

**THE LEGAL ANALYSIS ON DRUG TRAFFICKING IN KENYA;
A CASE STUDY OF MOMBASA COUNTY (COASTAL PROVINCE)**

BY

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DECLARATION

I, **MUTUKU CAROLYNE MUNYIVA**, Hereby Declare that this Research on “The Legal Analysis on Drug Trafficking in Kenya” is solely my original work and has not been submitted to any University or Institution for an Academic ward whatsoever. However any sources of information are duly acknowledged.

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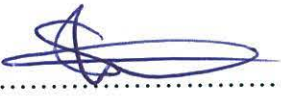
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Date: 17 / 06 / 2013

RESEARCH APPROVAL

I, Certify that I have Supervised this Research and that in my opinion it conforms to the acceptable Standards of Scholarly presentation and is fully adequate in quality according to the University Rules and Regulations as a Thesis/Dissertation in Partial Fulfillment for the Award of the Degree of Bachelor of Laws of Kampala International University.

Supervisor: **ROSEMARY KANOEL NTEGYEREIZE (MRS).**

Signature.......... Date.....17/06/2013.....

DEDICATION

My Dissertation is dedicated with a lot of appreciation to my Mum Mrs. Mary Syokau Mutuku and my Father Mr. Daniel Mutuku Mutie, My Loving Sisters, and Niece who contributed to this project; surely, without them it would not have been possible.

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The Constitution of the Republic of Kenya-2010

The Narcotics Drug and Psychotropic Substances (Control) Act 1994

The Anti-drug Abuse Act -1998

The Single Convention on Narcotic Drugs-1972.

The Tobacco Control Act -2007

The Single Convention on Narcotic Drugs-1961 as amended

The Convention on Psychotropic Substances-1971

The Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances-1988

ACRONYMS

UN: United Nations

C.N.S: Central Nervous System

JKIA: Jomo Kenyatta International Airport

NACADA: National Agency for the Campaign against Drug Abuse

ODM: Orange Democratic Movement

PNU: Party of National Unity

DEA: The Drug Enforcement Administration Unit

UNESCO: United Nations Education Scientific and Cultural Organization

INCB: The International Narcotics Control Board

ONDCP: Office of the National Drug Control Policy

KACC: Kenya Anti-Corruption Commission

UNODC: United Nations Office on Drugs and Crime

ABSTRACT

The rise in the number of drug and substance related risks in Kenya, points towards an increase in vulnerabilities. The increase in drug trafficking among young people incorporates all levels, and what began as the use of drugs in African traditional society for social relations evolved over time into a problem of dependence and abuse.

Drug and substance are readily available to adults and to youth and girls and women are catching up fast with males. Not only does the youth consume alcohol but also use drugs to the extent that substances pose dangers to the health of the youth and ultimately to the well being of the nation. This indicates that the rise in disasters and their consequences are related to the rise in the vulnerability of people all over the world that is induced by the human determined path of development. It is now recognized that risks (physical, social and economic) unmanaged (or mismanaged) for a long time lead to occurrence of disasters. Risk and vulnerability are inextricably linked and therefore vulnerability must be understood if risk is to be managed.

The study was carried out in Kenya in Mombasa county (coastal province) it was found out that Drug Trafficking in Kenya and most especially in Mombasa is high mostly in youth that is University students and some people in Government plus police officers who are meant to enforce the law against drug trafficking.

The study further found out was that the government was working against vulnerability to drug and substance abuse through its agents such as the police, probation and after care services department, the courts, the ministry of youth affairs and sports.

It was recommended that the government should sensitize the public of the dangers of drug trafficking and abuse and also enact specific laws on drug trafficking and abuse.

CHAPTER ONE

1.0 INTRODUCTION

This chapter will comprise of background of the study, statement of the problem, objectives of the study, research questions, scope of the study, literature review, research methodology, significance of the study and synopsis of the study.

1.1 BACKGROUND OF THE STUDY

A drug is any natural or synthetic substance which (when taken into a living body) affects its functioning or structure, and is used in the diagnosis, mitigation, treatment, or prevention of a disease or relief of discomfort¹.

According to Wikipedia², drug trafficking is a global illicit trade involving the cultivating, manufacture, distribution and sale of substances subject to drug probation laws.

Drug abuse refers to the use of drugs for purposes other than therapeutic ones. In therapeutic use, drugs have intended effects aimed at relieving certain symptoms while the subject abusing drugs takes them to experience some effects associated with them. Drug abuse is an intense desire to obtain increasing amounts of a particular substance or substances to the exclusion of all other activities.

The transportation of illegal substances across most borders in the world is a criminal offence, which carries serious consequences. A "mule" is a person who transports drugs across international borders³.

Drug dependence is the body's physical need, or addiction, to a specific agent. Over the long term, this dependence results in physical harm, behavior problems, and association with people who also abuse drugs. Stopping the use of the drug can result in a specific withdrawal syndrome.

¹ <http://www.businessdictionary.com>, 20th May 2013

² From Wikipedia, the free encyclopedia 28th May 2013

³ www.lockedup.co.za, 3rd June 2013

The said drugs we shall deal with are hard drugs. These drugs are taken for pleasure of making someone "high" and have drastic effects on the Central Nervous System, by killing millions of cells. This is why the drug user will form what is called "tolerance" immediately after taking and finally becomes hooked to the habit and begins to show dependence on the drug which he can no longer avoid.

Kenya has been stated as becoming a popular hub for international drug traffickers operating from Far East. The drugs are mainly brought by air from south west Asia with Europe as the final destination. The International Narcotics Control Board study warns that heroine abuse is on the increase in Kenya especially around trafficking routes of Nairobi and Mombasa and that the method of using these drugs is mainly by injection and smoking.

Although drug trafficking was practiced before, it was in 1983 that the anti-narcotics unit was established so as to deal with the drug problem/ offences in Kenya. It has a strength of about 100 specially trained officers deployed in 22 stations around the country strategically located airports, major towns and border points of Namanga, Taveta and Lunga Lunga along Kenya – Tanzania border and Malaba along the Kenya-Uganda border.

The world Drug Report⁴ stated that Kenya is mainly a passage route and that only 980000 people Africa consumed drugs representing only a percent of 0.2% of the total population aged between 15-64 years. Still in 2009, the UNODC⁵ estimated that between 149 and 22 million or 3.3 to 6.2% of the people aged between 15-64 used illicit substances at least once in the previous year. About half of that number are estimated to be the current users, that is having used illicit drugs at least once during the past month prior of the date of assessment.

Drug trafficking is a major issue in Kenya⁶, especially in the city of Mombasa, the Kenyan coast has long been a sunny paradise with a slower pace of life, but a darker outside is emerging, one where heroin addicts do anything to score the next hit. Health, government and community officials debate the solution, but on the ground the problem continues to grow.

⁴ UN, World Drug Report, 2009.

⁵ The United Nations Office on Drugs and Crime; 2009.

⁶ Peter Ng'etich -Kenya: Number of Chang'aa, Hard Drug Users Going Up, *31 January 2013*.

Just minutes from the glistening white powder sands of Diani beach is a lush mango grove overlooking a football pitch where young men gather every evening to practice their game and socialize with friends. But this forest is no ordinary one it is inhabited by about 30 female sex workers between the ages of 16 and 31 and their male clients.

Coming from different towns and cities across Kenya, a number of the women are former models and beauty pageant winners and many have children. But what they all have in common is their addiction to heroin, also known as smack, the hard drug of choice in coast.

If the women are not undergoing withdrawal symptoms they will sell their bodies at ksh.50 or perhaps a bit more on a good day to the men venturing at the forest for a quickie. These are men who construct houses, push handcarts containing water filled jerry cans; sell fruit in the streets and wooden carvings on the beach and who solicit passengers from the side doors of matatus. Others wear nice suits detouring through the forest on their way to or from the office or perhaps stopping by on their lunch breaks⁷.

This is especially among men in their early 20s⁸. Women in Mombasa have held public protests, asking for better enforcement of the laws against narcotics. In Mombasa and Kilindini, there are approximately 40 Maskani (meaning location in Swahili) where drug abusers meet to share drugs. The traditional recreational drug of choice is cannabis, but heroin injection is becoming increasingly popular⁹.

According to the wiki leaks¹⁰, it stated that drug trafficking and its use has escalated especially around Mombasa because of Kenya's rigid laws and court system also stating that the absence of convictions in high profile cases and the new year eve murder of the lead police investigator on drug trafficking clearly shows that international narcotics trafficking rings have made major roads into Kenya's by corrupting, bribing, intimidating and killing their way into positions to operate with impunity.

⁷ Ibid 6

⁸ Wikipedia; Free encyclopedia, 12th June 2013.

⁹ Gathura, Gatonya (16 November 2009); "New Scary Trend in Drug Abuse". Daily Nation. 16 February 2010.

¹⁰ wiki leaks cable no.06 of 72, drug trafficking -2010

The report also shows that the lackluster performance of legal and law enforcement authorities in the case of murder of office Hassan Abdullah in 2004 seriously undermined post confidence that Kenyan authorities are serious about combating international narcotics trafficking¹¹.

The fight against drug trafficking and use in Kenya has been a serious challenge because of mainly the Kenyan law on drugs. It is because of Kenya's confused and conflicting legal provisions on analysis requirement of narcotics that investigations have been hindered and any outside help has been refused or kept at arm's length.

But though some people are trying to fight the war on drugs others are trying to stop the war as they are believed to be the main players benefiting from this illegal trade and so the main purpose of this study is to analyze legally the aspect of drug trafficking and its use, the effects of the people of coast province especially areas of Mombasa. Due to this background the research will be conducted in Kenya particularly the coast province.

1.2-Statement of the problem

A drug is any natural or synthetic substance which (when taken into a living body) affects its functioning or structure, and is used in the diagnosis, mitigation, treatment, or prevention of a disease or relief of discomfort¹². According to Wikipedia¹³, drug trafficking is a global illicit trade involving the cultivating, manufacture, distribution and sale of substances subject to drug probation laws. The laws on drug trafficking in Kenya do not define the meaning of drug but the Narcotics Drug and Psychotropic Substance (Control) Act defines a Narcotic drug¹⁴ to mean any substance specified in the First Schedule or anything that contains any substance specified in that Schedule.

Article 1 (j)¹⁵, defines a drug as any of the substances in schedule 1 and 2, whether Natural or Synthetic.

¹¹ Ibid

¹² <http://www.businessdictionary.com>. 30th May 2013

¹³ From Wikipedia, the free encyclopedia, 2nd June 2013

¹⁴) The Narcotics drugs and psychotropic substances (control) Act 1994; Section 2(1)

¹⁵ Single Convention on Narcotic Drugs, 1972.

Drug abuse refers to the use of drugs for purposes other than therapeutic ones. In therapeutic use, drugs have intended effects aimed at relieving certain symptoms while the subject abusing drugs takes them to experience some effects associated with them.

According to the UN report, the main and dominant process of drug trafficking in Kenya is the way that is linked to some of the big names in the political arena¹⁶, according to the UNODC¹⁷, drug seizures reached a record level of 73.7 metric tons. Most of these were heroine seized in and near Middle East and South East Asia which accounted for the 39% of the global total, south East Europe accounted for 24% while central and west Europe accounted for 10%. In 2006-2007 the UN stated that a large suspicious shipment containing drugs passed through Kenya, a total of 75 tones of the substance were prevented to go to through the region¹⁸

Although Kenyan Government has put in place measures to curb down the problem of drug trafficking, the law enforcers like police and big people holding political positions have been involved in such dealings making it difficult to prevent other people from engaging in the same, and the law which is in place is not specific on drugs in general but some types of drugs, hence this research which is seeking to find out how best the problem of drug trafficking can be dealt with.

Despite some of these names constantly appearing and being accused of being the leading drug pins in the society no one has ever been successfully prosecuted.

1.3 Objectives of the study

1.3.1- General objective

The overall objective of the study is to establish the legal analysis of drug trafficking on the country Kenya and especially the people living around the coastal region.

