



SITUATIONAL ANALYSIS OF TOBACCO CONTROL IN KENYA

**REPORT OF THE BASELINE ASSESSMENT
CARRIED OUT BY**

**THE KENYA TOBACCO CONTROL
SITUATIONAL ANALYSIS CONSORTIUM**

May 2008

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LIST OF ABBREVIATIONS

ACS	American Cancer Society
ANPPCAN	African Network for the Prevention and Protection against Child Abuse Neglect
BAT/BAT-K	British-American Tobacco (K) Ltd.
CBO	Community-Based Organisation
CBS	Central Bureau of Statistics
CCS	Canadian Cancer Society
CDC	Centre for Disease Control
COP	Conference of the Parties
CSR	Corporate Social Responsibility
DNCDs	Division of Non-communicable Diseases
ETS	Environmental Tobacco Smoke
FAO	Food and Agriculture Organisation
FCA	Framework Convention Alliance
FCTC	Framework Convention on Tobacco Control
GSHS	Global School-based Student Health Survey
GTS	Green tobacco sickness
GYTS	Global Youth Tobacco Survey
IEC	Institute for Legislative Affairs
IDRC	International Development Research Centre
KARI	Kenya Agricultural Research Institute
KDHS	Kenya Demographic and Health Survey
KEMRI	Kenya Medical Research Institute
KETCA	Kenya Tobacco Control Alliance
KIPPRA	Kenya Institute for Public Policy Research and Analysis
KRA	Kenya Revenue Authority
MoE	Ministry of Education
MoH	Ministry of Health
MTK	Mastermind Tobacco (K) Ltd
NACADA	National Agency for Campaign against Drug Abuse
NACADAA	National Agency for Campaign against Drug Abuse Authority
NFECs	Non Formal Education Centers
NFSs	Non Formal Schools
NGO	Non-Governmental Organisation
NTFIC	National Tobacco Free Initiative Committee
SWOT	Strengths, Weaknesses, Opportunities & Threats
SSA	Sub-Saharan Africa
TCA	Tobacco Control Act 2007
TI	The tobacco industry
UICC	International Union Against Cancer
UNICEF	United Nations Children's Fund
VAT	Value Added Tax
VCT	Voluntary Counselling and Treatment Centre
WHO	World Health Organisation

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PART ONE

INTRODUCTION TO THE SITUATIONAL ANALYSIS

1 INTRODUCTION

Tobacco is one of the leading causes of preventable deaths globally. In 2002, tobacco killed 4.9 million people, 50% coming from developing countries. This is an average of one death every 6 seconds. It is estimated that by the year 2020, the tobacco death toll will reach 10 million with more than 70% of these deaths in developing countries (Mckay and Erickson, 2002).

Half of today's smokers will die from tobacco-related causes. According to the World Health Organisation (WHO) the tobacco epidemic is now shifting to low and middle-income countries among men and increasingly among women (WHO, 2008).

In the year 2000, the prevalence of tobacco use in Africa was estimated to be 29% in males and 7% in females, and there were estimated 200,000 deaths in the continent due to tobacco use (WHO Health Report, 2002).

According to WHO, the smoking prevalence in developing countries including Kenya has been rising considerably (Abedian, 2000). Aggressive investment and marketing by the tobacco industry, alongside with passive or inappropriate national public responses, have been the main contributing factors to the phenomenon.

In Kenya, smoking prevalence was estimated at 23% in men and less than 1% in women (KDHS, 2003). A survey of tobacco use among school going children done in 2001 indicated that 13% of these children were smokers, out of these 15.8% were boys and 10% were girls (GYTS, 2001). A Similar survey conducted in March 2007 has revealed very worrying prevalence of tobacco use.

The study indicated that about a fifth of all school going children use tobacco (GYTS, 2007).

Tobacco growing was introduced into Kenya 47 years ago and has increased tremendously over the years. Today, the crop poses a particularly difficult dilemma for development since its production has generated some employment, income and foreign exchange. At the same time, the damage to human health, forest resources, soils and to the environment in general outweighs the benefits.

There are no safe levels of exposure to tobacco and tobacco smoke. Pre-mature death caused by tobacco is preventable. Implementation of comprehensive

regulatory measures is required to prevent further escalation of the epidemic in Kenya. The World Health Organization's Framework Convention on Tobacco Control (FCTC) prescribes the required measures.

Kenya signed and ratified the FCTC on 25th June 2004. Kenya passed comprehensive tobacco control legislation on 8th August 2007 and this has come into effect since 8th October 2007. In addition to the legislation, there exists good infrastructure and opportunities for tobacco control in Kenya both within the government and civil society.

However, tobacco control in Kenya also faces several challenges, the most notable being the tobacco industry's interference in the making and enforcement of tobacco control policy and legislation. Thus, the country needs to put into place a well focused plan of tobacco control implementation.

This report details the result of a baseline assessment carried out in the month of April. The assessment indicates the current status of tobacco control efforts in Kenya, what information is readily available in terms of published literature, the infrastructure already existing for tobacco control, a SWOT analysis of tobacco control in Kenya and recommends short and long term actions required to help avert the tobacco epidemic in Kenya. It provides a basis for discussion by stakeholders and development of a proposal for the carrying out of a full situational analysis.

2. BACKGROUND OF THE SITUATIONAL ANALYSIS

The Bill Gates Foundation in conjunction with the International Development Research Centre (IDRC) are sponsoring 12 country tobacco control Situational Analyses in sub-Saharan Africa (SSA). The analyses are intended to understand the critical determinants of success for tobacco control in SSA, to identify and fill critical knowledge gaps to enable evidence based tobacco control and to identify short and longer-term opportunities to help avert a tobacco epidemic in Africa.

The Situational analyses are a two stage process consisting of:

1. A baseline assessment of easy-to-obtain data on tobacco control to determine the critical knowledge gaps and identify opportunities for short term action leading to development of the full proposal.
2. A full situational analysis to gather the evidence required to inform the broader development and implementation of tobacco control strategies.

The situational analysis will enable Kenya to:

- Analyse the existing data in order to bridge the critical gaps in knowledge.
- Minimize reliance on tobacco industry data by establishing a centre to collect such information and data.
- Undertake decisions on the basis of empirical evidence
- Formulate short and long-term strategies for the development and implementation of tobacco control in Kenya.
- Involve all stakeholders in formulating a national plan of action and policy for tobacco control.
- Assess resource requirement for the implementation of tobacco control measures.
- Build capacity and stimulate professional interest in various fields of tobacco control.

The Situational Analysis in Kenya is being carried out by a consortium of 15 members comprising representatives from the Ministries of Health, Education, research institutions and civil society organizations, hosted by the Institute for Legislative Affairs (ILA). See Appendix One.

3 OBJECTIVES OF THE BASELINE ASSESSMENT

Overall Objective of the Baseline Assessment

The overall objective of the Baseline Assessment was to map the current state of tobacco control efforts in Kenya.

Specific Objectives

1. To identify what information is readily available

2. To identify critical knowledge gaps that require to be filled
3. To identify the strengths, weaknesses, opportunities and threats or barriers to tobacco control in Kenya
4. To identify short and longer-term opportunities for tobacco control in Kenya
5. To inform the development of the proposal for the situational analysis.

Methodology of the baseline assessment

The baseline assessment entailed rapid scanning of 9 thematic areas as follows:

1. The impact of tobacco use on health in Kenya.
2. The economics of tobacco in Kenya.
3. The use of Information, Education and Communication (IEC) campaigns for tobacco control.
4. The infrastructure available for tobacco control in Kenya.
5. The role of media in tobacco control.
6. The government policy and involvement in tobacco control.
7. The tobacco industry influence in Kenya
8. The impact of and alternatives to tobacco cultivation in Kenya.
9. The use of law in tobacco control in Kenya.

The baseline assessment involved the collection of easy-to-obtain data from existing literature published and non-published, consultation of various stakeholders and analysis of the information gathered to identify issues of concern and knowledge gaps.

The report is organized into 5 parts being:

- Introduction (already covered)
- The health, social and economic impact of tobacco production, use and exposure to tobacco smoke in Kenya
- The policy and institutional infrastructure for tobacco control in Kenya
- Tobacco Industry interference with tobacco control in Kenya
- SWOT Analysis, Recommendations and Conclusion

PART TWO

THE HEALTH, SOCIAL AND ECONOMIC IMPACT OF TOBACCO PRODUCTION AND CONSUMPTION IN KENYA

This part contains the findings from 3 scans namely 'The Impact of Tobacco Use on Health', the 'The Economics of Tobacco' and 'Tobacco Growing in Kenya: Impacts and Alternative Crops'. Based on the evidence, it assesses the competing claims of economic benefit to the people and the Government of Kenya from tobacco farming, the manufacture, sale and use of tobacco products against the negative economic, health, environmental and other deleterious consequences of tobacco – related activities.

4 THE IMPACT OF TOBACCO USE ON HEALTH IN KENYA

This thematic area focused on research carried out in Kenya in the following areas: the impact of tobacco use on health, prevalence of tobacco use, the relationship between tobacco use and manufacture to the disease burden in the country and knowledge and attitudes with respect to tobacco control measures amongst stakeholders, opinion leaders and the general public.

The impact of tobacco use on health

Tobacco is used in three main ways; smoking, chewing and as snuff. Tobacco contains more than 4000 chemicals and of these 400 are known to be injurious to human health, while 40 are carcinogens (cause cancer), which include for-maldehyde, benzene, vinyl chloride, arsenic, ammonia, and hydrogen cyanide. At all levels involving farming, handling, manufacturing and end product consumer use, tobacco is harmful. Tobacco contains nicotine which is the main addictive chemical making some users dependent on it.

