulating tobacco cultivation and use in Uganda, I observed that the government and other stake holders failed to provide alternative livelihood to communities that engage in tobacco cultivation, it is therefore important to devise a policy framework for supporting farmers to diversify to alternative enterprises. For example Information on the cost benefit analysis of tobacco compared to other crops/ enterprises is critical to demonstrate to policy makers that tobacco is not an economically viable crop.

I also observed that as much as there is a primary legislation in place to regulate tobacco cultivation and consumption in Uganda, there are no clear mechanisms of enforcing these laws as highlighted above. A number of factors facilitated the process in Uganda ranging from the establishment of the Centre for Tobacco Control to the role played by the farmers themselves, as highlighted below;

Establishing the Centre for Tobacco Control in Africa

The creation of CTCA, hosted by Makerere University's School of Public Health, was a critical enabling factor considering that CTCA played a pivotal role in the entire process. Key among the roles of the Centre was the provision of technical assistance to both the Ministry of Health and Parliament, building the capacity of legislators and TC actors, provision of TC resources and local evidence, as well as facilitating the establishment of a TC Coordination Mechanism. The presence and active involvement of the CTCA was therefore a great facilitating factor to the passing of the TC bill.

Political will to regulate the tobacco cultivation and consumption

A key enabling factor in the entire process was the political will that was exhibited at different levels;

- i. **The Presidency:** Despite the lies of the Tobacco Industry indicating that they contribute so much to the economy through taxes, Uganda's President, Yoweri K. Museveni consistently rebuked tobacco use, which facilitated the advocacy messages. After the Bill was passed by Parliament, the President remained true to his message and assented to the bill in record time, despite the efforts of the TI to influence him.
- ii. **Parliamentary level:** At parliamentary level, the leadership, i.e. The Speaker and Deputy Speaker of Parliament were very supportive. When CTCA was launched in 2011, the Speaker of Parliament Hon. Rebecca Kadaga pledged to ensure that the tobacco control bill is passed by the 9th Parliament, and indeed her commitment to the cause, as demonstrated throughout the entire process, as invaluable. Relatedly, the Deputy Speaker of Parliament who presided over the proceedings was equally supportive.
- iii. **The Parliamentary Forum on Non-Communicable Diseases:** The commitment and ardent support of the Parliamentary Forum on NCDs (PFNCDs) also played a critical role. TC advocates found it necessary to form an alliance with the PFNCDs to spearhead advocacy within parliament. Their active involvement greatly enriched the process because by virtue of the privileged position of the Institution of Parliament, the members of the PFNCDs were able to carry out advocacy for the Bill at varying fronts including the presidency, cabinet, Parliament, and the general public.
The Forum was also critical in advocating for the Bill in tobacco growing communities as well as sensitizing farmers on the harmful effects of tobacco. Some of the members of this Forum that transformed into TC Champions that spearheaded the debate.
- iv. **Champions in Parliament:** Apart from the movers of the motion, there was a pool of TC champions within parliament developed over the years through

sustained advocacy by different partners including WHO. This team was very instrumental in advocating for the Bill within parliament, mobilizing other legislators and sustaining the debate in the house. They were also instrumental in monitoring TI activities within parliament and informing the TC Coordination Mechanism for timely and coordinated response.

- v. **Commitment of the Ministry of Health:** The high level commitment exhibited by the Ministry of Health spearheaded by the Tobacco Control Focal Person clearly played a key role. It is this kind of commitment and strong leadership that inspired the TC partners to rally behind the Ministry under the Coordination Mechanism which strongly moved the process forward.

Role of Civil Society Organization (CSOs)

When the process in Uganda started off, global partners like CTFK and ATCC came on board to support the Civil Society Organizations. These provided both financial and technical support to the CSOs which greatly moved the process forward. Consequently, Uganda, with the strong supportive role of the MOH, experienced a growing critical mass of a vibrant CSO movement. Depending on their expertise, the CSOs used multiple innovative methods to carry out aggressive advocacy, awareness creation, as well as holding MPs accountable, calling for action whenever need arose, and consequently generating demand for the bill. CSOs were also critical in generating qualitative evidence through use of testimonies.

Media Advocacy

The media advocacy was carried out through both the conventional and social media channels.

Conventional media

Right from the start, strategies were put in place to mobilize the media and build a team of TC Media advocates. CTCA for instance worked with a media based CSO, Uganda Health Communications Alliance, (UHCA), to facilitate and engage the media through various forums, like monthly sensitization dialogs, visits to the tobacco growing regions, and capacity building. UHCA was later supported by CTFK, enabling it to consistently rally the media to support the

Bill. Those targeted included editors, health reporters and parliamentary reporters. This helped to create a network of TC Media Champions which resulted into earned media.