1.3.2- Specific objectives

The specific objectives are:

¹⁶ Examples are; Harun Mwau; aka the boss, William Kabogo, Ali Hassan Joho and Gideon Mbuvi; aka Sonko

¹⁷The United Nations Office on Drug and Crime- global drug report 2008.

¹⁸ Ibid

- a) To find out the causes, effects, of drug trafficking and its rampant use in Kenya especially at the coastal region of Mombasa.
- b) To establish the legal framework on the prevention of drug trafficking and its use in Kenya.
- c) To establish the role played by different agencies/ organizations on drug trafficking.

1.4-Research Questions

- i) What are the causes, effects, of drug trafficking and abuse in Kenya?.
- ii) What are the legal framework on drug trafficking in the coastal province of Mombasa?
- iii) What are the roles of different agencies/ organizations on drug trafficking?

1.5- Scope of the study

1.5.1- Geographical Study

The research is being carried out in Mombasa. Mombasa County is located in the coast province in Kenya about some 442 kilometers from Nairobi. It's the second largest city in Kenya lying next to Indian Ocean. The city of Mombasa has a major port and an international airport while at the same time it serves as the center of the coastal tourism sector.

The city of Mombasa lies at 4 degrees, 03 South and 39 degrees, 40 East and with an estimated population as per 2009 census of 939,370 people. Mombasa city is characterized by a flat topography and is centered on the Mombasa islands but extends to the mainland which is separated by two creeks port Reits on the south and Tudor creek on the north and the city is also characterized by a warm climate.

1.5.2- Content Scope

The study examines the legal analysis of drug trafficking on the people of Mombasa in the coastal province. The crucial ones being the factors that have led to as drug trafficking as well as the effects of drug trafficking on the community, awareness of people on the laws, regulation and policies put in place not leaving out the role played by the concerned agencies, international institutions and what challenges they encountered in trying to stop drug trafficking and possible solutions to the problem.

1.5.3 Time scope

The study covered a period of two months because of the work activity that took place. It was carried out from April 2013 to June 2013. The reason my study took such a time is because drug trafficking is a global problem, therefore there was the need to come up with analysis on ways to curb down the issue of drug trafficking.

1.6 Significance of the study

The study will contribute substantial awareness of the analysis of drug trafficking by providing useful information to concerned nongovernmental organization,(both local and international) as well as government agencies and the entire community and households at large on issues concerning drug trafficking and the well being of the community and its youth.

The study will assist in identifying appropriate means of getting an immediate solution to drug trafficking to prevent drug abuse in the coastal province and still provide help for the already affected youth through rehabilitation centers. This will help policy makers in dealing with such problem.

The study is expected to provide a foundation for future research as well as helping to narrow the gap about the subject. The study will contribute towards curbing drug trafficking and the large amounts of money attributed to it.

1.7- Literature Review

There has been, and is still a global concern to control and curb use of drugs in Kenya for a long time. There are possibilities of curbing down drug trafficking in Kenya as suggested by agencies, institutions, policies and procedures taken to guard against drug trafficking.

Firstly, scholars have not done much to study the positions of developing countries as regards the provisions of legislations on the issue of drug trafficking. Secondly, some literature have assumed high standard of fighting drug trafficking without taking into account the type of leaders and law enforcers we have in countries such as Kenya.

Fries B.¹⁹; the author noted that “We will never know for sure what would have happened in the absence of drug control. But if we look at the costs and the magnitude of the problems generated

¹⁹ Fries B.; Is Cannabis a Harmless drug? Stockholm, Swedish National Drug Policy Coordinator, 2003, Page 8

by alcohol and tobacco consumption, we can be sure that the issue containing drug abuse is at least worth our while'.

In my view I agree with Fries because this emphasizes on the need to develop measures that will control drugs and substance abuse which the Kenyan government has been undertaking through the Kenya National Drug and Legislation. However, the author did not specifically look at Kenya National Drug and Legislation that involves drug control under which treatment and rehabilitation of drug abuse takes place. Kenyan government has ratified the three major United Nations conventions on drugs and psychotropic substances namely: Single convention on Narcotic drugs, 1961 as amended by the 1972 protocol, Convention psychotropic substances 1971, United Nations convention against illicit traffic in narcotic drugs and psychotropic substances united nations 1988 which will be discussed fully in the preceeding chapters.

Secondly, Fries does not address what measures should be taken to control the drug abuse and thirdly, on the consequences of drug abuse, the author is not clear whether there are dangers in consuming the said drugs and treatment to attaining a drug free country.

David Jefferson²⁰; he noted that drugs create a potent, long lasting high until the user crashes and too often, literally burns. How methamphetamine quickly marched across the country and up the social-economic ladder and wreckage it leaves in its wake. As law enforcement fights a losing battle on the ground, officials ask, are the federal officers doing all they can to contain this epidemic?

This is relevant to my research because the future generation will benefit from his principles and clear illustrations of his thoughts. However, these principles are applicable in so far as no literature analyses the right approach to preventing the vice of drug trafficking in Kenya which I intend to tackle in my research.

Further, James mills²¹; presented a fairly approach in the sense that drug trafficking has become an "underground empire" with a powerful, multinational political base. In summarizing his long narrative, it may be said that drug trafficking appears to involve; innumerable actors

²⁰ David J. Jefferson; in American most dangerous drug -Annual edition -07/08 social problems, 2008, page 165

²¹ James Mills; in multinational crime- 1986, pg 51

organized into private and public economic networks or systems, a complex set of attitudes, values, and behavioral norms, avenues for” laundering” the flow of large cash profits, Often high levels of violence, a complex set of relationships with governments of various nations that, in one way or another they find themselves related to, and sometimes profiting from the traffic in drugs, Productions and distribution systems that are both domestic and multinational.

However, this review has highly been criticized in that such an empire it may be in error to perceive it as under the control of elite that rules from a central positions of power. Further it may be that those individuals holding superior position in various groups that constitute the illicit drugs industry or empire are those who have the most superior control on three assets; the ability to make connections that is the ability to get things done, especially in the world of crooks with no police or courts to enforce contracts, the control of swift and massive violence, especially the reputation for controlling such violence without actually using it, the control over the corruption of law enforcement and various officials. Providing a wealth of information and practical advice,

Glen C. Altschuler, Patrick M. Burns²²; the authors noted that Clean is the best book on drug abuse and addiction to appear in years. Glen claims about choice, however, raise far more questions than they answer. Clean busts a mountain of myths. People living below the poverty line, he reveals, are 100 percent more likely to abuse or be addicted than more affluent individuals. Glen and Burns cites studies that show that the DARE program, which is used in 75 percent of the nation’s school districts, may actually raise rates of drug use. He demonstrates that addicts will not respond best if they are allowed “to hit bottom.”

Their work is relevant to this research in that, free will is an elusive and enigmatic concept. We believe that choice, as it is commonly understood, and as Glen and Burns use it, is relevant to the scourge of abuse and addiction, and to the tactics, strategies, and policies, his extraordinarily valuable book lays out measures to help us to overcome them.

²² Glenn C. Altschuler and Patrick M. Burns; ‘clean is the best book to appear in years’, published at HuffingtonPost.com,2007,Pg 20

In my opinion, Glen and Burns are neither consistent nor clear in distinguishing between drug abusers and addicts or in finding a way to understand or explain the choices users make. Hard put to explain “why some people do stop using on their own,” he speculates that members of this small group “are not as addicted in the first place.” their analogy, that “blaming an addict for relapse is like blaming a cancer patient when radiation and chemotherapy don’t work,” doesn’t seem entirely appropriate.

John J. Donohue²³; He said that legalization of drugs could lower fight against crime. About 40 billion is spent annually on the war on drugs, the major reason so many drug disputes end in violence is the lack of institutional mechanism to resolve them. Decriminalizing drugs would also free the space in prisons, currently more than 400,000 individuals are in prison for non violent drug crimes with about 50,000 on marijuana.

He went on to say that, given the highly controversial nature of this proposal, a prudent first step might be to adopt this legalization/taxation/demand control scheme for marijuana to illustrate the benefits of shrinking the size of illegal markets while establishing that an increase in drug usage can be avoided. He suggested that a number of measures should be adopted to limit demand, strict age limits could be enforced, advertising could be banned, and some of the money raised on taxes could be used to market abstinence and treatment of addicts.

In my own view, as much as legalization of drugs is advocated for, this will not be done without risks because legalization would tend to increase drug consumption, lowering economic productivity and perhaps increasing behavior that is dangerous to non- drug users. Therefore, the enforcers should be of help that is, to make sure that the measures put in place are adhered to and the drug lords, drug barons, peddlers who are caught face the full force of the law and the corrupt people reported to the relevant authorities.

UN Report;²⁴ the report states that it was imperative to note that the main and dominant process of drug trafficking in Kenya is the way that is linked to some of the big names in the political arena, according to the UNODC, drug seizures reached a record level of 73.7 metric tons. Most of these were heroine seized in and near Middle East and South East Asia which accounted for

²³ John J. Donohue; Fighting Crime on Legalization of Drugs, 2nd Edition, 2005, page 155

²⁴ UN Report; United Nations Office on Drug and Crime- global drug, 2008.

the 39% of the global total, south east Europe accounted for 24% while central and west Europe accounted for 10%. In 2006-2007 the UN stated that a large suspicious shipment containing drugs passed through Kenya, a total of 75 tones of the substance was prevented to go to through the region, this at the time was the highest ever recorded haul in Africa though in 2004 also in Kenya the largest haul of heroine of 1.1 metric tons with a street value of 13million was found.

The report dwelt much on heroine to be the most exported type of drug in Kenya and the whole world at large and yet some other types of drugs have also been reported to be serious exported all over the world. This will be widely tackled under this research.

UNDP Report;²⁵ the report talked about an assessment conducted by UNDP in 1997 in Kenya which revealed that substance abuse among school and university students, parents and teachers is increasing. Students abuse cannabis, heroine, khat and inhalants. The rapid spread of substance abuse can be attributed to the breakdown of indigenous society and to the introduction of foreign influences that have made a variety of substance available on large scale. The report looked at groups of people involved in drug trafficking and abuse and how it is affecting for measures which I intend to discuss under my preceding chapters.

MR. Duncan Munene²⁶; he stated that because of the frequent flights more and more women were venturing into business of drug trafficking. He mentioned one woman by the name MRS. Judith Akinyi who was found passed out on the streets of Rome with swallowed drugs that had exploded in her stomach before she could reach her destination after her release from prison in 2008. Another case was in July 12th 2010 after customs apprehended MS Barbra with 2.7 kg of crystal meth before she could board a flight, the reason for the use of women is that they arouse less suspicion, and also for the money and the lavish lifestyle that comes with the trade. The author was not gender sensitive, he relied much more on women forgetting that the number of men is high when it comes to issues concerning drug use/trafficking and that even if women are involve always men are behind them²⁷.

²⁵UNDP; International Journal of Humanities and Social Science Vol. 1 No. 7 [Special Issue –June 2011], P. 189

²⁶ MR. Duncan Munene; Kenya Officials Seize 5kgs of Heroine at JKIA, Daily Nation, 14th July 2010

²⁷ For example; Chinedu a Nigerian business man was deported by the Kenyan government over drugs exporting and selling the said drugs in May 2013

Most of the literature available discusses the general aspects drug trafficking, some writers dwell heavily on the imitation aspect of the principles of law. The study however is going to provide a more comprehensive coverage and internalize possibilities of ensuring a drug free country.

1.8-Research Methodology

In this study, Qualitative and quantitative methods were used in data collection, analysis and general information on the subject matter.

Qualitative design was obtained through the help of text books, published magazines from KIU library, written data sources including published and unpublished documents, agencies reports from different organisations and internet sources were referred to.

On the other hand, Quantitative section involved the use of close-ended questionnaires which were issued to the families affected and those other youth around these areas because method was convenient. This was obtained through use of self administered questionnaires, interviews and observations.

1.9 Synopsis

Chapter 1

This chapter will include background of the study, statement of the problem, objectives of the study, research questions, scope of the study, literature review, research methodology and significance of the study.