Tobacco use and exposure to tobacco smoke is a major risk factor that is common for many chronic diseases like;

- Cancers of the mouth, larynx, oesophagus, stomach, lungs, urinary bladder, cervix.
- Cardiovascular diseases including hypertension, arteriosclerosis leading to heart disease and stroke.
- Inflammatory conditions including bronchitis, vasculitis, oesophagitis, pancreatitis, liver cirrhosis, gastritis, peptic ulcer, cystitis.
- Maternal and Child Problems including abortion, congenital malformations in the new born, low birth weight, premature birth, still birth, sudden infant death syndrome or cot death, worsening of asthma in children..
- Hormonal derangements leading to infertility or impotence.

The greatest public health impact of smoking on infection is the increased risk of tuberculosis, a particular problem in Kenya. The tobacco epidemic adds to the double burden of disease in the country. Kenya is currently grappling with infectious diseases like HIV/AIDS and malaria and needs to counter the entirely preventable tobacco epidemic.

Prevalence of tobacco use

There are two kinds of surveys that have been conducted in this area: national surveys and small prevalence surveys.

National surveys

Between 2001 and 2002, the National Agency for the Campaign against Drug Abuse (NACADA) commissioned the first ever national baseline survey on the abuse of alcohol and drugs in Kenya. This survey targeted youths aged between 10 to 24 years and both students and non-students. It provides data of the prevalence of those who have ever used tobacco disaggregated according to the 8 Provinces of the country. It indicated that tobacco use was prevalent in all parts of the country with overall tobacco use of 3.1% and 58% among the students and non-students respectively (NACADA, 2004).

A national situational analysis conducted between November 2002 and June 2003 by NACADA and the Kenya Institute for Public Policy Research and Analysis (KIPPRA) on Drug and Substance Abuse in Tertiary Institutions in Kenya revealed that about 34% of students in Kenya are abusing tobacco, about 85% of them through smoking (NACADA, 2006).

The 2003 Kenya Global School-based Student Health Survey (GSHS) which had a total of 3,691 students participating. About 13.9% of the students admitted smoking cigarettes on one or more days in 30 days prior to the survey (WHO: GSHS, 2003)

The Kenya Demographic and Health Survey (KDHS) 2003 reported a smoking prevalence of males to be 23% while females was 1%. The Kenya Global Youth Tobacco Survey (GYTS) of 2001 reported a 15.8% and 13% prevalence among boys and girls respectively. While the Kenya (GYTS) 2007 indicates that about a fifth of all school going children use tobacco.

All these surveys revealed that tobacco use was widespread in the country but the magnitude of tobacco smoking differs among them because their data collection tools were not the same, target study populations were different and sampling procedures were not the same.

For example the NACADA study focused on non-students found in environments that were conducive to tobacco use like the youth working in the passenger transport system, the youth living on the streets and those brewing illegal alcoholic drinks while the students were from all learning institutions from primary school to universities. The GSHS dealt with school going children age 13 – 19 years and the KDHS gathered its study population from the households visited including age groups 15 – 54 years for tobacco use.

Despite these surveys revealing the use of tobacco, there is need to develop a standardized format of collecting data on tobacco use so that figures from national surveys could be representative of the real picture. It is difficult to make conclusions on the trends of tobacco use because most surveys conducted were one time and never had follow-ups to build up on longitudinal trends. There is need for this so as to monitor trend versus tobacco control strategies as time goes by. Currently there is a need for more recent data on adults and adolescents that will be representative of the country.

Most surveys done in Kenya often exclude collecting data on non-commercial and /or smokeless tobacco yet this may be in use as indicated in a 2001 prevalence survey of Ogwell et al that this was common among the sub-urban populations (Ogwell et al, 2003). There is also need to establish smokeless tobacco use so that appropriate health promotive messages about it are prepared for the targeted populations.

Factors related to Tobacco Use

A majority of the small prevalence surveys done in Kenya have concentrated on students in secondary schools and institutions of higher learning and more so in Nairobi; these include that of Kwamanga et al (2003), Lore (1987) and Ong'ang'o (2001). Two surveys of Ogwell et al (2003) and Kathula (2004) dealt with primary school children. All these surveys revealed factors related to tobacco use. This included:

- Tobacco is usually the drug of first abuse among children and young people in Kenya. Many report using it due to peer pressure especially in an effort to fit in. Tobacco is known to act as a gatekeeper drug and many users graduate from tobacco to 'hard' drugs.
- Most students who experimented with tobacco and were current cigarette smokers were in urban settings

than in rural ones. The rate was found to be as high as 37.2% for boys and 17.5% for girls in Nairobi (Kenya GYTS, 2001). This prevalence was more or less similar in both the Kwamanga et al (2003) and Ogwell et al (2003) surveys. This observation could be attributed by the improved socio-economic status and changing lifestyles in the urban set up.

- Lifetime use of tobacco was linked to students who reported father's use of tobacco, teacher's smoking habits or knowing a friend who smokes tobacco.
- Experimentation with smoking started at 5 years and regular smoking at 10 years.
- Most students purchased their cigarettes from kiosks or cigarette vendors which sell cigarettes in both packets and single sticks.
- Peer pressure and advertising were the most common risk factors to use of tobacco .
- Most students were not discouraged by health warnings on the packets of cigarettes. These studies identified some predictors of tobacco use among students, this information could be utilised to plan for tobacco control strategies.

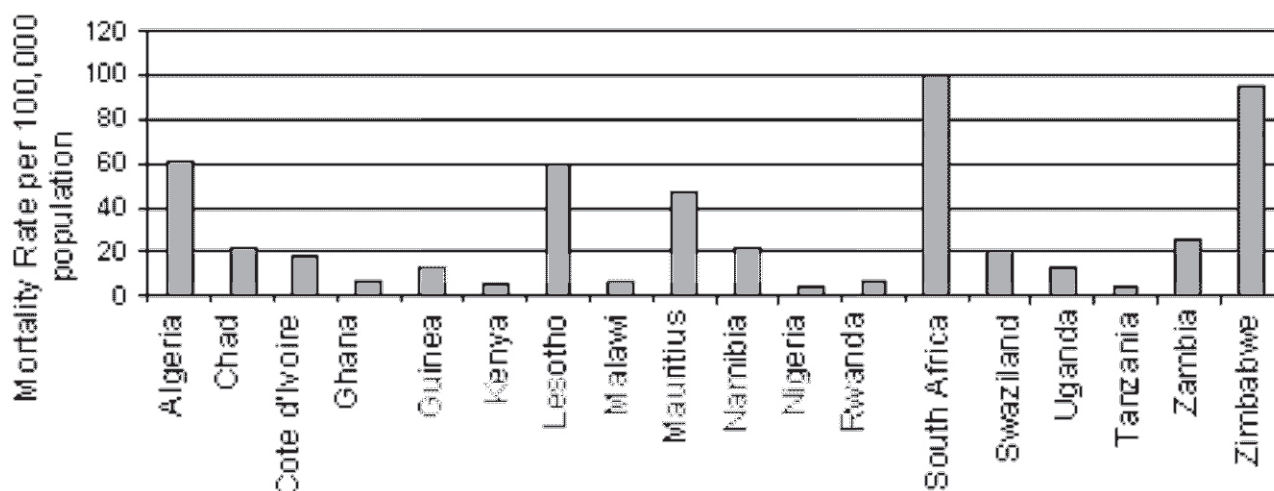
A task force established by the Ministry of Education to investigate causes of school indiscipline (Wangai Report, undated) established that drugs and substance abuse including tobacco was contributing to mass indiscipline in learning institutions. Though this was not a scientific research, it shed light in the need for tobacco control measures.

Burden of smoking-related diseases – deaths/year, cost of healthcare

According to the WHO (WHO-AFRO 2001) and the World Bank (World Bank AFR, 2001), tobacco killed over 4.9 million people around the world in 2002. Research shows that over 60% of the patients who are treated in health centres in tobacco growing areas of Kenya suffer from tobacco related ailments. Statistics released by the Ministry of Health on 31st May 2005 (World No Tobacco Day) show that of the 12,000 who died of tobacco related illnesses, 4,000 were passive smokers (MoH, 2005)

The general burden of disease in Kenya has diseases of the respiratory system contributing 24.9% (MoH, 2004). Common smoking-related illnesses in Kenya are respiratory and carcinogenic in nature including trachea, lung and bronchus cancers as well as lip, oral cavity and pharynx cancers (World Bank AFR, 2001).

Mortality Rate from Trachea, Lung and Bronchus Cancer Amongst Males in Selected Africa Countries (per 100,000 population) *Source: Tobacco Control Country Profiles, American Cancer Society (2000).*



There is need for research to measure the effects of tobacco on the burden of disease in Kenya so that there is specific description of the diseases caused by tobacco use. Despite these there are case studies that seem to be directly linked to tobacco use. For example the constant tearing of the eyes of a farmer who works in the tobacco curing barn after long years of exposure to tobacco smoke and the farmers who go to pick moist tobacco leaves with no protective clothing, resulting in direct absorption of nicotine through the skin presenting with nausea, vomiting, dizziness, abdominal cramps, aching joints and increased heart beat (Asila, 2004).