Relatedly, Celebrities were identified within the fraternity and used as TC Ambassadors to reach out to their audiences. Multiple approaches were used like quizzes, radio skits, talk shows, Q&A sessions, among others to sensitize the public on the dangers of tobacco use and consequently generate demand for the bill.

Social media

This was facilitated by one of the CSOs in the Coordination Mechanism that works to create behavior change through social media. By virtue of their mandate, the CSO, TTCM, was able to sensitize the public and generate support for the Bill through online interactive forums like face book and twitter. They also took up the responsibility of managing the social media platform for the prime mover of the Bill, Hon. Dr. Chris Baryomunsi, giving him an opportunity to regularly interact with the public, especially the youth, and consequently popularizing the Bill and tobacco control in general. A website specifically targeting legislators, and other key policy makers, famous people and opinion leaders was also developed; www.tobaccoctrlug.org with the aim of providing updates on the Bill and any related information, in addition to the partner websites. The website also had a page that acted as a **wall of fame**, aimed at holding the MPs accountable.

Public demand

Public demand was generated through a multi-pronged approach carried out by many actors. Strategies were put in place to create awareness among the general public about the harmful effects of tobacco .This was mainly through the media, including wide coverage of all the advocacy and sensitization meetings, TC partners participating in various radio and TV programs, news features, spot ads, radio dramas, and DJ mentions. Radio was further used to mobilize listeners to send SMS messages on a popular station indicating their position on the Bill, their Representative in Parliament, and consequently urging their MPs to support the Bill. Their telephone contacts were used as 'signatures' that were compiled with the messages and presented to the Health Committee, to show the public's support for the Bill and to put pressure on the respective MPs to support the Bill. The CSOs also mobilized members of the public

affected by tobacco to testify before the Parliamentary Committee on Health, an innovation that augmented the public hearings.

The role of farmers

Farmers were involved right from the start when CTCA carried out a situational analysis in the tobacco growing regions to establish the magnitude of the problem among farmers. Some farmers had already diversified while others expressed the desire to transit to alternative enterprises. The involvement of farmers was further enhanced by the Parliamentary Forum on NCDs which also actively reached out to them.

Both CTCA and PFNCDs worked with the Ministry of Agriculture to support the Tobacco farmers to carry out a profitability analysis of tobacco farming vis a vis other available options, which revealed that tobacco production exposes farmers to a net loss. This kind of indicative evidence, developed together with the farmers, greatly strengthened the argument and justification for the Bill.

The farmers later formed a group that petitioned the Speaker of Parliament to fast track the passing of the Bill, and to provide for policies for alternative livelihoods. This involvement was also an added value to the process.

5.3 Conclusions

Tobacco sector benefits a few while impoverishing its core sector;

Until we end tobacco use, more young people will become addicted, more people will become sick, and more families will be devastated by the loss of loved ones

It has been proven that tobacco use negatively impacts on reproductive health, increases tuberculosis (TB) incidence and mortality

It is the single most risk factor for NCDs (heart diseases, respiratory illness among others, It's a silent epidemic which has been associated scientifically with many illnesses, hence taking centre stage in public health.

WHO-FCTC is an evidence based treaty that reaffirms the right of all people to the highest standard of health, it Was developed in response to the globalization of tobacco epidemic

By ratifying the convention, Uganda committed to putting in place laws and policies to regulate use of tobacco products which it did in September 2015 when it passed the tobacco control act WHO-FCTC brings together 176 countries including Uganda under a strong obligation to curb tobacco use through a series of proven effective strategies

The process in Uganda was certainly not always smooth. In fact there were moments when tempers flared among the partners. But in all this, there was one common goal, achieving the passing of a comprehensive TC legislation. This common goal superseded everything else, and when partners agreed to work together under the Coordination Mechanism, the process became easier to manage. Therefore moving forward, coordination of partners was critical to the success of the process.

The tobacco control law was signed into an act in Uganda on the 19th of September 2015. This follows several efforts by different stakeholders including the ministry of Health, civil society organizations, members of the public and members of parliament. TTC Mobile is very proud to have been part of the nationwide Tobacco Control campaign using mobile technology and social media that has been educating people about the benefits of regulating tobacco use especially in public places and that has asked for the banning of tobacco sale to minors.

In recent years, tobacco use has stagnated globally due to the increase of strict tobacco control laws overall. As a result, tobacco industries have increased aggressive marketing in Asian and African markets, as many of the developing countries here lack tobacco regulations and laws. This poses a threat to the health of populations in developing countries and makes it absolutely urgent that countries put in place tobacco control laws before the effects of tobacco become an epidemic.