Chapter 2

This chapter will include concept of the study, types of drugs, causes of drug trafficking and use, effects of drug trafficking and use, possible solutions to the problem.

Chapter 3

This chapter will include legal framework which include national and international laws put in place to control drug trafficking, challenges faced international institutions put in place to curb down the issue of drug trafficking, challenges encountered in enforcing the same and measures to overcome such challenges and conclusion.

Chapter 4

This chapter will lay down all agencies involved in curbing down the problem of drug trafficking, role played by the concerned agencies, challenges encountered by the said agencies in preventing the vice and the way to deal with such challenges and conclusion.

Chapter 5

This chapter will include research findings, conclusions of my study and recommendation to my study research.

CHAPTER TWO

2.0 Causes, Effects, of Drug Trafficking and its Rampant Use in Kenya Especially at the Coastal Region of Mombasa.

2.1 Introduction

Drug trafficking is viewed as a global problem which has over time been entrenched firmly to the extent of becoming part of social culture, which both the perpetrators and victims are usually as a result of different contributory factors as we shall see later.

Therefore, the chapter deals with concept of the study, types of drugs, causes of drug trafficking and use, effects of drug trafficking, possible solutions to the problem.

2.2 Concept of drug trafficking and use

A drug is any natural or synthetic substance which (when taken into a living body) affects its functioning or structure, and is used in the diagnosis, mitigation, treatment, or prevention of a disease or relief of discomfort²⁸. Drugs are any chemical substances that effect a physical, mental, emotional, or behavioral change in an individual. Drug abuse is the use of any licit or illicit chemical substance that results in physical, mental, emotional, or behavioral impairment in an individual²⁹.

With drug abuse, there are several stages in the chain concerned as stated by **Boniface Karechio**³⁰.

First stage

When one takes drug for the first time, the drug will stimulate the brain cells to such a great extent that it prevents the body from receiving any other sensation from the body organs and muscle tissue. This activates the users' body to overdo things and he becomes happy, runs a lot,

²⁸ <http://www.businessdictionary.com>, May 25th 2013

²⁹ CIA World Factbook, February 21, 2013

³⁰ Boniface Karechio; 'drug abuse in Kenya' 1st Edition, 2002, page 10

reads, dance the whole night and do all sorts of extra-ordinary things leading one to believe that he is superhuman or supernatural which turns out to be the initial killing of the cells.

Second stage

Here the taker enters a transitional stage and begins to show the following symptoms; altitude, oversleeping, loss of interest in hobby, neglect of hygiene, forgetfulness, repudiation of goals, loss of memory, loss of self esteem and withdrawal, formation of drug tolerance and addiction, hostility towards relatives and anyone concern for the taker though the said people serve as a source of money for the addict³¹. At this stage the relatives of the take will start to notice negative behavior. It's only at this stage that one can be rehabilitated to lead a normal life again as of now there is no cure for drug addiction after one passes this stage.

Third stage

This is also known as the abnormal stage that is characterized by depression, stress, anxiety and weakness and the taker suffers the following permanently;

He suffers withdrawal, insomnia, irritability, confusion due to brain damage, delirium, convulsions, childish behavior due to the fact that the brain cells have been completely wiped in out by the drug and finally the brain becomes completely blocked out and hallucinations and other mental disorders will occur. Suicide is most common at this point³².

Even with the above stages pointing out how drugs use can mess one's body and mind many of the youth in our country are ignorant of this and go ahead and use the drugs without caring for the irreversible damage that they cause. Many parents in the coastal region especially women are up in arms complaining that their husbands and the male children have become useless because of the drug menace.

³¹ ibid

³² Ibid

The World Drug Report³³ stated that in East Africa there has been an increase of cannabis use of 2.1%(0.3-0.4%) increase of people aged between 15-65 years, cocaine increase 0.3% in 2007 in people aged 15-64 years while ecstasy in 2007 was 0.3%(0.2-0.3) between people of ages 15-64.

The world drug report of UNODC³⁴ estimated the value market of drugs at US dollars 400 billion while an online report published by the UK home office in 2007 estimated the illicit trade at 4-6 billion Euros a year. In December 2009 the UNODC Stated that the illegal trade saved the banking industry from collapsing stating that proceeds from organized crime were the only “liquid investment capital” stating that a majority of the 352 billion Dollars (216 billion Euros) of drug profit was absorbed into the economic system as a result.

2.3. Types of Drugs

- Heroin

In 2004 the majority of the world's heroin was produced in an area known as the Golden Triangle (Southeast Asia) however, by 2007, 93% of the opiates on the world market originated in Afghanistan. This amounted to an export value of about US\$64 billion, with a quarter being earned by opium farmers and the rest going to district officials, insurgents, warlords and drug traffickers. Another significant area where poppy fields are grown for the manufacture of heroin is Mexico³⁵.

According to the United States Drug Enforcement Administration, the price of heroin is typically valued 8 to 10 times that of cocaine on American streets, making it a high-profit substance for smugglers and dealers. In Europe³⁶ for example, a purported gram of street heroin, usually consisting of 700–800 mg of a light to dark brown powder containing 5-10% heroin base, costs between 30 and 70 Euros, making the effective value per gram of pure heroin between 300 and 700 Euros. Heroin is generally a preferred target for smuggling and distribution over unrefined opium due to the cost-effectiveness and increased efficacy of heroin³⁷.

³³ World drug report, 2011

³⁴ UNODC Report, 1997.

³⁵ CIA World Factbook, February 21, 2013

³⁶ Except the Transit Countries Portugal and the Netherlands

³⁷ Supra note 33

Because of the high cost per volume, heroin is easily smuggled. A quarter-sized vial can contain hundreds of doses. Allegedly, during the Vietnam War, drug lords such as Ike Atkinson used to smuggle hundreds of kilos of heroin to the U.S. in coffins of dead American soldiers. Since that time it has become more difficult for drugs to be imported into the United States than it had been in previous decades, but that does not stop the heroin smugglers from getting their product onto U.S. soil. Purity levels vary greatly by region with, for the most part, Northeastern cities having the most pure heroin in the United States³⁸.

- **Methamphetamine**

Methamphetamine is another popular drug among distributors. Three common street names are "crystal meth", "meth", and "ice". According to the Community Epidemiology Work Group, the numbers of clandestine methamphetamine laboratory incidents reported to the National Clandestine Laboratory Database decreased from 1999 to 2009³⁹. During this same period, methamphetamine lab incidents increased in mid western States⁴⁰, and in Pennsylvania.

Methamphetamine is sometimes used in an injectable form, placing users and their partners at risk for transmission of HIV and hepatitis C "Meth" can also be inhaled, most commonly vaporized on aluminum foil, or through a test tube or light bulb fashioned into a pipe. This method is reported to give "an unnatural high" and a "brief intense rush"⁴¹.

The Australian Crime Commission's illicit drug data report for 2011–2012 stated that the average strength of crystal methamphetamine doubled in most Australian jurisdictions within a 12-month period and the majority of domestic laboratory closures involved small "addict-based" operations.

³⁸ According to a recently released report by the DEA, Camden and Newark, New Jersey and Philadelphia, have the purest street grade A heroin in the country.

³⁹ Supra note 33

⁴⁰ Illinois, Michigan, Missouri, and Ohio

⁴¹ Ibid

- **Cannabis (*Cannabis sativa*)**

This is the common hemp plant, which provides hallucinogens with some sedative properties, and includes marijuana (pot, Acapulco gold, grass, reefer), tetrahydrocannabinol (THC, Marinol), hashish (hash), and hashish oil (hash oil)⁴².

- **Coca (mostly *Erythroxylum coca*)**

This is a bush with leaves that contain the stimulant used to make cocaine. Coca is not to be confused with cocoa, which comes from cacao seeds and is used in making chocolate, cocoa, and cocoa butter.

- **Cocaine** is a stimulant derived from the leaves of the coca bush.
- **Depressants (sedatives)**

These are drugs that reduce tension and anxiety and include chloral hydrate, barbiturates⁴³, benzodiazepines (Librium, Valium), methaqualone (Quaalude), glutethimide (Doriden), and others (Equanil, Placidyl, Valmid)⁴⁴.

- **Hallucinogens**

These are drugs that affect sensation, thinking, self-awareness, and emotion. Hallucinogens include LSD⁴⁵ mescaline and peyote (mexc, buttons, cactus), amphetamine variants (PMA, STP,

⁴² Gathura, Gatonya (16 November 2009); "New Scary Trend in Drug Abuse". Daily Nation. Retrieved 16 February 2010.

⁴³ Amytal, Nembutal, Seconal, phenobarbital

⁴⁴ Allen, Karen (9 May 2006). "Traffickers' drugs haven in Kenya". Mombasa: BBC News. Retrieved 16 February 2010.

⁴⁵ acid, microdot

DOB), phencyclidine (PCP, angel dust, hog), phencyclidine analogues (PCE, PCPy, TCP), and others (psilocybin, psilocyn)⁴⁶.

- **Narcotics**

These are drugs that relieve pain, often induce sleep, and refer to opium, opium derivatives, and synthetic substitutes. Natural narcotics include opium (paregoric, parepectolin), morphine (MS-Contin, Roxanol), codeine⁴⁷, and thebaine. Semisynthetic narcotics include heroin (horse, smack), and hydromorphone (Dilaudid). Synthetic narcotics include meperidine or Pethidine (Demerol, Mepergan), methadone (Dolophine, Methadose), and others (Darvon, Lomotil)⁴⁸.

- **Opium**

This is the brown, gummy exudate of the incised, unripe seedpod of the opium poppy. Opium poppy (*Papaver somniferum*) is the source for the natural and semisynthetic narcotics. Poppy straw is the entire cut and dried opium poppy-plant material, other than the seeds. Opium is extracted from poppy straw in commercial operations that produce the drug for medical use⁴⁹.

- **Quaaludes**

This is the North American slang term for methaqualone, a pharmaceutical depressant.

- **Stimulants**

These are drugs that relieve mild depression, increase energy and activity, and include cocaine (coke, snow, crack), amphetamines (Desoxyn, Dexedrine), ephedrine, ecstasy (clarity, essence, doctor, Adam), phenmetrazine (Preludin), methylphenidate (Ritalin), and others (Cylert, Sanorex, Tenuate)⁵⁰.

⁴⁶ Supra note 43

⁴⁷ Tylenol with codeine, Empirin with codeine, Robitussin AC

⁴⁸ CIA World Factbook February 21, 2013

⁴⁹ Ibid

⁵⁰ Ibid

2.4-Causes of Drug Trafficking and use

a) Frequent International Flights

According to an article By Wambui Ndonga⁵¹, Kenya: Officials Seize 5kgs of Heroin At JKIA, Nairobi the Kenya revenue authority (KRA) earlier this week intercepted 5.436 kilos of heroine from a Tanzanian lady aged 25 who was attempting to smuggle it through the Jomo Kenyatta international airport. KRA senior deputy communication commissioner Kennedy Onyonyi said the drugs were wrapped in a black paper to avoid detention and hidden in a suitcase. In a statement sent to a newsroom, Onyonyi claimed that the young lady had travelled from Tanzania and was heading to Budapest through Brussels.

According to another report by MR. Duncan Munene⁵², it stated that because of the frequent flights more and more women were venturing into business of drug trafficking one woman known by the name MRS. Judith Akinyi who was found passed out on the streets of Rome with swallowed dugs that had exploded in her stomach before she could reach her destination after her release from prison in 2008. Another case was in July 12th 2010 after customs apprehended MS Barbra with 2.7 kg of crystal meth before she could board a flight, the reason for the use of women is that they arouse less suspicion ,and also for the money and the lavish lifestyle that comes with the trade.

b) Corruption

Some law enforcement officers based at the sea ports and airports. In a ruling made by Mombasa chief magistrate Justice Aggrey in a case where 20 tons of hashish were seized the suspects were released for lack of evidence, stated that the case had been interfered with by the mafia and riddled by a police cover up. In another case it was revealed that 60 acres of Mount Kenya forest was cleared up for bhang plantation and was been guarded by administration police and forest rangers⁵³.