The costs of tobacco abuse at the national level encompass increased healthcare costs, lost productivity due to illness and early death, foreign exchange losses, and environmental damage. On commemorating the World No Tobacco Day 2006, the Ministry of Health reported that Kenya spends over Kshs. 18 billion annually treating diseases caused by tobacco (MoH, 2006). No economic studies on the cost of treating tobacco related diseases has ever been conducted to actually confirm this estimate.

According to the World Bank, mortality from smoking re-lated diseases in most African countries including Kenya is much higher for men than for women (World Bank AFR, 2001). However, as in other countries where much higher percentages of women have become smokers in recent decades, women's mortality rates will soon begin to reflect the serious health impact of smoking.

The current smoking figures in Kenya do not reflect the cumulative hazards of smoking, which depend on several factors including the age of initiation, duration,

cigarettes smoked per day, degree of inhalation, tar and nicotine content. There is need to establish the level of hazard among tobacco users in this country.

In addition to this very little is known about the health effects of other forms of tobacco including smokeless tobacco, 'reverse smoking' (lighted end inserted into the mouth) and the effects of exposing farmers to nicotine through the skin.

Health Warnings

Most cigarette packets do have health hazard warnings but how effective these warnings are to tobacco users is not known. In the survey done by Kwamanga (2003), it was reported that the youth were aware of the health hazard warning on the cigarette packets but this did not deter them from using the cigarettes. There is need to assess size, characteristics and contents of the warnings especially to identify whether the warning brings out the specific harmful effects.

5 THE IMPACT OF AND ALTERNATIVES TO TOBACCO CULTIVATION IN KENYA

Tobacco growing was introduced into Kenya 47 years ago and has increased tremendously over the years. Since its inception by British-American Tobacco (BAT) its culture, use, health and economic implications have become issues of social and academic inquiry.

Growing concerns have been expressed not only about the health hazards involved in tobacco production but also about the environmental impact in terms of excessive use of wood, pollution and soil degradation. However, it has been treated as a legitimate cash crop due to the income generated from

its production and export and employment created. This thematic area therefore analysed the social and economic implications of tobacco cultivation in Kenya on the economy, farmers, women and children, and the environment; and the existing opportunities and barriers to possible alternative crops and livelihoods to tobacco cultivation.

Acreage under tobacco cultivation

The main tobacco growing areas in Kenya include:

- Nyanza Province: Kuria, Migori, Suba, Homa Bay and Rachuonyo Districts.
- Western Province: Bungoma, Busia, Teso and Mt. Elgon Districts.
- Eastern Province: Meru, Kitui and Machakos Districts
- Central Province: Kirinyaga, Muranga and Thika Districts

Today, it is grown by about 20,000 small scale farmers on over 15,000 hectares of land. The total acreage of land under tobacco however represents only 0.5 % of the total agricultural arable land in Kenya.

Tobacco farming in Kenya is a contract based activity which is dominated by two major tobacco companies – British American Tobacco-Kenya (BAT) and Mastermind Tobacco (K) Ltd (M.T.K). The total production of the two firms is about 20,000 tons with BAT producing more than 2/3 of the total production. Another tobacco company, Stancom Ltd has started contract farming in Migori and Bungoma Districts, but the number of farmers contracted is still very small.

According to Adede, Ochola and Abuom – Ongaro, (2004), Out of 60 farmers included in a survey of tobacco growing in Malakisi Division of Bungoma District, 90% were contract and 10% were not. About 76% of the farmers have been cultivating tobacco as cash crop for a period of between 15-25 years and devoted between 6 ha to 8 ha for tobacco production. About 24% of farmers allocated between 10ha – 15ha including those above 15 ha of land to the cultivation of the crop.

The survey further revealed that tobacco occupies 2% of the land use, while maize occupies 47%, sugarcane 16%, coffee 4% and the rest of the crops 31%. The earning from other crops were found to be 3.5 times higher than from tobacco. The earnings from tobacco cultivation is further eroded by the numerous grading system which is under tight control by the tobacco companies, as well as high charges on farm inputs which the companies give to farmers on credit.

Impact of tobacco cultivation on the environment

Tobacco cultivation in Kenya just like in any other country has been challenged for its adverse effects on the environment. Some of these effects includes: deforestation as trees are cut down to provide fuel for curing tobacco, pollution of water due to high usage of chemicals in production of tobacco and soil degradation since tobacco absorbs most of the soil nutrients leaving the soil unsuitable for growth of any other crop.

Tobacco cultivation and pollution

Tobacco is a sensitive plant prone to many diseases and pests. Farmers therefore use massive amounts of fertilizer to increase foliage weight and quality so as to maximize yield and returns. Huge amounts of herbicides and pesticides are also used in its production. The application of these chemicals covers the period from the nursery to when the crop is harvested. The common pesticides used include aldicarb and chlorpyrifos, which are highly toxic substances. Methyl bromide, an ozone depleting chemical, is also used to fumigate the soil prior to planting tobacco seedlings. These chemicals leach into the soils and eventually find their way into and pollute streams, rivers and food chains, thus destroying biodiversity. Worse still, in rural Kenya, most people use water from these rivers and streams for their washing, drinking and cooking and for their animals (Ochola and Kosura, 2007).

Further the agrochemicals used in the production process may also indirectly cause the genetic selection of pesticide-resistant disease transmitting agents, making control of diseases such as malaria much more difficult.

Asila (2004) agrees with Ochola and Kosura's findings that pesticides used in tobacco production highly pollute water sources in tobacco growing areas. In his study, a local doctor in Kuria District reported that pesticides' residues used by tobacco farmers are washed away in to the river in which everyone in the area depends on for washing, drinking and cooking. The polluted water touches on everyone even if one is not a farmer.

Tobacco cultivation and deforestation

During drying of tobacco leaves (curing) a lot of biomass from indigenous flora is used. This leads to deforestation and even soil erosion (Oongo, 2004). After being harvested as a green leaf, tobacco is cured to preserve it for storage, transport and processing. Curing also gives it the characteristic tobacco taste, aroma and color. Statistics indicate that majority of Kenyan tobacco is flue cured (e.g. Ochola and Kosura, 2007).

This process entails passing heated air through the harvested leaves. This therefore means that trees are cut to provide fuel. Since curing is done in a specially designed structure, referred to as a barn, trees are also cut to build the barn, which is typically rebuilt after every two to three years (Ochola and Kosura, 2007).

A report by the Pano Media (1994) indicates that trees from a hectare of land may be needed to cure one hectare of tobacco. Further the study findings indicated that an average of 7.8kg of wood is needed to cure 1kg of tobacco.

Tobacco therefore causes serious loss of trees not only in Kenya but also in other tobacco growing countries.

Tobacco curing also requires specific species of trees since the smoke from these trees determines the quality of the final product. A report from Kuria district noted that, during the introduction of tobacco production in the area, the BAT officials encouraged the use of indigenous trees arguing that the smoke from these trees determines the aroma of the final cured leaf and it therefore discouraged use of exotic trees which gave unwanted smell. This led to massive destruction of the local trees which have become extinct (Chacha, 1999).

The situation is evident from Asila's (2004) report where a farmer noted: "We were never told that tobacco growing would clear the forest that we relied upon for firewood. The hills around this place were once dotted with beautiful trees which provided land cover and helped retain rainwater. Today, the land is bare. The trees were cleared over the years to meet the high demand for wood fuel required in tobacco curing. And a local stream, a major source of water, has gone dry due to the deforestation."

A similar case was reported in Meru District. Bazinger (1982) reported that tobacco production was

responsible for the depletion of forest in Meru District. He wrote: "Farmers in Kenya's Kunati Valley have stopped growing maize--the country's most important staple food--and are now growing tobacco for a multinational company...The slopes on the sides of the Kunati Valley, near Mount Kenya, are now completely bare. Their former covering of trees has been cut down to be used as fuel for curing tobacco".

Chacha (1999) further notes that tobacco is well known to be destructive, not only to the soil, but also to the forest resources. Geist (1999) contends that tobacco production can indeed be a "driving force of environmental change", he writes that the crop generates good income and concludes that tobacco poses a particularly difficult dilemma for development since its production generates both a range of employment, income, foreign exchange and other cash contributing effects, while the damage to the environment in the long term appears to outweigh the benefits.

In his seminal study, he found out that deforestation in tobacco growing and Miombo covered countries by far exceeds that in tobacco producing countries of the same dry forests or woodland ecozone. Other negative externalities that have been associated with the natural environments where tobacco is commonly grown are: the absorption of high amounts of macro nutrients from the soil and the usage of large amounts of wood likely to contribute to the accelerated depletion of natural forests and woodlands.

According to FAO Forest Resource Assessment (1990), Kenya is classified among the countries with low forest cover of less than 2% of the total land area. The diminishing forest cover caused by tobacco production therefore has a severe effect on the climate, wildlife, streams and human population especially forest dwellers. A study carried out in Kenya on the use of wood in tobacco industry (Fraser, 1987) noted that "the area of all types of forests in Kenya is now below the level at which it is capable of meeting the current and future fuelwood demand on a sustainable basis." This means that accelerating deforestation can be expected, with potentially serious ecological consequences.