According to the World Health Organization, the tobacco epidemic is one of the biggest public health threats the world has ever faced, killing around 6 million people a year. More than 5 million of those deaths are the result of direct tobacco use while more than 600 000 are the result of non-smokers being exposed to second-hand smoke. Nearly 80% of the world's 1 billion smokers live in low- and middle-income countries and tobacco kills up to half of its

users. Tobacco use is the one risk factor common to the major non-communicable diseases (NCDs) like cancer, cardiovascular disease, chronic respiratory disease and diabetes. NCDs kill 35 million people yearly, of which 80% are in low and middle income countries. Uganda's Global Adult Tobacco Survey 2013 indicated that 1.3 million people aged 15 years and above currently use tobacco products. 2.2 million adults were exposed to tobacco smoke at home and 2.5 million adults who visited bars or nightclubs were exposed to tobacco smoke.

The Anti Tobacco Law

Some key provisions in the law include;

- Banning smoking in all public places, work places and public transport
- Banning use of smokeless tobacco such as Shisha, Kuber and electronic cigarettes
- It requires the industry to put pictorial health warnings on cigarette packs covering 65% of the principal display area
- It requires hotels and places of entertainment to display 'No Smoking' signs in their premises
- Banning sale of cigarettes to and by persons less than 21 years
- It prohibits sale of tobacco products within 50 meters of educational and health institutions

Last week, a celebration event was held on October 2nd by the Ministry of Health in conjunction with various civil society organizations. Additionally, these parties organized a march to thank the

President and legislators for passing the bill into a law and also to show their commitment to the implementation of the provisions of the law in order to protect the public. Participants of the event and the march showed up in large numbers. The theme of the day was "Smoke Free UG".

The law is currently the strongest in the African region placing Uganda in a leadership position in protecting the health of present and future generations. We would like to thank our partners: Campaign for Tobacco-Free Kids, Uganda Health Communication Alliance, Parliamentary Forum for Non-Communicable Diseases and Uganda National Health

Consumers Organization and the public that have supported the campaign. We are looking forward to the next phase!

Strong National and International monitoring is essential for the fight against tobacco epidemic to succeed. (WHO, 2008) Monitoring helps ensure that resources are located where they are most needed and will be most effective to reduce tobacco use and its deadly toll.

Monitoring provides powerful evidence to advocate for strong control policies.

A Monitoring System must track:

Tobacco use and its deadly consequences

The existence and effectiveness of policy interventions

Tobacco Industry marketing, promotion and lobbying

Collaboration between partners and organizations is essential to ensure timely dissemination of relevant information including using this to drive decision making on the reduction of tobacco use.

Basic monitoring need not be more expensive and is within reach of virtually all countries.

5.4 Recommendations

The researcher recommends the following;

Tobacco Advertising, Promotion and Sponsorship: There is a comprehensive ban on all tobacco advertising and promotion. All forms of tobacco sponsorship are prohibited.

Tobacco Packaging and Labeling: The current tobacco regulations (US 313) require that a single text-only health warning appear on cigarette packs only without any specifications for size. The Tobacco Control Act of 2015 requires the Minister of Health to issue new regulations on health warnings. The new warnings must be comprised of text and pictures and occupy no less than 65 percent of each principal display area of all tobacco products. Regulations have not been issued by the Ministry to date. Therefore, the requirements of US 313 are still in effect. The Tobacco Control Act of 2015 also bans all misleading packaging and labeling, including terms such as “light” and “low tar” and other signs.

Roadmap to Tobacco Control Legislation: The Tobacco Control Act, 2015 is the primary legislation regulating tobacco products and tobacco use in Uganda. It regulates smoking in public places; tobacco advertising, promotion and sponsorship; tobacco product sales; tobacco packaging and labeling; and protection against tobacco industry interference, among other policy areas. Provisions on tobacco packaging and labeling require implementing regulations from the Ministry of Health. The Ministry of Health has not yet issued these regulations as of the date of this review. Therefore, the current regulations contained in US 313 remain in effect for cigarette packaging and labeling

Simon Peter Komakech, a cigarettes retailer in Lira Town, is not a happy man. Komakech, 36, who has been dealing in the products for the last 12 years, says there has been a relative departure of customers because of recent developments surrounding the Tobacco Control Act. President Museveni assented to the Bill on September 19, thereby making it an Act.

"When news of the President assenting to the Bill reached our customers in Lira, it became a discussion in town, bars and radio. A month later, I started seeing a decline in demand for cigarettes from my shop. Before that, I used to earn about Shs450,000 a month from cigarette sales, now I get between Shs175,000 and Shs240,000 per month. Why should I be happy?"