⁵¹ Wambui Ndonga; Kenya officials seize 5kgs of Heroine at JKIA, 26 January 2013.

⁵² MR. Duncan Munene; International Flights Linked to Drug Trafficking, 14th July 2010.

⁵³ Ibid

According to wiki leaks⁵⁴, the absence of convictions in high profile cocaine cases and the new year eve murder of the head police officer investigating drug trafficking (officer Hassan Abdullah) through the port of Mombasa amply demonstrated that the international narcotics trafficking ring had made major roads in Kenya corrupting, bribing, intimidating and killing their way into positions.

c) Inadequate traffic control

According to UNODC eastern Africa is a convenient transit point for drug trafficking to the African continent at large, Europe and North America. A report done by UNODC concerning the patterns used stated that the reason why eastern Africa is favorable is because of the non existence or ineffective (land, sea, air) controls⁵⁵.

The limited cross-border and regional cooperation as well as the serious deficiencies in the justice system explain the low level seizures. The region covered by UNODC eastern Africa is accessible by sea to heroine, cannabis which is produced by South West and East Asia through ports of Djibouti, Eritrea, Kenya and Tanzania. Moreover prescription drugs are available over the counter, at illegal outlets and the street market⁵⁶.

The well organized syndicate operates in Nairobi and seaports of Mombasa that even the antidrug laws enacted in 1994 have been criticized for prescribing heavy punishment on the drug users but not the suppliers. The latest cable by wiki leaks pointed Kenya as a drug haven for traffickers stating that despite drugs having been seized causing concerns of diversion back into the streets, Kenyan authorities aren't closer to deciding what to do with the drugs despite Dutch authorities arresting Kenyans of drug trafficking one of them being a former mps son⁵⁷.

d) International airports are used as connections

Another reason for the increase of drug trafficking in Kenya was brought out by a survey carried out by UNODC concerning drug patterns which stated that the international airports are used as

⁵⁴ Wiki leaks cable; Drug Trafficking in Kenya, 06 of 72 January 2011

⁵⁵ UNODC Report, 2007.

⁵⁶ Ibid

⁵⁷ Ibid

they have connections between West Africa and the heroine producing nations in south west and East Asia. A review of drug seizures from 1998 to date shows increase in trafficking of heroine to eastern African countries from Pakistan Thailand and India which is elevated by the fact that in other region it's possible to purchase pharmaceuticals without a valid prescription many of which are imported without authorization and are sold by hawkers⁵⁸.

Wiki leaks⁵⁹, Nairobi states that cocaine in multi-ton load suggests that the 2004 shipment wasn't a virgin voyage but one which employed a well used route and a route which shippers were comfortable was protected from interception illustrated in a case during the week of 2001 the police apprehended a man carrying shs.9.5 million worth of cocaine outside a Nairobi market as he was preparing to go to JKIA, this was barely a few weeks after a man was caught in Mombasa with shs.200million worth of heroine, all the said smugglers were Kenyans. These two cases shows that while the borders should have strict security they have none at all or they are in the same boat as the ones who are going to benefit from the said trafficking of the drugs.

2.4 (b) Causes of Drug Abuse

One of the main leading factors of drug abuse is the deterioration of an existing social culture. When a unit has served as a support group for members starts to change, some members may be unable to adapt and may look for revenge and seek it in the world of drugs and this can lead some people down a dangerous path of continuous drug abuse.

a)Unemployment and low education

The research estimates Kenya's unemployment rate is at 40%, the 14th-highest among the 200 countries with unemployment figures. With the average Kenyan dropping out of school after 10 years this leaves many youth without productive uses for their time⁶⁰.

⁵⁸ UNODC Review, 1998

⁵⁹ Supra note 30.

⁶⁰ <https://www.cia.gov/library/publications/the-world-factbook/geos/ke.html>, 12th June 13, 2013

b) Peer pressure

Peer pressure is a major factor contributing towards drug abuse. Many addicts have admitted that they started using drugs because it was popular among their friends. There is also a high probability that many of the beach boys are using drugs so that they can be able to face their clients in a smart way.

c) Superstition

A recent study⁶¹ found that many young men used drugs because they believed that ghosts could not haunt the men when they were high. It indicates that roughly 10% of Kenyans hold religious beliefs indigenous to the area, although it does not document the extent to which these beliefs involve ghosts.

d) Curiosity

A lot has been written about drugs that many people are tempted to experience them out of curiosity. The first taste and its effects on the user greatly influence whether the individual continues taking drugs and the younger one is when they experience with drugs the higher they get addicted⁶².

Young people always copy their elders especially in the kinds of behavior that adults conceal. Curiosity killed the cat and once a young child sees his parents smoking or taking drugs he will get suspicious and experiment with the said drugs so as to feel the same way that their parents feel and if it goes on unchecked it could lead to addiction.

⁶¹ The CIA World Fact book <https://www.cia.gov/library/publications/the-world-factbook/geos/ke.html>, 12th June 13, 2013.

⁶² Ibid

e) Boredom

An idol mind is devils workshop and thus many families have made their children idol that they can't even wash their own clothes which is done by domestic worker and as a result lots of children become weak and even a simple cough lands them in a hospital and thus if a child experiments even with cigarettes then the child immune system will be too weak to defend itself that such a child will easily be influenced to try bhang, chang'aa and finally heroine⁶³.

f) Family breakups and alienation

Because of many parents never been there for their children, then the children are left to choose paths of discovery instead of guidance. Children from broken families are especially susceptible to the drug menace as they see it as an alternative to their loneliness. A man brought up by a single parent is more likely to take drugs at the age of eighteen just to prove his manhood as he requires to belong to something be it a tribe, race of family and because one looks for a certain type of group they will end up with a group that feels the same way isolated and who have turned to drugs as a way of escape and feeling welcome in such a group can lead to disastrous results⁶⁴.

2.5 Effects of Drug Trafficking in Kenya

Corruption is one of the major leading effects, although Kenya has established an anti-narcotics police unit and hosts of the three offices of the UN international drug control programmes, drug syndicates not only use sophisticated methods but have also effectively pocketed some law enforcement agents despite the government's determination to combat the problem.

The US Bureau of International Narcotics and Law Enforcement Affairs stated that trafficking is tied directly to the prevailing culture of impunity that has pervaded the senior political and business class in Kenya. That is the members of the drug trafficking network are involved in politics and some hold municipal and national offices, this is clearly seen in Kenya that no matter

⁶³ Supra note 60

⁶⁴ Ibid

how many times a person tries to investigate a kingpin who is in the government ends up protecting them⁶⁵.

Another effect⁶⁶ on drug trafficking is that a number of people had been banned from travelling to UK and US because of their involvement in drugs. She expressed a concern that the drug use poses a serious problem along the Kenyan coast and also its people. In most cases its assumed that every Kenyan travelling abroad is a drug trafficker and are thus subjected to vigorous checks on the airports and also the same notion is in Kenya where its believed that any person from the coastal region is either a trafficker or a user of drugs, thus one is labeled what he is not by virtue of either his citizenship or his residence leading to stigmatization⁶⁷.

Prolonged, heavy use of alcohol can lead to addiction (alcoholism). Sudden stopping of long term, heavy alcohol use is likely to produce withdrawal symptoms- such as severe anxiety, tremors, hallucinations and convulsions. Long-term effects of consuming large quantities of alcohol, especially when combined with poor eating habits, can lead to permanent damage to vital organs such as the brain and liver. Mothers who drink alcohol during pregnancy may give birth to infants with fetal alcohol syndrome. These infants may suffer from mental retardation and other irreversible physical abnormalities⁶⁸.

In addition, research indicates that children of alcoholic parents are at greater risk than other children of becoming alcoholics. Use of cocaine can lead to paranoia. Aggressive paranoid behavior in user depression prolonged cocaine snorting can result in ulceration of the mucous membrane of the nose. Long-term effects of heroin appear after repeated use for some period of

⁶⁵ Gathura, Gatonya; "New Scary Trend in Drug Abuse"_Daily Nation, 16 February 2010.

⁶⁶ Maureen Mudi; Drug trafficking, Standard News Paper, March 25th 2011

⁶⁷ Ibid

⁶⁸ *Peter Ng'etich*; Kenya; Number of Chang'aa, Hard Drug Users Going Up – Star News Paper 31 January 2013, p.

time. Chronic users may develop collapsed veins infections of the heart, skin infections liver disease pneumonia⁶⁹

Disease is another effect where Needle sharing contributes to the spread of HIV and other infectious diseases in Kenya, as does a phenomenon known as "flashing blood"⁷¹ where a heroin user will draw blood from himself to inject into a friend's bloodstream with the aim of transferring some of the heroin. Malnutrition increases many users' susceptibility⁷⁰.

Slow economic development, Drug abuse has slowed economic development in many parts of Mombasa, helping keep unemployment rates high and economic productivity low even among the users themselves. In addition, high crime rates discourage foreign investment.

Life expectancy, drugs are reducing life expectancy for young people Because so many young people die of diseases related to drug use, many are concerned that a population pyramid shift may leave too few people of working age to support the country's senior citizens⁷¹.

In education, school attendance rates do down, and already high dropouts' rate soar. Young people believe that they can get rich quickly; they avoid school and end up unskilled, unemployed and unproductive citizens, a burden to the whole collectivity. They may even become pushers, once the ride is over they don't have the necessary preparation to get proper jobs, they remain uneducated victims of their own illusions. The illiteracy rates for young persons and particularly for males in West Africa remain excessively high, and the drug culture amplifies it even more⁷².

The legal system, become overburdened with court cases related to drugs in one way or another. Backlogs increase, prisons fill up, resources offering help and rehab are insufficient and the whole altitude of fearing society seeks retribution and punishment rather than rehabilitation and

⁶⁹ The CIA World Fact book <https://www.cia.gov/library/publications/the-world-factbook/geos/ke.html>, 12th June 13, 2013.

⁷⁰ The CIA World Fact book <https://www.cia.gov/library/publications/the-world-factbook/geos/ke.html>

⁷¹ Supra note 64

⁷² Supra note 71

reintegration. Police forces cannot cope, judges cannot cope, re-education services cannot cope, serious strife eventually makes life miserable for everyone, and violence becomes on the increase, traditional values are lost, replacement of imported or false values.

Eventually the tourism and business sector, starts to suffer too, crime and violence give a bad name to the country and hence investment falls sharply thus depriving the population of much needed jobs and foreign exchange. Small, poor countries with few resources can ill afford to jeopardize of their main income earners. Even large wealthy and powerful states become completely vulnerable to the dictates of international criminals and foreigners who care only for their short term personal gain.

2.6-Conclusion

Although Kenyan Government has put in place measures to curb down the problem of drug trafficking, the law enforcers like police and big people holding political positions have been involved in such dealings making it difficult to prevent other people from engaging in the same, hence this research which is seeking to find out how best the problem of drug trafficking can be dealt with.

CHAPTER THREE

3.0 The Legal Framework on the Prevention of Drug Trafficking and its Use in Kenya.

3.1-introduction

The chapter deals with Legal Framework, whereby I am discussing National and International laws, Challenges in enforcing these laws, Possible Solutions and Conclusions.

3.1.1- The Narcotic Drugs and Psychotropic Substances (Control) Act⁷³

This is the latest Kenyan legislation against drug trafficking and abuse. This enactment was followed by the setting up of the Inter-ministerial Drug Control Committee in 1995 whose responsibility was to coordinate, monitor and evaluate drug policies in the country. The greatest achievement of the inter-ministerial committee was the production of the drug control master plan in 1999 which was approved in early 2001. The same year the National Agency for the Campaign against Drugs (NACADA) was formed to enhance advocacy against drugs of abuse in the country. Its major objectives were coordination, implementation, monitoring and evaluation of programmes services. These included institutional framework of drug abuse control, strategies of drug abuse treatment and in prevention education activities⁷⁴ on the campaign against drug abuse in Kenya.