Tobacco production and soil degradation

Intense tobacco cultivation has been observed to contribute to poor food supply, famine, malnutrition and aridity. Tobacco uses more of the primary nutrients than most cash and food crops. The impact

Table1: Comparison of input prices (Company supplied and prevailing market prices)

Input	CompanyPrice(Ksh)	MarketPrice(Ksh)	Variance
NPKfertilizer(per50kgbag)	1,895	1,550	22%
CANfertilizer(per50kgbag)	1,450	1,200	21%
Conf or (50ml)	2,250	2,000	13%
Pyagro (00ml)	900	700	29%
CopperSulphate(500g)	250	180	11%
Off shoot T (00ml)	2,000	1,800	11%
Orthene	1,000	750	33%

Source: Ochola and Kosura, 2007

has been observed to be severe in tropical countries which have low soil nutrients. In his study, from Pastoralists to Tobacco Peasants, in Kuria district, Chacha (1999) notes that tobacco growing causes massive destruction of the soils. The crop diminishes all the soil nutrients leaving the soil infertile to sustain any other crop unless massive fertilizer application is embarked on. There is also high leaching effect of the nutrients in tobacco growing areas.

Further with most of the fertile ground given over to tobacco, some farmers have tried to grow maize on the formerly forested hillsides. But heavy rains wash away soil, plants, and all. The topsoil has eroded in some places, and rocks and boulders are already washing down toward the fertile fields below, the report says. Tobacco growing certainly brings the farmers more profits than maize has done, so that what is happening in the Kunati Valley (Meru district) is being repeated in a thousand other places in all of Kenya (Bazinger, 1982). Exports are being promoted at the expense of local consumption. In the long run the ecological basis of all production is being permanently destroyed.

Ochola and Kosura (2007) concur with these results. In their study carried out in Kuria and Migori districts, findings indicated that majority of farmers in the area noted that repeated tobacco cultivation had resulted to severe soil degradation. A respondent was reported saying that “tobacco destroyed their soils making it difficult to grow other crops on the same plot once tobacco is grown on it”.

Other studies have also presented similar results. A study carried out by Christain Aid, (2004) reported a former tobacco farmer in the district pointing out that the district had joined the Arid and Semi Arid areas as an area constantly in need of famine relief. In addition to nutrients destruction, tobacco cultivation has been found to influence growth of some notorious weeds. Farmers in Kuria district pointed out that tobacco

cultivation has led to the establishment of various stubborn weeds which were not common in the area before. One of these weeds is Machicha in the local language which farmers said is very difficult to control (Ochola and Kosura, 2007).

Social-economic impacts of tobacco production

In an effort to lower costs and increase profits, tobacco companies advocate for increased production of green leaf. To achieve this objective, the companies provide farm inputs such as credit facilities and technical support to farmers. The companies argue that no interest is charged on the loans. Farmers on the other hand indicate that the supplied inputs are charged at a higher rate than the prevailing market price. Ochola and Kosura (2007) agree with these sentiments in their study in Kuria District as illustrated in Table1 below. As a result of these input variance, most farmers indicated that they were not able to fully pay loans after deductions at the end of the crop season.

Child labour

Current estimates indicate that some 250 million children worldwide under the age of 17 are engaged in some form of exploitative child labour. Tobacco farming, particularly in developing countries, is one of the sectors with a child labour problem (Eliminating Child Labour in Tobacco Growing Foundation, 2001).

Since the colonial period, the agrarian society has been exposed to the use of child workers in Kenya. According to Bahemuka, et al (2000) child labour continues to be a serious problem in Kenya and many children are working on plantations and as street vendors. The African Network for the Prevention and Protection against Child Abuse and Neglect (ANPPCAN), a Kenyan non-governmental organization focusing on child issues estimated that in 1999, about 3.5 million children aged between 6 and 14 years were child labourers and a significant majority

was in agriculture. Child labour in Kenya is mainly attributed to socio-economic factors such as poverty and political factors which drive children to work (Eldring et al., 2000).

In order to cut down the cost of tobacco production, farmers resort to various measures to increase their earnings. Some of these include having underage family members assist in farm operations. Ochola and Kosura (2007) reported that even though majority of the sampled farmers think that minors should not be involved in tobacco cultivation, this was observed to be the case in almost half of the sampled farms.

The use of children in tobacco cultivation in these farms presents a unique health problem. Research indicates that exposure to pesticides and other agrochemicals used in tobacco cultivation poses a considerable higher risk in children than adults as children's nervous and immune systems can be damaged, leading to a greater risk of cancer (Clay, 2004).

The involvement of children in tobacco cultivation also leads to increased school drop out rates. This could explain the low education status (primary not completed) of most of the farmers producing tobacco in Kuria district (Ochola and Kosura, 2007).

Asila (2004) reveal similar results. The study notes that a successful tobacco crop takes nine months of labour-intensive, backbreaking work, most of which must be done by hand. The tobacco companies are not known to contribute farm implements or the use of a tractor to help out. The entire family, including children, gets drawn into tending the crop. One of the respondents pointed out that children are withdrawn from school to help in tobacco farm work. This has led to poor academic performance of these children who end up dropping out of school for full time involvement in the tobacco growing farms.

In addition to high school drop outs as a result of provision of labour in tobacco farms, children in the tobacco producing areas suffer from malnutrition. Kariuki (1999) in her study notes: "It is evident to a visitor to Migori that, despite the tobacco money, cases of malnutrition in children are high and accommodation is basic.

A survey by the United Nations Children's Fund (UNICEF) bears out the impression - it says 52% of children in Migori district either suffer from chronic or acute under-nutrition or are underweight. The main cause of malnutrition is mainly due to low earning obtained from tobacco farming. Farmers lack surplus

cash to purchase balanced diet for their families.

Women labour

Women are naturally known to be involved in most of the agricultural activities which are labour intensive and mostly done by hand, for example horticultural and tobacco farming. Research indicates that women and children carry out the work in the tobacco farms (Campaign for Tobacco free Kids, 2001).

In Migori District for example, a local leader pointed out that though tobacco production was well paying, the negative social consequences associated with it are detrimental especially to women. She noted that, men marry many wives to have more labour on tobacco farms. Some women are contracted but at the time of payment men go to collect the money which they then squander while women and children are left to suffer.' (Asila, 2004).

Low returns/ income

In most parts of the tobacco growing areas of the country, farmers have been complaining of exploitation by the tobacco companies. In Bungoma for example, Asila in his report, "No cash in this crop" (tobacco) notes that: When it comes to the crunch, the profits, if any, in growing tobacco are paltry. Christian Aid (2004) analysed BAT Kenya's figures for the Bungoma region and found that farmers were being paid the grand price of seven cents per kilo. They actually received less than half this price once the cost of the agro-chemicals and other inputs sold to them by the company had been deducted.

Other complaints included: high input costs; non provision of protective gear; poor grading system; poor quality inputs; harassment when crop fails (because of drought or hailstorms) and farmer can not repay loan in full and lack of insurance for the curing barns which often catch fire during the curing process.

In Meru district as pointed out in a study conducted by John Nkuchia (1994) tobacco has changed little materially for farmers - it may have even lowered incomes. He suggests that food production in the tobacco-growing districts of Kenya has decreased as farmers have shifted from food crops to tobacco. Using figures extracted from the Kenyan Central Bureau of Statistics and 'the industry's annual reports', Nkuchia estimated that the number of farmers contracted by BAT increased by 67% from 7,000 in 1972 to 11,000 in 1991, and by 36% from 1991 to 1993. Alongside, the

land under tobacco grew rapidly. At this rate, he wrote 'the number of farmers growing tobacco will nearly double by 2010'. And that, he feared, would double the amount of land used for tobacco cultivation at the expense of food crops.

A recent study by the Kenyan Health Ministry found 80 per cent of tobacco farmers actually lose money. Because they are usually poorly educated, they lack the skills to organize a budget for their nine months of toil. When the payoff comes they see the cash-in-hand, not the loss they may have incurred. Their only certainty is that tobacco farming does little to improve their hand-to-mouth existence. The same cannot be said for BAT Kenya.

When the going gets tough it tends to play dirty. In 2001, tobacco farmers from Nyanza province produced a bumper crop, much higher than the company had expected. Having already purchased more than it had planned for, BAT Kenya suspended further purchases, in clear breach of contract. In a bid to dis-empower farmers, BAT Kenya threatened to relocate to Uganda and leave them stranded. The Government did nothing to help (Christian Aid, 2004).

BAT has also been fighting any meaningful union representation that would give tobacco farmers collective bargaining powers. Previous attempts at forming a union collapsed due to tobacco company interference. In Kuria District, Asila (2004) reported that low returns have also been pointed out as a result of the contractual arrangements between the multinational companies and the farmers.

Contracts are signed but 90 per cent of farmers don't understand them. The contracts set the buying price of the tobacco and the points of sale. Inputs such as seeds, fertilizers and pesticides are loaned to farmers—their price, often charged at way above the normal shop price, are deducted by the company when the farmers sell their leaf. Farmers are basically contract workers who must assume all financial risks. Should a barn burn down or the crop suffer due to a hailstorm, the farmer must shoulder both the losses and the resulting cycle of debt. All these complaints were also noted by Kapiyo and Asila (2004), a study of the power relations in tobacco production in Kuria and Migori Districts.

Health related impacts

The economic problems associated with tobacco farming are only part of the equation. The seriously

damaging health impacts caused by tobacco farming parallel those caused each time a cigarette is taken out of a packet and lit. From the moment the tobacco seed is planted to the time the tobacco plant is harvested and cured, the health of those who cultivate the crop is constantly put in peril. Health threats include the large amount of pesticides used on virtually all tobacco crops as well as illnesses related to the handling of raw tobacco leaves (Campaign for Tobacco Free Kids, 2001).