Komakech's story is not isolated but is shared by a number of other retailers in and beyond northern Uganda.

Even before the Act is published in the Gazette and implemented in full, small and big businesses are beginning to feel the pinch.

What the law says

Major highlights of the Act include; a ban on smoking within 50 metres of public places, work places and public transport as well as sale of cigarette or tobacco products within 100 metres of these establishments.

It also bans the use of smokeless tobacco such as Shisha, Kuber and electronic cigarettes.

Furthermore, it bans all forms of advertisement, sponsorship and promotion by the tobacco industry and prohibits the sale of cigarettes to people under 21 years.

Whereas the law is welcome to a section of the population, a cross section of policy makers and stakeholders have been arguing about the implications, suggesting amendments to some sections of the Act to create a balance.

Vincent Mugaba, the head of public relations at Uganda Tourism Board is aware the World Health Organisation has repeatedly warned of the dangers of smoking.

However, this argument to some in the Tobacco value chain in Uganda such as rural farmers could be a smoke screen to a larger problem that could have been resolved with a few compromises.

Morris Candia, the spokesperson of the Tobacco Farmers Association in West Nile, says more than 60,000 farmers across the country will be directly affected.

"Some veiled sections of it (the Act) will affect us as farmers and other people involved in the tobacco value chain," he says.

Tobacco consumption to drop

Without advertising, cigarette consumption is likely to reduce significantly. The heavy taxes will be transferred to the farmers in terms of low profits, increased costs of inputs which will further increase the costs of production hence putting farmers out of business.

"Some sections of the Act like smoking in public are good and we welcome them," Candia says. But his worry is the anticipated implementation of some of the harsh clauses such as smoking 50 meters away from the public.

Private sector

Candia's fears are shared by Private Sector Foundation Uganda (PSFU).

Gideon Badagawa, the PSFU executive director says there are a number of unresolved issues that ought to be or have been discussed with the President before he signed the Bill.

"We collected these issues and took them to Parliament but despite these discussions, the law was passed due to pressure from civil society. "

"If you look at Kampala," Badagawa observes, "you can't find a place that is 50 meters away from the public where someone can smoke from yet under the new law you are supposed to smoke 50 meters away from the public. The best option is to have designated places where smokers can go."

While the health and environment concerns are recognized, Badagawa says there is need to look at the impact of the ban on key sectors such employment, exports, farmers and taxes.

"Jobs are few, the Shilling is struggling because of low exports, and tobacco, which is among the top foreign exchange earners, is being banned. Switching farmers from tobacco growing to something else will take a while. Farmers will lose employment and a source of income. This is what they do, what they live on, finding something else and adapting to it will be a challenge," Badagawa says.

Retailers and wholesalers of tobacco, members of the Uganda Hotels Owners' Association (UHOA) are equally unhappy.

"We are paying a much bigger cost than the smokers -- people whom that law should be targeting," says Jean Byamugisha, the executive director UHOA.

"As key stakeholders, we were not consulted and it is definitely going to affect us. We already have smoking zones but the 50 meters away rule from the premises has financial implications," he says.

The association is unhappy that the designated smoking rooms in hotels are now irrelevant under the new law since they are not 50 meters away from the hotel as required.

"Our suggestions were to have clearly designated smoking and non-smoking rooms, restaurants and areas in the hotel so that we take care of all guests who visit our hotels," Byamugisha notes.

"Very few hotels can afford to effect the 50 meters rule reservation and the rest because it requires hotels to have extensive space for their clients to smoke," she adds.

Although the legislation is already an Act, Byamugisha says they will continue to lobby government to amend sections of the law with the view of finding a balance.

But she is worried that they will be much more affected because some hotel clients might chose to stay away because ambiguities in the law.

'Although the law is not in favour of the association, the secretariat at UHOA has sent out information about the law to all members, explaining its merits and demerits and what they should do to comply.

2. Education of the public on the provisions of the smoke-free regulations and the rights of non-smokers under the 1995 Ugandan Constitution and tobacco control act 2015, In particular the education of business owners and their workers' representatives on the provisions of the smoke-free regulations and their rights and obligations within workplaces.

3. Building capacity in districts and mobilizing resources to enable enforcement of the relevant laws.

4. A comprehensive ban on all forms of TAPS including cross-border advertising, promotion and sponsorship originating from its territory, subject to the legal environment and technical means available to Uganda.

5. The Uganda Media Council and Communications Commission needs to sensitize and bring on board TAPS as they have a powerful regulatory mandate that could extend to enforcement of a ban on TAPS in the Ugandan arts and media.

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