3.1.2-The Tobacco Control Act⁷⁵,

This came into effect on October 2007, provided for a nine month implementation period which ended yesterday. It lays down the ways of Implementation of the tobacco control which clearly indicate that the Kenyan government has put down measures to curb the abuse of drugs and substances in the country.

⁷³ The Narcotic Drugs and Psychotropic Substances (Control) Act 1994

⁷⁴ National Agency for the Campaign Against Drug Abuse -2007

⁷⁵ Tobacco Control Act of 2007

3.1.3-Alcohol Drinks Control Act⁷⁶

The Act seeks to protect the health of individuals and restrict the drinking of alcohol to be for persons above the age of 18years. The Act also legalizes the production of chang'aa by repealing the chang'aa probation Act so that the substances can be manufactured according to the prescribed standards as a way of protecting consumer. The legislation also among other things to mitigate negative health, social and economic impact resulting from excessive consumption and adulterations of alcoholic drinks.

3.2-Policies

Draft Policy on Alcohol and Drug Abuse for Kenya National Bureau of Statistics Employees.

The policy states that alcohol and drug abuse (ADA) causes crime, violence and corruption and drains human, financial and other resources that might otherwise be used for social and economic development leading to the destruction of individuals, families and entire communities and undermines national economies⁷⁷. ADA in the workplace has the potential to negatively affect the health, safety, productivity and performance of employees which results in organizations' inabilities to achieve their goals. It is therefore clear that ADA affects service delivery hence it is imperative that KNBS employees' are protected against it if high teaching standards and other KNBS mandates are to be realized and maintained⁷⁸. The Bureau wishes to do this by putting in place a policy document that provides guidance to its employees.

Alcohol and Drug Abuse Policy

The policy identifies the needs and provides necessary information for planning and budgeting for Alcohol and Drug Abuse programmes; Provide Alcohol and Drug Abuse services to commission employees; Respond to disasters and crisis through psycho-social interventions; Prepare confidential reports as deemed necessary for informed decision-making; Create awareness among the Bureau employees on Alcohol and Drug Abuse; Make referrals of clients

⁷⁶ Alcohol Drinks Control Act 2010

⁷⁷ A.K.M. Kilele, MBS Director General, Kenya National Bureau Of Statistics, 4 First Draft Alcohol and Drug Abuse Policy, 1990.

⁷⁸ Ibid

when necessary; Conduct monitoring and evaluation of the implementation of Alcohol and Drug Abuse services; and Network with professional bodies and organizations to enhance provision Alcohol and Drug Abuse services⁷⁹.

The Kenya National Drug Policy

The Minister of Health, through the Pharmacy and Poisons Board, is vested with the powers of controlling the pharmacy profession and the trade in drugs and poisons. The Department of Pharmacy of the Ministry of Health is responsible for administering drug control activities and for managing public sector drug supply. Drug control and administration activities will be supported by adequate numbers of qualified professional staff, specialized training, proper physical facilities, adequate transport, sufficient budgetary provisions, and necessary legal provisions.⁸⁰ The following criteria will be used in the registration, unique characteristic of the drug product such as life-saving and orphan drugs. Orphan drugs are products for rare conditions for which the small size of the local market would make registration otherwise commercially unattractive. The registration fee will be waived for orphan drugs. New investigational drugs will be considered for exemption from normal registration requirements in order to facilitate their availability for clinical studies⁸¹.

Kenya: American Policy on Drug Trafficking Has Been an Abject, Very Costly, Failure.

The policy states that Nairobi - Recent listing of suspected drug barons by US President Barack Obama, which also barred American citizens from conducting business with such persons, indirectly opens another area of disagreement between the US and Kenya governments. Unfortunately, this complication arose at a time when Kenyans were hoping for a warming up of US-Kenya relations preceding Obama's long-awaited state visit to his fatherland while president⁸²

⁷⁹ Martha Karua MP; 19 First Draft Alcohol and Drug Abuse Policy; 18 November 2011.

⁸⁰ Republic of Kenya; Ministry of Health, P.O. Box 30016, Nairobi, July, 1994

⁸¹ *ibid*

⁸² John B. Osoro; Kenya: American Policy on Drug Trafficking Has Been an Abject, Very Costly, Failure 7 June 2011

3.3- International Agreements / Treaties.

Transnational Drug Trafficking and Crime Impedes Sustainable Development

This past week at the United Nations, a series of discussions were held to assess the current state of illicit drug trafficking and crime and international efforts in combating it⁸³. The UN Office on Drugs and Crime (UNODC) is the main body that oversees the UN's international efforts at stopping drug trafficking and criminal activities.

At a General Assembly high-level meeting on the issue and its impact on sustainable development held by the UNODC released its World Drug Report⁸⁴. The report showed that global opiate production remains high, although drug use in parts of Europe and North America appear largely stable or shrinking. In Afghanistan, opium production is higher than previous levels and synthetic drug production has been on the rise.

Overall, for the past decade drug trafficking around the world has seen a significant increase. The illicit drug market and organized crime are a huge threat to international peace and security. Criminal networks exploit developing countries and, as a result, corruption is the natural outflow. And with that, the money lost to corruption is money denied to those who need it most: women, children, education, health care, etc. Transnational crimes are a threat to sustainable development and a number of fragile developing countries possess a number of vulnerabilities to drugs and crime. The problem continues to grow in many developing countries around the world.

For example, in Guatemala drug trafficking⁸⁵ has been a significant impediment to its development. Guatemala remains an important transit route between the largest producer and biggest consumer markets in the world⁸⁶.

⁸³ UNODC; 19/6/2012

⁸⁴ UNODC; debates on the impacts of drugs and crime on development on 26th June 2012

⁸⁵ Nadha; World Development report, 2013

In addition, Guatemala has seen a rise in local drug consumption⁸⁷. The country has devoted a large amount of national resources to fight drug trafficking yet the effort has been insufficient. Further he also highlighted that Guatemala faces a number of other challenges such as poverty, health, education and developing infrastructure.

3.4- International Policy Framework

Reflecting broad consensus, international efforts to combat drug trafficking are based on a long standing and robust set of multilateral commitments. One of the first multilateral efforts to Combat drugs began with the International Opium Commission⁸⁸. Since then, the International community has broadened and deepened the scope of international drug control through several international treaties and monitoring mechanisms.

Today, international drug control efforts are grounded on the policy foundations laid by three United Nations treaties⁸⁹, approximately 92% of U.N. Member States, Including the United States, are parties to all international drug control treaties.

The treaties also establish international mechanisms to monitor treaty adherence—through the International Narcotics Control Board (INCB)⁹⁰—and for the collection of data related to the illicit cultivation, production, and manufacture of proscribed drugs. U.N. policy making on drug-related matters take place through the U.N. Commission on Narcotic Drugs, which is a functional commission of the U.N. Economic and Social Council.

The U.N. Commission on Narcotic Drugs monitors global drug trends, develops strategies for international drug control, and recommends measures to combat the world drug problem. To

⁸⁶ Reporting to the General Assembly on the 26th, Guatemala's Minister of Foreign Affairs Harold Caballeros, stated, "40% of the people who die in Guatemala are victims of violence, in a high proportion related to drug trafficking."

⁸⁷Ibid

⁸⁸ International Opium Commission; 1909

⁸⁹ The 1961 Single Convention on Narcotic Drugs, as amended; the 1971 Convention on Psychotropic Substances; and the 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances

⁹⁰ INCB; Annual Report 2011-2012

support U.N. Member States in combating drugs, the UNODC conducts field-based technical assistance projects internationally and conducts research and analysis on current drug market trends.

Office of National Drug Control Policy

The White House Office of National Drug Control Policy (ONDCP), a former cabinet level⁹¹ component of the Executive Office of the President of the United States, was established in 1989 by the Anti-Drug Abuse Act of 1988. Its stated goal is to establish policies, priorities, and objectives to eradicate illicit drug use, manufacturing, and trafficking, drug-related crime and violence, and drug-related health consequences in the U.S.⁹². In addition to running the ONDCP, the director evaluates, coordinates, and oversees both the international and domestic anti-drug efforts of executive branch agencies and ensures that such efforts sustain and complement State and local anti-drug activities.

The Director advises the President regarding changes in the organization, management, budgeting, and personnel of federal agencies that effect U.S. anti-drug efforts; and regarding federal agency compliance with their obligations under the National Drug Control Strategy, an annual report required by law⁹³.

The Year 2011⁹⁴, the Obama administration would devote significant new resources to the prevention and treatment of drug abuse. These resources are complemented by an aggressive effort to enhance domestic law enforcement, interdiction, and supply control programs. As of 2011, the ONDCP is requesting funding for 98 full-time employees, 64 (65.31%) of whom would be paid at either GS-15, GS-14, or SES pay grades, or more than \$105,211.00 yearly,

⁹¹ Bennett, Brian;. "U.S. can't justify its drug war spending," Los Angeles Times, 9th June, 2011

⁹² The Director of National Drug Control Policy, colloquially known as the Drug Czar, heads the office. "Drug Czar" was a term first used in the media by then-Senator Joe Biden in October 1982

⁹³ The current director is Gil Kerlikowske, who assumed the office on May 7, 2009.

⁹⁴ The National Drug Control Budget; fiscal Year 2011

being adjusted for Washington, D.C. cost of living expenses⁹⁵. This initiative includes a set of drug policies of the United States that are intended to discourage the production, distribution, and consumption of illegal psychoactive drugs. The term was first used by U.S. president Richard Nixon, and was later popularized by the media⁹⁶.

The Global Commission on Drugs Policy

The Global Commission on Drug Policy released a critical report on the War on Drugs⁹⁷, declaring "The global war on drugs has failed, with devastating consequences for individuals and societies around the world. Fifty years after the initiation of the UN Single Convention on Narcotic Drugs, and years after President Nixon launched the US government's war on drugs, fundamental reforms in national and global drug control policies are urgently needed." The report was criticized by organizations that oppose a general legalization of drugs.

The Office of National Drug Control Policy⁹⁸ was originally established by the National Narcotics Leadership Act of 1988, which mandated a national anti-drug media campaign for youth, which would later become the Campaign⁹⁹.

3.5-Challenges faced by these institutions in preventing the vice

The African region is no longer just a transit route for hard drugs but also a final destination¹⁰⁰. The 2012 World Drug Report highlights the association of drug users with acquisitive crime as well as behavioral challenges including aggression or violence. While the above revelations

⁹⁵ <http://articles.latimes.com.09/06/2011>

⁹⁶ Bill History for H.R. 5210, the Anti-Drug Abuse Act of 1988.

⁹⁷ Global Commission on Drug Policy. June 2011.

⁹⁸ Office of the National Drug Policy 1989

⁹⁹ The director of ONDCP is commonly known as the Drug czar, and it was first implemented in 1989 under President George H. W. Bush, and raised to cabinet-level status by Bill Clinton in 1993. These activities subsequently funded by the Treasury and General Government Appropriations Act of 1998 formally creating the National Youth Anti-Drug Media Campaign.

¹⁰⁰ UNODC, On Drug Trafficking, May 2012).

question the nature, effectiveness and resilience of the existing legal and institutional framework for responding to drug trafficking in the emerging drug consumption levels in the sub-region suggests the potential impact of drugs on human security in Africa¹⁰¹.

Drug traffickers have a lot of money and could influence the termination of cases that we investigate if they see significant inroads being made into their territory. There is therefore the issue of interference in our work. Sometimes officers could be prepared to raid a certain place but then they suddenly get orders to stop such a raid. In the past some top leaders in the government have been connected with drug lords and when such crippling orders are given we comply, you could be out investigating and a senior police officer intervenes in the case and the consequence could be your immediate transfer to extremely backward areas.

More recently and as reports on drug use¹⁰² in the region increase, experts have highlighted the human security threats posed by drug trafficking, for which institutions and policy makers are particularly ill prepared to respond to. One of the main challenges lies in the fact that the predominant approach to drug trafficking in the region to date has been based on the international narcotics control regime which is centered on stemming the supply of drugs through law enforcement efforts. Limited focus has been placed on the health and developmental aspects of the spillover effects of drug trafficking, which over time could constitute a greater security threat to Africa than currently acknowledged¹⁰³.