Tobacco plant requires a substantial amount of agrochemicals to protect it from insects and diseases. As a result, farmers make numerous separate applications of agrochemicals from the time the crop is planted in the nursery to the time it is finally harvested. The intensive and repeated use of these chemicals takes a toll on tobacco farmers, many of whom are unaware of the proper safety procedures necessary to handle them.

Research indicates that as a result of their occupation, tobacco farmers are exposed to green tobacco sickness (GTS), a type of nicotine poisoning caused by the absorption of nicotine through the skin. (Campaign for Tobacco Free Kids, 2001). GTS is characterized by symptoms that include nausea, vomiting, weakness, headache, dizziness, abdominal cramps, difficulties in breathing and fluctuations in blood pressure.

The sickness is worse and more frequent when workers do not wear gloves or protective clothing (Ochola and Kosura, 2007). Only a small proportion of the farmers used the protective gears. Majority complained that, the high prices levied by the tobacco companies for protective materials made it difficult to acquire them, despite the known fact that high doses of herbicides and pesticides are said to be dangerous to workers damaging eyes, skin and internal organs.

In their (Ochola and Kosura) survey, farmers were asked if they are aware of any health risks or harmful effects associated with tobacco cultivation and also to indicate the effects. Most of them said they are aware of the health risks associated with tobacco farming. The effects mentioned include: chest problems/pains, especially after spraying the crop; poor eyesight, blurred vision or complete loss of sight (one farmer reported that his father who had been growing tobacco for a long time had completely lost his eyesight); miscarriages for pregnant women; fever; dry throat; itchy/irritated skin at harvesting; and back problems, especially after harvesting.

A former tobacco farmer in Kuria district notes that from the day the nursery is laid to the day the pay cheque is collected, the farmer inhales an assortment of chemicals. Thus, at the end of the farming season, the farmer spends all he earned from the crop, sometimes more, to seek medication.

At the Kehancha District Hospital, more than 60 percent of deaths are due to tobacco-related ailments. Infant mortality is also on the increase, as are the incidents of unexplained miscarriages, just to mention a few. Tobacco nurseries are situated near water masses, most times at the source. Thus, as the farmer waters his chemical-drenched seedbed, the water flows back to the river, carrying with it remnants of such chemicals. The same water is used downstream by communities and their animals. The result is a proliferation of all sorts of ailments assaulting man and beast in the area.” (Campaign of Tobacco Free Kids, 2001)

Curing was also noted to produce ill effects, as during this process, farmers have to constantly monitor fire levels to prevent barns from catching fire and many sleep in the barns, turning the farmers into de facto smokers. Farmers who indicated knowledge of the health effects associated with tobacco farming were then asked whether they take any preventive measures to avoid these effects.

A survey carried out by African Business reveals similar results. The survey notes that, ‘although tobacco is probably the most lucrative cash crop for rural farming communities in Kenya, young farmers interviewed claim they are contracting asthma, skin complaints and dry coughs through continual inhalation of tobacco smoke during curing and the handling of chemicals. There appears to be clear evidence of typhoid fever, amoebic dysentery and other stomach complications caused by polluted water increasing among tobacco farmers. (African Business, May 2001)

Kariuki (1999) concur with the above findings. In the study, conducted in Kuria district, one farmer noted that working in the tobacco curing barn had severely affected his eyes which were constantly teary after long years of exposure to tobacco smoke. He had nothing to show by way of savings. The main beneficiaries, he says were the tobacco companies to whom the farmers are contracted.

The Kenyan arm of the transnational British American Tobacco (BAT) rules the roost with 55 per

cent of market share, followed by StanCom Company (25 per cent) and Mastermind Tobacco Kenya (20 per cent). ‘Each year the companies proudly display figures they have paid in taxes, but those who grow tobacco like us remain poor.’

Asila (2004) report from the same district revealed the same complaints from the tobacco growing farmers. One of the tobacco growing farmers was reported saying, “Growing tobacco is chemically intensive and a common complaint is that BAT doesn’t provide even the most basic protective gear.” Tobacco spraying is intoxicating. We have had cases of people becoming unconscious after inhaling the chemicals.” Headaches, nausea, constipation, skin and eye irritation and chest pains are common symptoms.

Another farmer added: ‘Officials of tobacco companies will never enter tobacco farms during spraying without protection, yet they don’t mind us working without protective gear.’ Come picking time and another problem presents itself. Even discounting pesticide hazards, the tobacco plant itself can be toxic. Picking moist leaves with bare limbs can lead to the direct absorption of large quantities of nicotine through the skin causing Green Tobacco Sickness.

A survey carried out by Christian Aid covering 20 tobacco farmers in 2000 in Migori district, revealed that most of them experienced health problems throughout the tobacco-growing period, during which pesticides are applied weekly. All complained of constipation, 18 of nausea, 11 of blurred vision, 18 of headaches, 19 of eye irritation and eight of chest pains.

The existing opportunities and barriers that farmers face in making the transition from tobacco cultivation to alternative crops and other livelihoods

Despite all the negative impacts described above, studies show that the land under tobacco has continued to grow rapidly at the expense of traditional crops whose role is critical to food security. In Nyanza province the tobacco companies are even pushing themselves into new areas where they don’t even have a history of presence, like Siaya District. To this end there is a concerted search for Alternative crops and other livelihood strategies.

Most of the research carried out in the tobacco growing regions reveals that switching from tobacco to other crops is profitable. A survey carried out in Kuria district for example reveals that all the

interviewed tobacco farmers were willing to shift to the production of alternative crops (Ochola and Kosura, 2007).

However, most of them pointed out some barriers towards this transition. Such barriers which they indicated as their conditions to shift to other crops include: the crop introduced must have a ready market, access to credit (cash or in kind) to ensure that the organization offering the credit facilities would buy their products to recover its money, access to extension services and establishment of a demonstration plot to educate farmers on how to produce the crop (Ochola and Kosura, 2007).

Employment opportunities generated in the tobacco industry has also been pointed as a barrier towards shifting to other crops. A study in Migori District points out that increased tobacco production has generated ancillary employment in distribution, marketing and retailing. BAT cigarettes are sold through 49 distributors, 1,000 stockists or wholesalers and at least 40,000 retailers. All told, more than a million Kenyans derive their livelihood from BAT. In addition, the company prides itself in supporting the government through taxes and rural development programmes such as tree planting. Indeed, there are many farmers who like working for BAT and even cultivate tobacco out of season, which is prohibited by law.

Christian Aid (2004) agrees with Ochola and Kosura that lack of a reliable local market for vegetables and other crops that farmers can shift to, makes it difficult for farmers to move away from tobacco and concentrate on growing food. BAT Kenya itself says that: 'Tobacco in Kenya is predominantly grown in marginal areas where there are limited alternative economic activities.' In addition, the tobacco season, which is nine months long, leaves little time for farmers with small plots to grow substantial amounts of food. Farmers need to produce two maize crops per year to provide sufficient food to feed their families and also generate a profit, making commercial maize-growing alongside the cultivation of tobacco impossible

Oongo (2001) in his study in western Kenya notes that farmers' resistance to change can also be regarded as a barrier to switching to other crops. He notes that attempts to persuade farmers to opt out have not been successful. While some farmers understand the dangers inherent in tobacco farming, majority do not understand and are not ready to opt out.

In Rangwe Division, for example, an important tobacco growing zone, farmers do not envisage any alternative income generating activities as lucrative as tobacco farming. After all the tobacco firms provide inputs on easy terms and readily available market for the tobacco leaves and pay promptly. The farmers find this to be a very good deal indeed! The tobacco firms, aware of the scheme of the anti-tobacco crusaders, have used their massive financial prowess to thwart those attempts accordingly; they have succeeded in making the farmers addicted to growing tobacco. He also agrees with the other studies that lack of viable market for other farm products e.g. horticultural crops especially, when produced in large quantities.

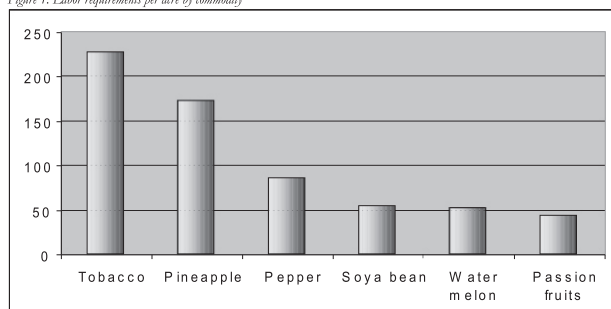
To encourage farmers to shift to other crops, Oongo (2001) points out that the potential of engaging the persons (who are mostly aged between 30 -40 years) living in this areas with micro technical enterprises e.g. carpentry, masonry, brick-making, welding, shoe repair, etc, through provision of electricity at strategic centers/points and provision of start-up funds would be important towards diverting the attention of the farmers from tobacco. Growing of horticultural crops since the tobacco growing zones are well endowed with fertile soils, and adequate and consistent rainfall should also be encouraged.

Research has shown that there are abundant opportunities to shift from tobacco farming to other crops. Three studies have been conducted:

1. Kapiyo et al (2004) which studied the potential of diversification from tobacco to the growing of trees for wood fuel which would be sold for fish smoking along the beaches of Lake Victoria. This study was conducted but never went to the next stage of implementation because of the long distances and the poor infrastructure between the tobacco growing areas and the beaches.
2. Kibwage et al (2007) an ongoing study of the potential of diversification from tobacco to bamboo. It is being conducted in Southern Nyanza region involving four districts, that is, Kuria, Suba, Homabay and Migori. 120 farmers in each district have already accepted to switch to the crop, have planted the trees and the project is at the stage of training farmers on production of artifacts for sale.
3. Kosura and Ochola (2007) which studied the potential of diversification from tobacco to either pineapple, pepper, soya beans, water melons or passion fruit. The study found that tobacco is a

labor intensive crop. On average, the survey indicates that farmers use a total of 227 man days per crop season. This figure compares favorably with results from other studies (e.g. Assunta, 1999) which reported that tobacco cultivation requires about 1200 labor hours (about 200 man-days) per acre. Compared to other alternative crops, tobacco was found to demand the highest amount of labour as shown in figure 1 below.