The criminal justice system is apparently rendered inefficient in dealing with drug trafficking because of the powerful connections and immense wealth of drug lords, allowing them to easily circumvent the process.

Another challenge in addressing drug trafficking offences, as interviewed police officers noted, is with the law itself¹⁰⁴. Police officers cite the above law as having loopholes, especially with regard to bailing of offences and this implies that police can let go of drug suspects in their

¹⁰¹ www.wa.commissionondrug.org, 14th June 2013.

¹⁰² www.unodc.org, June 2013.

¹⁰³ www.w.commissionondrugs.org, 14th June 2013.

¹⁰⁴ The Narcotics Drug and psychotropic Substances (control) Act 1994.

custody and who, for obvious reasons, will go underground and never turn up for their pending cases.

Another challenge is that of operational infrastructure¹⁰⁵. Police officers interviewed argued for the need to have extra equipment to detect drugs in various ports of entry to mitigate transmittal of drugs. There is also the challenge of keeping up with the constantly evolving criminal devices of drug traffickers. Drug traffickers devise desperate and creative methods that make the detection of drugs difficult.

Also, both the electronic media and drug industry campaigns against the legal and illicit drug industries send mixed, and sometimes, confusing messages to children and young people. All these messages are usually presented in very appealing, attractive and persuasive packages¹⁰⁶. Social development interventions therefore have to be alive to the realities and complex challenges posed by the drug industry.

Children and young people who use and/ or abuse drugs become one of the most vulnerable groups to HIV/AIDS infection. The increase of drug use and threat of HIV/AIDS amongst young people globally are a cause for concern. Young people between 10-24 years are estimated to account for up to 60% of all new HIV infection worldwide¹⁰⁷

Corruption, as a matter of policy, the government of Kenya actively combats narcotics-related corruption. However, reports¹⁰⁸ on police corruption appeared regularly, there were allegations that the police were involved in cash-in-transit heists, ATM bombings, and traffic patrol bribery. The frequency of corruption-related reports suggests that some degree of corruption may facilitate drug trafficking in Kenya. On October 24, National Police Commissioner head was suspended with pay due to his reported links to a case involving illegal tenders for the lease of new police headquarter buildings for the KPS .

¹⁰⁵ UNODC, Drug dependence treatment and HIV prevention in Kenya, 30th March 2011.

¹⁰⁶ www.w commission on drugs.org, 14th June 2013.

¹⁰⁷ Fadayomi & Poukouta; Challenges facing institution preventing drug trafficking, 2nd Edition, 1999)

¹⁰⁸ Daily Nation; May 2011, pg 6

3.6-Possible solutions

Article 36¹⁰⁹ requires Parties to criminalize "cultivation, production, manufacture, extraction, preparation, possession, offering, offering for sale, distribution, purchase, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation and exportation of drugs contrary to the provisions of this Convention," as well as "intentional participation in, conspiracy to commit and attempts to commit, any of such offences, and preparatory acts and financial operations in connection with the offences referred to in this article".

Reducing drug production at the source: Central to reducing cocaine and heroin production is the eradication of coca bush and opium poppy crops and the provision of alternative livelihood options to former drug crop farmers. Both policy approaches ultimately seek to reduce the amount of illicit drug crops cultivated.

Combating drugs in transit: To reduce the international flow of drugs from source countries to final destinations, U.S. efforts focus on joint monitoring and interdiction operations as well as other forms of border, police, and maritime cooperation and training.

Dismantling international illicit drug networks: The United States collaborates with other countries to target major drug traffickers and their transnational networks through various law enforcement interventions, judicial mechanisms, and financial sanctions. With the provision of U.S. foreign assistance, the U.S. government supports other countries to strengthen their capacity to investigate arrest, prosecute, and incarcerate drug traffickers domestically.

Creating incentives for international cooperation on drug control: In order to deter foreign governments from aiding or participating in illicit drug production or trafficking, certain U.S. foreign assistance may be suspended to countries that are major illegal drug producers or major transit countries for illegal drugs, known as "drug majors"¹¹⁰.

¹⁰⁹ Article 36; Single Convention on Narcotics Drugs, 1972

¹¹⁰ Department for public information, news and media division New York, 2011

Similarly, certain drug major's countries may be deemed ineligible to be a beneficiary of preferential U.S. trade arrangements¹¹¹.

3.7-Conclusion

Success in the global fight against trafficking in drugs and humans, as well as the associated problems of transnational organized crime and money-laundering, required interlocking national, regional and international strategies rooted in global cooperation, drug trafficking was not only unavoidably associated with violence and organized crime, it was, in several countries, linked to terrorist activities. It was also connected to other criminal activities, like money laundering, arms and human trafficking, and corruption.

Against such a backdrop, he argued, as many other speakers had, that alternative development programmes should be a major pillar of the global effort to curb the drug trade, Despite various actions by different States and international organizations to combat the illicit cultivation, production, consumption and trafficking of drugs, there was neither satisfactory nor promising prospects for an immediate solution to the problem.

¹¹¹ Congress Research Service -2013

CHAPTER FOUR

4.0 The Roles Played by Different Agencies/ Organizations on Drug Trafficking

4.1 Introduction

The Chapter deals with the Roles of Different Agencies, Challenges and Possible Solutions to Curb own the Problem of Drug Trafficking and Conclusions.

Overall, for the past decade drug trafficking around the world has seen a significant increase. The illicit drug market and organized crime are a huge threat to international peace and security. Yet much of the efforts undertaken to combat these threats for the past 50 years have not been able to yield positive results, including preventing the increase in the long-term trend of drug supply and use. Profits from drug trafficking fuel illegal criminal activities and undermine human rights and the rule of law¹¹².

These issues pose a grave challenge to achieving the Millennium Development Goals, making it difficult to overcome the obstacles of poverty, climate change, gender inequality, HIV/AIDS, food insecurity, disarmament, and so on ever harder to achieve.

Government action on the problem is evidenced by promulgation of various Acts such as traditional liquor licensing Act, recent narcotics drug and psychotropic substances (control) Act of 1994.

The National Authority for the Campaign against Alcohol and Drug Abuse (NACADA) was established by an Act of Parliament on 24th July, 2012.

The Authority's main focus is on demand reduction, which involves providing preventive education, public awareness, life skills, treatment, rehabilitation and psycho-social support to the general public. It also contributes towards supply suppression through policy formulation and capacity building.

¹¹²[Http://www.nation.co.ke/news](http://www.nation.co.ke/news), 13th June 2013

The history of NACADA goes back to 1996 with the creation of the Inter-Ministerial Drugs Coordinating Committee under Gazette Notice of 12th July 1996. The Committee was chaired by Solicitor General while the Attorney General's office provided the Secretariat¹¹³.

Through a Gazette Notice¹¹⁴, the National Agency for the Campaign Against Drug Abuse (NACADA) was institutionalized under the Ministry of Provincial Administration and Internal Security to initiate a public education campaign against drug abuse especially among the youth in schools and other learning institutions until May 2006 when His Excellency, Mwai Kibaki (Former President of Kenya) established a NACADA Advisory Board that now governs the Authority's operations. In strengthening the country's response, the Agency was transformed to the National Campaign against Drug Abuse Authority (NACADA Authority)¹¹⁵

Additional responsibilities that the National Authority for the Campaign Against Alcohol and Drug Abuse Act, 2012 gives NACADA are:-

- i) Licensing and regulating operations of rehabilitation facilities;
- ii) Facilitating the development and operation of rehabilitation facilities, and ensure that quality services are provided to persons suffering from substance use disorders;
- iii) Preparing, publishing and submitting an alcohol and drug abuse control status report bi-annually to both Houses of Parliament through the Cabinet Secretary.
- iv) Assisting and support County Governments in developing and implementing policies, laws and plans of action on control of drug abuse.

¹¹³ Ibid

¹¹⁴ Gazette Notice of 26th April, 2001

¹¹⁵ Under the State Corporations Act through Legal Notice No. 140 published in the Kenya Gazette of 29th June 2007.

The Ministry of Youth Affairs and Sports through the Youth Enterprise Development Fund programme

This had loaned youth money to start or expand their enterprises. It was also established that Hope Worldwide Kenya had a comprehensive package programme which was behavior oriented, where it engaged in peer educators in school to undertake peer education sessions against drug and substance abuse¹¹⁶.

Probation Department and Ministry of Health

This was organizing magnetic theater as a behavior change tool where everyone was free to make his/her decision about drug and substance abuse after skits and drama. The provincial administration held barazas at the grass root levels where they campaigned against drugs and substance abuse. The police force, probation department and the ministry of health were identified as government agencies that responded to risks that were related to drug and substance abuse.¹¹⁷

Hospital through the casualty, Voluntary Training and counseling Unit.

It is attended to individuals who had experienced drug and substance related risks that required medical attention. The probation department worked with supervisees who had referred on the Community Service Order program. In this program the supervisees reported monthly and were attached in a government institution where they provided community service.

They were further visited by counselors who tried to establish their problems. Some of the supervisees had been referred to hostels where they learnt technical skills. It was further established that the police force played a critical role of response whereby they at the scene of crime or accidents. They also made swoops at night to minimize on the prostitution levels in Mombasa town¹¹⁸.

The 19th Century saw the development of drugs for special purposes. The special picture of drug taking behavior showed signs of complication. Prominent leaders and professionals called for

¹¹⁶ Ibid

¹¹⁷ Nation Media Group; 2nd May 2009

¹¹⁸ VCT Counselors; Kenya National Hospital, 27th June 2011

attention to social problems resulting from widespread abuse of alcohol, cocaine and opium among others. As a result, drugs like cocaine, opium, peyote, heroine among others were declared illegal overtime in many countries.

Anti-corruption Commission Department

The Constitution¹¹⁹ establishes the ethics and anti-corruption commission, provides that the Parliament shall enact legislation to establish an independent ethics and anticorruption commission, which shall be and have the status and powers of a commission under Chapter Fifteen of this constitution, for purposes of ensuring compliance with, and enforcing the provisions of this Chapter.

The media

This has played an important role in the fight against drug trafficking in that, it has conducted public campaigns due to its wide reach and ability to influence behavior. It has continued to contribute to positive development like the fight against HIV/AIDS, gender bias and racism. The campaigns have helped to educate youth to shun substance abuse and use of illicit drugs including prevention and encouragement to current users to quit while the same time exposes the adverse effects of drug abuse, advertising on situations discouraging abuse of drugs and put a spotlight on the suspected drug traffickers then a lot of lives will be saved as they would have helped to prevent one from either taking drugs or dying from substance abuse.¹²⁰

The Muslim leaders in the Coastal province

These leaders have stepped up their war on drugs mobilizing residents to boycotts shops owned by business people believed to be traffickers. Galgalo Bocha of Nation Media Group stated that council of imams and preacher Sheikh Khalif Mohammed said that it was the time for the Coast people to stop enriching people who have made them suffer for decades. He told residents to

¹¹⁹ Article 79 of the Constitution of the Republic of Kenya- 2010

¹²⁰ KTN and CITIZEN TV'S; on Campaign against Drug Trafficking, 2012.

shun¹²¹ suspected drug barons and turn down any form of bursaries or educational sponsorships by stating that the people are well known killers who need to be taught a lesson¹²².

The Christian churches

These churches have also come up to fight the menace, one of them being the united Methodist church along with others who have started a program that aims at creating awareness of substance abuse especially by targeting the youth using a slogan “youth say NO to drug abuse violence”. The purpose of this program is to help and contribute to the reduction of substance abuse and related violence through advocacy programmes with an aim of saving lives and freeing young people from bondage of drugs, alcohol and related violence.¹²³

4.2- Challenges Encountered by the Agencies

It has been seen that in our country Kenya the government is reluctant in doing anything concerning the drug situation of its trafficking and its use. Such a case in point is the last general of election of 2007, two of the most prominent known drug lords heavily financed the ODM and the PNU campaigns which were on a quid pro quo basis that is, I finance your campaign and you protect me once you are in the office. Former KACC director Justice Aaron Ringera told the star newspaper¹²⁴ that he gave the former president Mwai Kibaki a list of people who were not to be included in the cabinet of the coalition government but they were still appointed and this shows the degree of control which the drug lords have in Kenya.