Figure 1: Labor requirements per acre by commodity



Source: Ochola and Kosura survey (2007)

Further, the survey reveals that tobacco production uses the highest input levels compared to other alternative crops. On average, a farmer uses Kshs. 15,673.80 per acre of tobacco production compared to Passion fruits (Kshs. 7193 per acre), Pine Apples (Kshs.1200 per acre), Soya beans (Kshs. 140 per acre) and Pepper (Kshs. 139 per acre). (Ochola and Kosura, 2007).

From the analysis, it is also evident that tobacco has the least returns of all the studied crops per month of the crop season. On average, farmers' gross income was estimated at Kshs. 58,452 per acre, compared to other crops such as passion fruits (Kshs. 216,000), Pine apples (Kshs.132,000), Pepper (Kshs. 83,333) and Water melon (Kshs. 240,000). This therefore confirms the assertion that the contribution of tobacco to the farm family's income is minimal, and could be a contributing factor to the widespread poverty observed in the tobacco growing regions.

A lot of research has been done regarding the adverse impacts of tobacco cultivation. The little research on alternative cropping indicates that alternative crops have potential to make significant impact in the fight to control tobacco and improve livelihoods of tobacco farmers. However, this will require substantial support in terms of inputs, technical support, and commodity marketing among others to ensure sustainability.

It is also prudent to consider the issue of 'Alternatives' to tobacco in its broadest form. All those involved in

one way or another in tobacco industry from cultivation to actual retail of the cigarette should be worked with to find a suitable and viable alternative.

6 THE ECONOMICS OF TOBACCO

This thematic area focused on existing research on the impact of tobacco use and production on the economy, trade, national employment and family incomes.

According to the Central Bureau of Statistics (CBS), cigarette production in Kenya rose from 4.7 billion sticks in 2003, to 5.3 billion sticks in 2004, and was expected to rise to 7.2 billion cigarettes in 2005 (KDHS,2003)

BAT remains the dominant player in tobacco manufacturing in Kenya. In 2000, it controlled over 92% of the market share. Other players then were MTK (6%), and Japan Tobacco (0.4%). By mid 2002 BAT controlled 71% of the Kenya market, MTK 23%, Cut Tobacco 6% of the market share.

Contract manufacturing for BAT, accounts for 63% of its output from the Nairobi factory, which it markets in 14 countries in the region in the last five years as compared with less than 20% in 2002. (Daily Nation, May 13, 2008: Smart Company p. 6) Perhaps the decline in BAT's share of the market could be attributed to increased competition from other tobacco industry players in the country as well as increased export to the regional market. Production of cigarettes as well as export of the same have increased significantly, while cigarettes imports have declined.

Tax Revenue and Tobacco

Control The tobacco products manufactured and consumed in Kenya attract various forms of taxes, which include excise tax, customs duties, and Value Added Tax (VAT) (Economic Survey 2003). In Kenya, the excise duties increased substantially in 2007, averaging over 20% across the product portfolio (Daily Nation, May 8, 2008).

In Kenya, local cigarettes manufacturers pay 30% in excise duty (at least Kshs 400 per 1000 cigarettes, while imported cigarettes are charged Kshs 500 per 1,000 sticks (The East African Standard, 2003). However, cigarettes meant for export do not attract customs and Excise tax. No research has been done to determine the price elasticity of demand for Kenya.

Though BAT-K prides itself as a lead taxpayer and supporter of national development, these claims are

not matched by the reality on the ground. The BAT Annual Reports reveal that the tax paid by the company to the government had declined from Kshs 8.9 billion in 1999 to Kshs 4.7 billion by 2003 – 47.2% drop. The claim of the company's positive income contribution to the government is rendered even more doubtful by the increasing disease burden that the tobacco industry imposes on the country and the negative long-term impact on national economic productivity.

Tobacco Trade: Export and Import

Kenya exports tobacco products worldwide. An examination of the export data from 1997-2006 shows that export is made up of two main categories of tobacco products, namely: "other cigarettes containing tobacco" which make up 62.4% of the export trade on average, and the other is constituted of tobacco "partly or wholly stemmed /stripped" which together with other constitute 37.6%.

The 50% of "other cigarettes containing tobacco" is

destined to African countries while the 50% of "partly or wholly stemmed / stripped tobacco is exported mainly to European countries. Table 2 indicates the quantity and the value of tobacco exported from Kenya since 1997 have shown declining trends, but registered highest increase in the quantity and the value of export recorded was in 2001, when the percentage increase were 82.2 and 36.4 respectively. From 2002-2006 quantity exported increased, as well as in value terms.

In order to maintain its edge as a lead firm in Kenya, BAT started to manufacture under contract, new export brands: "Burns and Sons", John Players, Gold Leaf, Royal Kings and Benson and Hedges Kings etc. The relocation of manufacturing plants from Europe and Uganda to Kenya not only strengthen the country's position as a regional hub for tobacco production in East, Central Africa, and the Horn of Africa, but make tobacco control efforts more difficult. The export of tobacco products worldwide is captured in Table 2, and imports in Table 3.

Table 2: Kenya Export of tobacco Products Worldwide 1997 – 2006

Year	Quantity (Tons)	Value (US\$ million)
1997	8,665	29.40
1998	7,028	36.62
1999	6,194	19.04
2000	8,633	28.95
2001	15,786	40.11
2002	15,078	49.29
2003	12,368	42.60
2004	24,503	42.16
2005	15,153	73.39
2006	19,634	112.41

Source: Customs Department, Kenya Revenue Authority (KRA) various issues, and Economic Survey 2007

Table 3: Kenya import of Tobacco products 1997 – 2002

Year	Quantity (Tons)	Value (US\$ million)
1997	794	2.75
1998	1142	1.86
1999	101	0.75
2000	4724	5.97
2001	16284	15.75
2002	14219	14.98

Source: Customs department, Kenya Revenue Authority (KRA) various issues.

Table 3 on imports equally indicates that Kenya imported lowest quantity of tobacco in 1999 of about 100 tons, a sharp drop of 87.3% from 1997. The highest quantity of 16,284 was imported in 2001 which was a twenty fold increase. It should be noted that imports of tobacco also comprise “other cigarettes containing tobacco” which constitute 68.7% of total imports, tobacco refuse 13.8%, and the rest of tobacco “partly or wholly stemmed / stripped” constitute 17.5%. The picture that emerges is that the country is becoming a major centre for tobacco trade.

Employment related to tobacco industry

Employment in tobacco manufacturing increased from 451, 000 in 1979 to 993,000 in 1995 (www.globalink.org/taap Kenya). The employment figures by the BAT show that the number of permanent staff had declined from 840 in 1995

to 462 in 2002, while that of farmers increased from 14,094 in 1995 to over 19,000 in 1997 then dropped to a low level of 6,800 in 2002 due to a number of factors which include early retirement and hiring external services for certain category of operation. Not much research has been done on the Economics of tobacco. The available research has focused on the economics of tobacco farming but none has been done on other forms of employment in the tobacco industry especially with regard to the impact of tobacco control on employment creation. There is also need to undertake research in the field of taxation with regard to determining the price elasticity of demand and assessing the impact of policy interventions like the regular 10% increases in tobacco taxes and the impact that has on reduced consumption. The capacity requirement for policy implementation also needs to be assessed.

PART THREE

THE INFRASTRUCTURE FOR TOBACCO CONTROL IN KENYA

This section combines the results from five scans being 'Government policy on and involvement in tobacco control', 'The use of IEC campaigns for tobacco control in Kenya', 'The infrastructure for tobacco control in Kenya', 'The role of media in tobacco control in Kenya' and 'The use of Law in Tobacco Control in Kenya'.

It will examine the policy and institutional infrastructure that exists for tobacco control in Kenya starting with government as the primary player and then civil society including the media. It will identify the compliance of policy measures with the FCTC, the opportunities for integration of tobacco control in health and other government programmes, the champions and opponents of tobacco control the strengths, weaknesses and opportunities of the existing infrastructure, areas in which enhancement of institutional and individual capacity is required, and the extent of the country's participation in international tobacco control.

7 GOVERNMENT POLICY ON AND INVOLVEMENT IN TOBACCO CONTROL

The five main ministries that have concerned themselves with the issue of tobacco production, manufacture and consumption in Kenya are the Ministries of Health, Education, Agriculture, Trade and Finance. The government has taken various policy, legislative and administrative measures where tobacco control is concerned.

Ministry of Health involvement in tobacco control

Policy and legislative measures

The Ministry of Health has been actively involved in tobacco control since the early eighties. Under the Public Health Act (Cap 242 Laws of Kenya), the Ministry of Health has enacted several pieces of subsidiary legislation including: The Public Health (Warning on Cigarette Smoking) Rules, 1982 and The Public Health (Warning on Cigarette Advertisement) Rules, 1990 respectively. These Rules banned smoking in public transport and prescribed a health warning for cigarette packaging which read "Ministry of Health Warning: Cigarette Smoking is harmful to your health."