Kenya shares porous borders with some of the most politically unstable countries in Africa such as Somalia and Sudan. Kenya's long and isolated borders with Tanzania, Uganda, Sudan, Somalia and Ethiopia – and its 536 km coastline – are difficult to patrol owing to limited resources and insufficient training. Poor and corrupt policing of the borders between Kenya and its neighbors' has facilitated the influx of large quantities of small arms into Kenya. Individuals have been able to acquire weapons for overt criminal purposes. The fact that the borders are not

¹²¹Harun Mwau, Gideon Mbuvi, William Kabogo. March 2011

¹²² Muslim Imams; Mombasa ,May 2012.

¹²³ ABC Church, Methodist Church, AIC Church; May 2012.

¹²⁴ Star Newspaper -8/03/2011

properly and effectively policed means that drug traffickers and bandits find easy entry points along the porous borders.

Kenya, like many countries in the Horn of Africa, does not have the capacity to guarantee the security of her citizens. Facing this reality, Kenya has, overtly or covertly, opted to drug war lords in frontier districts which suffer from marginalization and underdevelopment.

This policy has sent unambiguous signals to communities that they should take care of their own security and it has solidified the belief among opinion leaders and heads of ethnic groups that the government itself is unable to take care of this basic need.

Drug traffickers have a lot of money and could influence the termination of cases that we investigate if they see significant inroads being made into their territory. There is therefore the issue of interference in our work. Sometimes officers could be prepared to raid a certain place but then they suddenly get orders to stop such a raid.

In the past, some top leaders in the government have been connected with drug lords and when such crippling orders are given we comply, you could be out investigating and a senior police officer intervenes in the case and the consequence could be your immediate transfer to extremely backward areas such as Turkana or North Eastern Province¹²⁵.

The criminal justice system is apparently rendered inefficient in dealing with drug trafficking because of the powerful connections and immense wealth of drug lords, allowing them to easily circumvent the process.

Another challenge in addressing drug trafficking offences, as interviewed police officers noted, is with the law itself¹²⁶. Police officers cite the above law as having loopholes, especially with regard to bailing of offences and this implies that police can let go of drug suspects in their custody and who, for obvious reasons, will go underground and never turn up for their pending cases.

¹²⁵ www.nation.co.ke

¹²⁶ The Narcotic Drugs and Psychotropic Substances Control Act 1994.

Yet another challenge is that of operational infrastructure¹²⁷. Police officers interviewed argued for the need to have extra equipment to detect drugs in various ports of entry to mitigate transmittal of drugs. There is also the challenge of keeping up with the constantly evolving criminal devises of drug traffickers. Drug traffickers devise desperate and creative methods that make the detection of drugs difficult.

The Minister of State in charge of Internal Security and Provincial Administration, the late Prof George Saitoti, tabled the names of alleged masterminds of high profile drug trafficking in Kenya in the Kenyan Parliament¹²⁸. The suspect's list included four sitting members of parliament and a businessman. The police were thereafter mandated to investigate these allegations. The police failed to link the five persons mentioned in allegations of drug trafficking in a preliminary report handed over to Police Commissioner Mathew Iteere.

The report states that despite "efforts to conduct investigations, it proved elusive to secure substantive evidence with which to implicate, let alone prosecute any of the mentioned suspects." The detectives cited lack of informers to give evidence on the levelled allegations. The report identifies Vanga, Shimoni, Kilifi, Malindi and Lamu as major entry points while Kijipwa, Ukunda, Lunga Lunga and Voi airstrips were found to be favoured routes for drug smuggling because of minimal police presence.

The detectives established that drugs mainly enter the country through the Kilindini Harbour in containers disguised as rice, sugar, second hand clothes, and used motor vehicles. They are then repackaged and exported as tea or fish. The report also established that privately owned container freight stations were also being conveniently used by drug traffickers to smuggle in and offload narcotics. "Drug dealers are believed to convert their proceeds into other forms of property to conceal the same. Investigations of personal assets of suspected dealers therefore become relevant to expose the illicit trade," the report says¹²⁹.

Corruption, as a matter of policy, the government of Kenya actively combats narcotics-related corruption. However, newspaper reports on police corruption appeared regularly. In 2011, there

¹²⁷ UNODC; Drug Dependence Treatment and HIV Prevention in Kenya, 30th March 2011.

¹²⁸ Harun mwau, Gideon mbuvi, William Kabogo; March 2011.

¹²⁹ Daily Nation, "Probe fails to link Kenyan MPs to Drugs," 30/01/2011.

were allegations that the police were involved in cash-in-transit heists, ATM bombings, and traffic patrol bribery.

The frequency of corruption-related reports suggests that some degree of corruption may facilitate drug trafficking in Kenya. On October 24, National Police Commissioner head was suspended with pay due to his reported links to a case involving illegal tenders for the lease of new police headquarter buildings for the KPS .

Drug Abuse Awareness, Demand Reduction, there has been a lack of information on substance abuse in rural areas of Kenya; however a report¹³⁰ based on a survey of 27,000 individuals. Startling data emerged, including that 65 percent of people had a drug user in their home.

Poverty appears to be a key motivating factor in drug trafficking. In every 2 of us in poverty, thus poverty portrays very grim statistics which after 46years of independence is a testament of how we haven't developed for the good of all people.

4.3-Possible Interventions

Amongst the best interventions is there by Educating the youth on the dangers of drug abuse and trafficking as they are the most prone to this menace. Educating them helps to recognize the consequences of either consuming the drug or even trafficking it by either inviting those who have been affected by it that's those who have either been arrested because of using it.

Dismantling international illicit drug networks, the Kenyan government should collaborate with other countries to target major drug traffickers and their transnational networks through various law enforcement interventions, judicial mechanisms, and financial sanctions, the Kenyan government should supports other countries to strengthen their capacity to investigate arrest, prosecute, and incarcerate drug traffickers domestically.

Another intervention is that which was brought by the former American Ambassador Michael Rannebager of the introduction of the DEA unit in Kenya which was assigned to assist local authorities to combat the international trade in narcotics and to bring the traffickers to justice.

¹³⁰ CDA; Report 2011.

Rannerbager told the people “it’s up to you political and business leaders, civil society, village elders, young people, neighbors’ and friends to do something that would take a lot of courage to overcome the threats and intimidation of the malignant few who traffic in these poisons.

Further, the council of imams should be on the forefront in providing leadership by naming and shaming the kingpins in barazas, mosques and madrasas, they must also mobilize residents to boycott business owned by known drug lords and must stage sit ins and demonstrations so as to be able to fight the menace.

4.4-Conclusion

Our approach should be holistic. Actions should be taken along multiple fronts, combining prevention and criminal justice reform. We should also not limit our efforts to improvements in specialized law enforcement agencies, since these alone are far from sufficient to tackle this issue. Instead we should be focusing on attacking the enabling environment for such criminal activities, by improving governance, and instilling rule of law both at the national and at the local level.

Also, to ensure sustainability, we should share the gains from eradicating drug trafficking with the ones most affected by it. At the local level we need to focus on policies that reduce drug production and trafficking while creating new profitable activities. Because such policies have an impact first and foremost on poor farmers and rural wage laborers, these stakeholders should be the focus of alternative livelihoods programs and should be involved in the design of the solutions.

Unfortunately, these policies are especially difficult to implement in countries struggling with drug trafficking, since the drug war has often already brought extreme levels of violence, damaged criminal justice institutions, and eroded citizens’ confidence.

CHAPTER FIVE

5.0-Introduction

This chapter covers the my research findings, interpretations, the conclusions and the recommendations there is for the prevention of drug trafficking and drug abuse

5.1 Findings and interpretations

Demographic representation of the respondents

The study sought about the gender distribution of the respondents and the findings were as represented in table 1.

Table 1: Gender distribution of the respondents

Gender	Frequency	percentage
Males	36	60
Females	24	40
Total	60	100

Source: field research findings (2013)

According to the study findings in table 1, the sample constituted 60 respondents of which 40% were females and 60% were males who being the elements of scrutiny dominated the sample reason being they carry out most of drug trafficking and use in the coastal areas.

Most of these respondents fell in the age category of 15-64 purposely because they were seen as the age groups that had been adversary affected by this vice.

Table 2: marital status of the respondents

Marital status	frequency	percentage
Single	6	10%
Married	20	34%
Divorced	24	40%
Widowed	10	15%
Total	60	100

Source: field findings (2013)

According to this finding, the majority of the respondents were divorced (40%) possibly due to their constant use of the said illicit drugs as it brings upon a family a financial strain as one needs a lot of income to sustain the habit thus either stole from the family and other people followed by the married age group (34%), those who were widowed constituted 15% of the total sample whereas the least represented were single category with 10% of the total responses.

Table 3: Educational level of the respondents

Educational level	Frequency	Percentage
Not attended school	20	34.9%
Primary	5	8%
Secondary	16	25.7%
Vocational/technical	11	20.7%
University	8	10.7%
Total	60	100%

Source: field research findings (2013)

Table 4 revealed that the least represented level of education comprise of 8% being primary, 10.7% being university, while vocational represented by 20.% and secondary being 25.7%,whereas those that had not attended school at all comprised of 34.9%hence constituting the majority of the sample.

This implies that due to low levels of education in the community, it could be the reason as to why the community youth were readily willing to involve themselves in these vice as they did

not know of the consequences that would befall them once they were arrested and the adverse effects its constant use would have on their bodies and minds.

Causes of drug trafficking and its use

The study further sought about the causes of drug trafficking and its use which were established as represented in table 4.

Table 4: causes of drug trafficking and use

Cause	agree	disagree	Total response
Growing market and frequency international flights	36(60%)	25(41.7%)	60
Corruption amongst the law enforcement officers and inadequate trafficking rules	40(66.7%)	20(33.3%)	60
Curiosity,peer pressure and boredom	52(86.7%)	8(13.3%)	60
Spiritual hunger and family breakups	45(75%)	15(25%)	60
Alienation from other peers or away from recreational activities such as sports	35(58.3%)	24(40%)	60

Source: field research (2013)

According to this study findings, the most common and experienced cause of drug trafficking were the curiosity, peer pressure and boredom of the youth (86.7%),followed by spiritual hunger and also the family breakups leaving the young people without a support system to lean on (75%),followed by corruption amongst the law enforcement officials and also the inadequate trafficking rules that are in place(66.7%),growing market for them and the frequent international flights which mean more drugs in the country (60%)and lastly from one's peers and recreational activities (58.3%) which was the least represented.

Role played by the concerned agencies

Table 5: consumption levels

Drug name	Percentage	Ages	Year of survey
Bhang	49%	15-65	2012
Heroin	0.1%	15-65	2012
Tobacco	9.1%	15-65	2012
Miraa	4.2%	15-65	2012
Cannabis	2.1%	15-65	2012
Cocaine	21.3%	15-65	2012
Alcohol	13.3%	15-65	2012

Findings from a National Survey on Alcohol and Drug Abuse conducted by NACADA in 2012 shows that 13.3% of Kenyans are currently using alcohol, 9.1% tobacco, 4.2% miraa, 1.0% bhang and 0.1% heroin.

Overall, bhang is the most easily available illicit drug in the country at 49% followed by cocaine while heroin is the least available illicit drug in the country;

Alcohol is the most commonly abused substance in the country and poses the greatest harm to Kenyans as evidenced by the numerous calamities associated with excessive consumption and adulteration of illicit brews;

Among the different types of alcoholic drinks, traditional liquor is the most easily accessible type of alcohol followed by wines and spirits and lastly chang'aa; 30 % of Kenyans aged 15-65 have ever consumed alcohol in their life; 13.3% of Kenyans currently consume alcohol that means that at least 4 million people.

Traditional liquor is still more likely to have been consumed by rural children than urban children. More children in rural areas are likely to have ever consumed chang'aa than those in urban areas. The current use of all intoxicating substances is higher among men than women; for instance, the current usage of tobacco and miraa is largely limited to males except in North

Eastern Province. Comparatively, the survey showed that 17% of men smoke tobacco while only 2.1% of women use tobacco products.

Since the last survey in 2007, it is noted there has been a decline in the use of cigarettes, tobacco and miraa. Worrying, though is that the median age of first use of all drugs has gone as low as 10 years.

Challenges faced by the concerned agencies in the prevention of deforestation

The study findings were as shown in table 6

Table 6: obstacles encountered in preventing drug trafficking and use

Obstacles	agree	disagree	total
Availability of its lucrative money	38(63.3%)	22(36.7%)	60
Corruption amongst the law enforcement and the ministers involved in the prevention	40(66.7%)	20(33.3%)	60
Lack of sensitization or awareness in the community	25(41.7%)	35(58.3%)	60
Weak justice system and contradicting policies that is ,interfearing and tempering of investigation leading to scott free	34(56.7%)	26(43.3%)	60

Source: field research (2013)

Table 6, shows severe challenge was the exclusion of the corruption amongst the law officers concerned in the prevention with (66.7%), followed by the availability of the drugs and the cash flow that comes with trafficking with(63.3%), weak justice system with (56.7%),lack of sensitization amongst the community with(41.7%).

According to the study, corruption is the major challenge in that the same people who are meant to ensure that the said drugs do not enter the country are the same people who were found to be involved in the vice either by trafficking directly or by helping the drugs enter the country without detection.

Availability of lucrative money offers most people “a get rich quickly policy”, thus one doesn’t work that hard to ensure that they aren’t caught by the authorities.

Followed by weak justice system and contradicting policies whereby when one is arrested as a peddler instead of facing jail term a lot of them are roaming in the streets freely while some of them are in the cabinet, which drives us to the question that “will impunity ever end in Kenya”?

Lastly is lack of sensitization or awareness in the community whereby poor advocacy of the information about the said drugs is a major problem because people do not know the dangers and consequences of using the said drugs. This leads people into continue usage of the drugs because of lack of knowledge.

Therefore, drug abuse and use has increased from past years to to date. For example, an assessment conducted by NACADA shows that drug abuse has risen from 3.8% in 2007 to 4.2% in 2012. This shows how drug abuse in Kenya has increased in numbers of the abusers. This month in Kenya, NACADA is conducting seminars, campaigns to “say NO to drug use and abuse, Intense advocacy campaign against drug and substance abuse: There is need to create awareness about the dangers of abusing these drugs and also the concerned agencies need to improve their measures which go down to the roots and define strategies to curb down the vice.

5.2- Conclusion

Response measures reduce vulnerability and risks to drug and substance abuse included the establishment of a rehabilitation center where those youth who have developed dependency could be rehabilitated. The mitigation measures such as advocacy campaigns against drug and substance abuse. This is important in order to demystify the consequences of abuse to reduce the peer pressure. There was also the need to create employment through initiation and boosting of youth enterprise in Mombasa. There was also need to establish youth empowerment centers where youth could spend their leisure time constructively.

The region is rich in wildlife species that can be of great attraction to tourists. With the presence of the endangered Hirola antelope, four of the big wildlife and the African wild dog in Fafi and Northern-Hola the potential of the region for jobs creation are great and promising. The local communities have a rich cultural heritage through their attire, dances, the manyattas, and artifacts, which form major tourist attractions.

Mombasa has the country's best seafood's available and catering is a coastal specialty. The sun, sea and sand are endless opportunities for adventure at the historic world heritage sites in Mombasa.

The region has therefore more attractions than the well-established tourism circuits in Kenya. There is therefore need to link it to the communities who can benefit from their conservation efforts.

Further our approach should be holistic. Actions should be taken along multiple fronts, combining prevention and criminal justice reform. We should also not limit our efforts to improvements in specialized law enforcement agencies, since these alone are far from sufficient to tackle this issue. Instead we should be focusing on attacking the enabling environment for such criminal activities, by improving governance, and instilling rule of law both at the national and at the local level.

To ensure sustainability, we should share the gains from eradicating drug trafficking with the ones most affected by it. At the local level we need to focus on policies that reduce drug production and trafficking while creating new profitable activities. Because such policies have an impact first and foremost on poor farmers and rural wage laborers, these stakeholders should be the focus of alternative livelihoods programs and should be involved in the design of the solution.

I believe however that some options may still be possible, even in the worst cases. Given the high levels of drug-related corruption in the criminal justice systems and the vast resources of the traffickers, directing more resources to drug enforcement efforts alone is not likely to address this problem. What we need is a coordinated effort that goes beyond the boundaries of an individual agency and even of an individual country.

Laying out the issues and individual approaches is relatively straightforward. What is much more difficult, of course, is to know how to respond in an integrated manner over a sustained period of time. This is a challenge for all of us. The existing work has tended to cover just one segment of the chain (prevention, investigation, trial, reclusion) when addressing drug trafficking and crime.

I hope today's event and discussion will push this agenda towards an integrated and collaborative approach, focused on collective action, citizens' confidence and long term institutional reforms.

5.3 Recommendations

The study makes the following recommendations to decrease drug and substance abuse in Mombasa.

Intense advocacy campaign against drug and substance abuse: There is need to create awareness about the dangers of abusing these drugs and also the concerned agencies need to improve their measures which go down to the roots and define strategies to curb down the vice.

Establishment of youth empowerment centers where youth can spend their leisure time constructively: The government should put in place more empowerment centers, recreational centers where people especially the youth could spend their time doing something constructive.

Creation of a volunteer scheme where youth could gain on job training; The government together with the non-governmental institutions should create opportunities where the youth can volunteer to gain experience and job training so that they could have something to look forward for and therefore keep them away from the vice.

Campaign towards attitude change on employment; the concerned agencies on curbing down the vice and the government should work on changing people's behavior and altitudes because altitudes is everything.

Initiation of youth entrepreneurship clinics where youth can be mentored on viable business ideas, this can be through devising policy intervention that will ensure collaborative through tabling of bills in parliament to ensure decision making is consultative right from the grass roots level, including community decision making.

Devise and meet out harsh penalties on all those involved in the trafficking of drugs unsparingly regardless of who is caught in the act and putting fourth elaborate measures for ensuring public accessibility to timely and relevant information as a means of empowering them and building their confidence and significance in participation.

The issue of legalization should also be considered, given the highly controversial nature of this proposal, a prudent first step might be to adopt this legalization/taxation/demand control scheme

for marijuana to illustrate the benefits of shrinking the size of illegal markets while establishing that an increase in drug usage can be avoided.

A number of measures should be adopted to limit demand, strict age limits could be enforced, advertising could be banned, and some of the money raised on taxes could be used to market abstinence and treatment of addicts.

Provision of loans to local community entrepreneurs will also provide the much-needed finances for creating more jobs for the jobless people hence development in the area, therefore idles would decrease and people will be busy for them to abuse drugs.

Capacity building of communities on importance of maintaining a drug free country, development and enterprise management will be paramount to the successful implementation of policies and legislation put in place. Training of the local investors should follow this on tourism promotions and benefit sharing schemes of tourism in the area.

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APPENDICES

APPENDIX (I)

QUESTIONNAIRES FOR EMPLOYEES OF NACADA

Dear Respondent, I am Mutuku Carolyn Muniya, a student from Kampala International University pursuing a Bachelors Degree in Law. Am here to conduct a research on "the Legal Analysis on Drug Trafficking on the people of Mombasa county in Coast Province", which research is part of the requirements of the award of the degree. I therefore kindly request you to spare some time in filling the questionnaire as honest as possible. All the information provided will be treated with maximum confidentiality.

INSTRUCTIONS: PLEASE TICK WHERE APPROPRIATE

Section A: Biographical information

1) Sex

a) Male b) female

2) Age

a) 15 -25 b) 25 -35 c) 35 -45 d) 45 &above

3) Educational level

a) Certificate b) Diploma c) Bachelors d) others

(specify).....

4) Marital Status

a) Single b) Married c) widowed d) Divorced

Section B: Causes of Drug Trafficking and drug abuse

5) What is drug trafficking?

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6) What do you think are the causes of drug trafficking and abuse in this community?

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7) Has your agency in any way contributed to trafficking and abuse acts in the area?

- A) Yes b) No

b) If yes, state its contribution

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Section C: Effects of drug trafficking and abuse

8) How has drug trafficking affected the young, adult and elderly in Mombasa?

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9) How has the trafficking affected the country as a whole?

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10) What steps have you taken to curb down trafficking and abuse?

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Section D: Role played by the Concerned Agencies in the prevention of drug trafficking.

11) Have the institutions put in place to curb down lived up to their expectations?

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12) How has the community responded to the measures that you have implemented to stop trafficking?

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Section E: Challenges Encountered

13) According to your opinion, what are the major obstacles in the measures taken by your organization to stop trafficking of drugs?

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14) Given your experience, what are the possible workable solutions that you would suggest to help in the prevention of deforestation?

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15) Are there any measures in the country effectively implemented?

a) Yes b) No

If yes/no, state

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Thank you for your response.

APPENDIX (II)
QUESTIONS FOR THE COMMUNITY ELDERS/ LEADERS

Dear Respondent, I am Mutuku Carolyne Munyiva, a student from Kampala International University pursuing a Bachelors Degree in Law. Am here to conduct a research on” the Legal Analysis on Drug Trafficking on the people of Mombasa county in Coast Province”, which research is part of the requirements of the award of the degree. I therefore kindly request you to spare some time in filling the questionnaire as honest as possible. All the information provided will be treated with maximum confidentiality.

INSTRUCTIONS: PLEASE TICK WHERE APPROPRIATE.

Section A: Biographical information.

1) Sex

- a) Male b) female

2) Age

- a) 15 -25 b) 25 -35 c) 35 -45 d) 45 &above

3) Educational level

- a) Certificate b) Diploma c) Bachelors d) others
(specify).....

4) Marital Status

- a) Single b)Married c)widowed d)Divorced

Section B: Causes of Drug Trafficking and drug abuse

5) What is drug trafficking?

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6) What do you think are the causes of drug trafficking and abuse in this community?

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7) Have you ever participate in any form of trafficking or abuse?

a)Yes b) No

If yes/no, state the level of participation.

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Section C: Effects of drug trafficking and use

8) Do you think trafficking has affected the environment in any way?

a)yes b)No

If yes, state how it has affected the environment?

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Section D: Role played by the concerned agencies in stopping drug trafficking and use

9) Have the institutions put in place to curb down lived up to their expectations?

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9) How has the community responded to the measures that you have implemented to stop trafficking?

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Section E: Challenges Encountered

10) According to your opinion, what are the major obstacles in the measures taken by your organization to stop trafficking of drugs?

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11) Given your experience, what are the possible workable solutions that you would suggest to help in the prevention of deforestation?

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12) Are there any measures in the country effectively implemented?

a)Yes b)No

If yes/no, state

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Thank you for your response.

APPENDIX (III)

INTERVIEW GUIDE FOR COUNCIL OF IMAMS, CHURCH LEADERS AND COMMUNITY MEMBERS

IDENTIFYING INFORMATION

Mutuku Carolyn Munyiva. Interviewing Date.....

Interviewing number 1-5

Survey interview

Despite various actions by different States and international organizations to combat the illicit cultivation, production, consumption and trafficking of drugs, there was neither satisfactory nor promising prospects for an immediate solution to the problem. Success in the global fight against trafficking in drugs and humans, as well as the associated problems of transnational organized crime and money-laundering, required interlocking national, regional and international strategies rooted in global cooperation to help curb down the issue of drug trafficking in the coastal province.

Guiding Areas

Meaning of Drug Trafficking.

Causes of drug trafficking.

Effects of drug trafficking.

Role played by the concerned agencies, international institutions in curbing down the vice of drug trafficking.

Challenges faced by the concerned agencies in preventing drug trafficking.

Possible solutions to problems encountered in curbing down the vice of drug trafficking.