In May 2006, the Ministry of Health gazetted the Public Health (Tobacco Products Control) Rules,

2006. This rules prohibited advertising, importation, sale or distribution of tobacco products unless they bore specified warning labels and prohibited smoking in specified public places. These rules were challenged in court by the tobacco industry in *R vs. The Minister of Health ex parte Mastermind Tobacco Ltd.* and *R vs. The Minister of Health ex parte British American Tobacco (K) Ltd.* The rules were suspended pending hearing and final determination of the case.

Kenya actively participated in the negotiation for the FCTC which Kenya signed and ratified on 27th June 2004. As early as 1998, a Tobacco Control Bill was tabled every year in Parliament. However, these Bills were often weak and not fully compliant with the FCTC, with their provisions often influenced by the tobacco industry.

In 2002, The Head of the Civil Service issued a circular banning smoking in public government buildings which later became de facto smoke free zones. A subsequent circular was issued banning smoking in public transport.

The Children's Act 2001 (Act No. 8 of 2001) entitles every child to protection from use of hallucinogens, narcotics, alcohol, tobacco products or psychotropic drugs as well as protecting children from working in tobacco farms where there is exposure to ETS.

The labour laws require employers to ensure safety in work places and this includes protection from exposure to tobacco smoke.

In 2006, five municipal councils, Nairobi, Nakuru, Mombasa, Eldoret and Kangundo passed bylaws banning smoking in public places. These bylaws were successfully enforced. However, tobacco control advocates and the public still felt enough was not being done to protect public health and lobbying for the Tobacco Control Bill 2006 began in earnest. The Bill came up for debate but lapsed after 2nd reading when Parliament went on recess.

The Tobacco Control Act 2007 (Act No. 4 of 2007) was passed on 9th August 2007, received presidential assent on 27th September 2007 and commenced on 8th October 2007 and will come into effect on 8th July 2008 after the lapse of a 9 month compliance period.

Compliance of the Tobacco Control Act 2007 with the provisions of the FCTC

Art 1(d) of the FCTC describes tobacco control as 'a range of supply, demand and harm reduction strategies

that aim to improve the health of a population by eliminating or re-ducing their consumption of tobacco products and expo-sure to tobacco smoke.' Art 2 encourages Parties to imple-ment measures beyond those required by the FCTC and its protocols.

Thus tobacco control legislation can either achieve compli-ance with FCTC's minimal requirements or go a step further and reflect international best practices. This analysis measures Kenya's legislation against this two standards and makes recommendations for improvement.

The core tobacco –specific demand reduction provisions in the FCTC are contained in Articles 6-14 whereas the core tobacco –specific supply reduction provisions are contained in Art 15 – 17.

Art 5 (2)(a) requires each party to **establish and finance a national coordinating mechanism for tobacco control** – The TCA complies with this in that s 5 establishes a To-bacco Control Board consisting of 16 members whose duty is to advise the Minister for Public Health on the national tobacco control policy and on regulations to be adopted un-der the Act.

Art 5(3) requires parties to **"protect their public health policies from commercial and other vested interests of the tobacco industry"**. S 5(3) of the TCA prohibits the appointment of any person directly or indirectly affiliated to the tobacco industry or its subsidiaries to the Tobacco Control Board.

Price and tax measures to reduce the demand for tobacco

(Art 6 FCTC) – s 12 of the TCA obligates the Minister in charge of Finance to implement tax policies and where appropriate price policies on tobacco and tobacco products so as to contribute to the objectives of the Act and to pro-hibit/restrict as appropriate, any sale to/importation of tax free tobacco by international travelers.

Non-price measures to reduce the demand for tobacco as contained in Art 8 – 13 FCTC:

Protection from exposure to tobacco smoke (Art 8 FCTC) – Part VI of the TCA bestows the right to protec-tion from exposure to tobacco smoke, obligates persons to observe measures to safeguard the health of non smokers; obligates parents and guardians to ensure their children are smoke free, and bans smoking in public places except in des-ignated smoking areas. However, in providing for designated smoking areas

that are described as ' ventilated, separated/enclosed and sealed from floor to roof with a door and in which nonsmoking individuals do not enter for any reason whatsoever whilst smoking is occurring..', the TCA falls short of international best practice (WHO, 2007).

Regulation of the contents of tobacco products

(Art 9 FCTC) - S 4 and 6 of the TCA empower the Minister responsible for Public Health upon recommendation of the Board, to prescribe permissible levels of constituents of tobacco products, prohibit the use of any harmful constituent in the manufacture of tobacco products and prescribe methods to be used in testing emissions from tobacco products.

Regulation of tobacco product disclosures (Art 10 FCTC) - S 4 of the TCA empowers the Minister responsible for Public Health upon recommendation of the Board, to prescribe what information is to be disclosed by a manufacturer about emissions from tobacco products, sales and advertising data, information on product composition, ingredients and hazardous properties and brand elements.

Packing and labeling of tobacco products (Art 11 FCTC) – s 23 of the TCA prohibits promotion of tobacco products by means of packaging that is false misleading or deceptive with regard to the characteristics, health effects, hazards or emissions of a tobacco product.

S 21 on warning labels requires: packaging to display 2 warning labels covering at least 30% of the total surface area; Labels to be displayed on a rotational basis randomly through a twelve month period and distributed randomly though Kenya; and each package to bear a statement as to the tar, nicotine and other constituent yields as prescribed. Though international best practice (Cavalcante (ed), undated) prescribes pictorial warnings, the TCA provides for written warnings but with a proviso that the Minister may prescribe pictorial warnings.

Education, communication, training and public awareness (Art 12 FCTC) – Part III of the TCA obligates the government to undertake a comprehensive nationwide education and information campaign through its Ministries, Departments and Agencies (MDAs) focusing

on the family as the basic social unit, using the education curriculum, the health care system, and with the collaboration of local government and civil society.

Tobacco advertising, promotion and sponsorship (Art 13) – Part V of the TCA comprehensively bans tobacco promotion, advertising and sponsorship. Specifically, it bans promotion by: false, misleading or deceptive means; testimonials/endorsements; advertisement whether in print/electronic or other form of communication; sponsorship of sporting, cultural, artistic, recreational, educational, entertainment or trade events; use of names of tobacco manufacturers or tobacco brand names on nonpermanent facilities not owned or leased by tobacco manufacturers; on accessories; on non-tobacco products; sales promotions; and communication media.

Demand reduction measures concerning tobacco dependence and cessation (Art 14) – s 7 establishes the Tobacco Control Fund which is meant to inter alia promote national cessation and rehabilitation programmes.

Illicit trade in tobacco products (Art 15) – s 14(2) & (3) of the TCA provide that every stick, packet and package for retail and wholesale in Kenya are to carry the statement that “Sales only allowed in Kenya” and shall also state the country of origin, every packet and package for export shall bear the statement ‘for export only’, and provides a penalty of a fine not exceeding 1 million or imprisonment of 5 years or both. S 46 provides for seizure of tobacco products that offend the Act whereas s 52 provides for forfeiture of seized products.

Prohibition of sales to and by minors (Art 16) – s 15 prohibits sale of tobacco products to minors, s 15(5) prohibits manufacture or sell of sweets, objects, snacks or toys resembling tobacco products, s 16 prescribes warning labels that sales to minors are prohibited, s 17 bans sales through vending machines, s 18 prohibits single stick cigarette sales, s 19 prohibits sales by self service display and s 20 prohibits delivery of tobacco products by mail.

Provision of support for economically viable alternative activities (Art 17) – s 13 obligates the government through the Minister in charge of agriculture and other relevant ministries to put in place policies that promote economically viable alternatives for tobacco growers, tobacco workers, distributors, retailers, and individual sellers.

Liability (Art 19) – the TCA provides for criminal liability for all offences contained within it. S 7 also provides for a compensatory contribution to be made by cigarette manufacturers or importers to be determined by the Board. However, the meaning of

this section is not clear.

Promotion of research (Art 20) – s 7 establishes the Tobacco Control Fund that inter alia is to meet the costs of research and documentation on tobacco control.

From the foregoing, it can be seen that the Tobacco Control Act 2007 substantially complies not only with the minimum requirements of the FCTC but also with international best practice, save for the provision for designated smoking areas. However, regulations under various sections of the Act still need to be enacted to operationalise the Act.

Current Status, Implementation And Enforcement Of Existing Tobacco Control Legislation

The Tobacco Control Act 2007 came into force on 8th October 2007. However, s 62 provides a transitional compliance time of 9 months which ends on 8th June 2008. The Ministry of Health has come up with an implementation plan for the Act (MoH, 2007), is in the process of establishing the Tobacco Control Board and is lobbying for funds for the Tobacco Control Fund. A public awareness campaign through the electronic media and the forthcoming World No Tobacco Day 2008 celebrations has also been started to make people aware of the provisions of the Act.

The municipal laws passed by Nairobi, Nakuru, Mombasa, Eldoret and Kangundo banning smoking in public places were successfully implemented (Daily Nation, 16th July 2007 and East African Standard, 12th July 2007), and there was a noted reduction in the number of people smoking in public. In Nakuru, it was noted that people had now taken to hiding in public toilets to smoke. However, in Nairobi, due to pressure from tobacco industry front groups, the municipal council created designated smoking zones as exceptions to the prohibition on smoking in public. These regulations are superseded by the Tobacco Control Act.

Administrative measures

The government has put the following structures in place within the Ministry of Health to address tobacco control:

a) Establishment of The Division of Non-communicable Diseases (DNCDs)

This division was established in 2001 due to the rapidly increasing magnitude of chronic diseases that was presenting a double diseases burden in the country.

The tobacco control programme is housed within this division. Tobacco being a major risk factor for most of these conditions, the tobacco control programme is implemented across the board.

b) Appointment of the National Tobacco Free Initiative Committee (NTFIC)

The NTFIC was established in 2001 and charged with the responsibility of collecting, collating, distributing and disseminating data and information on tobacco control. Other responsibilities included: to formulate and provide appropriate guidelines to NGOs and CBOs involved in tobacco control activities, advice the Minister for Health on tobacco control policies and also advocate for the implementation of the FCTC.

c) Appointment of a Tobacco control desk officer

Within the Division of Non-communicable diseases there is a tobacco control desk officer who deals specifically with tobacco control.

d) On going health education and health promotion

The Ministry of Health has produced and disseminates the following IEC materials: the Smokers body in Swahili version, Tobacco versus Health 1st and 2nd edition, brochures on how to quit smoking and a Video on tobacco farming.

The Ministry also conducts public awareness campaigns through the print and electronic media, runs a microteaching program and annually observes the World No Tobacco Day.

The Ministry of Health has also undertaken education to primary schools during the Protect the Youth From Tobacco Project (PYTP).

e) Monitoring trends

Kenya has participated in two Global Youth Tobacco Surveys (GYTS) in 2001 and 2007. The Kenya Health Demographic Survey (KDHS) is done periodically and this provides some data on tobacco. Kenya also participated in the Global School Health Survey 2003 and regularly participates in the World Health Survey (<http://www.who.int/healthinfo/survey/whsken-kenya.pdf>).

In the run-up to the debate on the Tobacco Control Act, the Ministry of Health and the Institute for Legislative Affairs conducted an opinion poll on national attitudes towards key tobacco control measures proposed in the Bill (ILA, 2007).

This poll revealed majority support (ranging from 59% to 79%) for tobacco control measures that have proven to be effective within comprehensive tobacco control policy. Such measures include smoking bans in enclosed places and work places, strong and visible warning messages on tobacco products and advertisements, restrictions on deceptive or enticing marketing and an advertising ban for cigarettes and tobacco products.

The Ministry of Health is planning to undertake a risk factor survey for noncommunicable diseases. This survey is nation wide and data on tobacco use and exposure to tobacco smoke will be collected. It is hoped that the survey will be done every five years thereafter.

f) Cessation Programmes

Though a curriculum for health professionals has been developed and the curriculum for training pharmacists trains them on tobacco cessation, there is no government programme for tobacco cessation. It is also not known whether health professionals provide cessation information to patients they come into contact with.

However, there are about ten privately owned drug rehabilitation centres mainly found in Nairobi dealing with other hard drugs and substances of abuse (<http://www.nacada.go.ke/helpcentre.php>). Their charges are also very high making them inaccessible to ordinary members of the public. Some pharmacological treatments are available in chemists over the counter e.g nicotine gums, lozenges, patches, sprays. However they are very expensive and most clinicians do not have adequate knowledge on how to prescribe them (Interview with Malibu Chemists, undated).

In Kenya there will be need to build capacity on effective cessation programmes that are affordable to tobacco users who want to escape addiction.

g) Policy on advertising, promotion and sponsorship

Initially there was self regulation by the industry who voluntarily refrained from advertising in the print and electronic media. However, they soon put up huge billboards near primary schools. This led to a government ban of advertising, promotion and sale of tobacco products within primary and secondary schools.

Government also prohibited sponsorship of school sports and music festivals by the tobacco industry. The TCA provides a total ban on promotion, advertising and sponsorship by tobacco industry

The Opportunity For Integrating Prevention and Promotion

Tobacco control is a multi-sectoral issues which needs a sector wide approach in its implementation. There is need for broad consultation in order to establish ownership among implementing and enforcing parties. Roles and responsibilities must be defined clearly and agreed upon for each sector involved. To ensure sustainability, the health aspect of tobacco control must be integrated into national primary health care services (WHO meeting, Maputo, 2005).

There are several opportunities for integrating prevention and promotion including:

- Integrating tobacco control into the preventive component of the other chronic disease programmes covered by the Division of Noncommunicable Diseases such as Diabetes, Cardiovascular disease and Cancer.
- Integration of tobacco control into established national HIV/AIDS, malaria and tuberculosis programmes as tobacco is an important risk factor in tuberculosis and also interferes with the immune system. Already established structures within these programmes like counselors in Voluntary Counselling and Treatment (VCT) centres who offer counseling on HIV/AIDS and youth clinics whom offer counseling on reproductive health can also be used to facilitate cessation.
- The school health programme has already integrated tobacco control into the education syllabus.
- Integrating cessation programmes into existing mental health programmes
- Integrating tobacco control into existing child health programmes
- Integration of tobacco control into programmes on the Millennium Development Goals
- Integrating tobacco control into reproductive health programmes especially those targeting the youth and youth clinics.
- Integrating tobacco control into the chest and respiratory diseases programme
- Integrating tobacco control into Environmental programmes
- Integrating tobacco control into agricultural programmes

- Integrating tobacco control into the Occupational health programme through education on protection from environmental tobacco smoke (ETS), protection of farmers and other tobacco workers.

8 THE MINISTRY OF EDUCATION'S INVOLVEMENT IN TOBACCO CONTROL

Policy measures

In recent years, the education system has undergone various reforms that encouraged inclusion of emerging issues such as drug and substance abuse in the curriculum.

In 2002 (MoE, 2002), drugs and substance abuse was included in the education syllabus right from primary school to tertiary level education. In the Primary school level, drug and substance abuse is taught in Science in class 7 and in Christian Religious Education (CRE) in Class 8. The content taught is on types and effects of drugs, with some mention of tobacco control.

At secondary school level. Tobacco control is taught under form 4 CRE and Form 4 Islamic Religious Education (IRE). The content includes types of drugs, causes of drug abuse and effects. Tobacco control is given some minimal visibility. The situation is the same at tertiary institution level as covered in the KIE and Kenya National Examinations Council (KNEC) syllabi.

At university level, the contents of tobacco control feature mainly in the department of health science and other social science courses. The amount of the content covered is dependent on individual university decision and an area that is open to research in Kenya.

In the Ministry of Education Strategic Plan for years 2006 to 2011 (MoE, 2007), the issue of drugs and substance abuse and tobacco is targeted for intervention by the government and all education stakeholders such as individuals, international NGOs, local NGOs, the business community and the corporate sector are given room for intervention.

The Kenya Education Sector Support Program (KESSP) (MoE, 2005) also acknowledges the need to address sub-stance abuse in schools and provides a budget analysis of the same. The paper further gives an allowance for all education stakeholders to be involved in partnering with the Ministry of Education on the same venture. This provides an opportunity for

tobacco control advocates to sponsor tobacco control education programmes.

However, Very few organizations currently partnering with government in this manner focus solely on tobacco control. Most organizations handle general health and drug/substance issues. Intervention within the education fraternity by other organizations is also minimal.

Further, Sessional Paper Number 1 of 2005 (GoK, 2005), lays emphasis on enhancing research in the universities and other research institutions. This provides an opportunity that can be exploited by the tobacco control movement to encourage research on tobacco control. However, meager research funds are allocated by the government to research institutions.

Guidance and counseling programs in schools and colleges as well as the universities, are part of the school curriculum and have provided avenues to further IEC campaigns on tobacco control. Within such forum, both print and electronic media, audio and video cassettes have been put in use.

Drama for schools and colleges as a forum has always been used by key players in the tobacco control such as NACADA in undertaking trainings to teachers who train pupils and students for drama. The schools and colleges that advocate tobacco control through use of drama are rewarded materially so as to motivate them in their endeavor on tobacco control.

The national music festivals encourage the involvement of pupils and teachers on emerging issues. Drug and substance abuse and tobacco are part of the advocacy areas. This area has a wide opportunity for the involvement of other players to advocate for tobacco control.

Limitation/ Gaps:

- I. There is minimal coverage of tobacco content in the curriculum for primary and secondary schools.
- ii. In secondary schools, the tobacco content is covered only in selective subjects offered only to a minimal number.
- iii. The content on tobacco covered at the universities is an issue of further research since they do not implement a centralized curriculum.
- iv. Teachers, who are first hand care givers to pupils and students lack adequate information on tobacco control.

- v. Opportunities for IEC campaigns on tobacco control within the Drama and Music festivals held annually for Kenyan Schools and Colleges have not been well utilized by all key stakeholders in education. Further, though NACADA rewards presentations at national level that carry a tobacco control message, the festivals at the provincial, district and zonal levels are not monitored.

Administrative structures

The Ministry of Education has a functional structure that can effectively be used to further IEC campaigns for tobacco control. These include:

- a) **The Different directorates within the Ministry:** The Directorate of Policy and Planning where the School Health Unit section falls has government officials handling health related issues in education including drugs and substance abuse and tobacco control. The Directorate of Quality Assurance and Standards oversee the implementation of educational programs.
- b) **Ministry of Education** structure runs from the national through to the zonal levels, cutting across provincial and district levels. At the Provincial levels and lower, certain education officials are appointed to coordinate issues of health including drug and substance abuse and tobacco.
- c) **The Kenya Institute of Education (KIE)** as a Semi Autonomous Government Agency (SAGA) within the Ministry of Education is mandated to develop the education curriculum and can be used to streamline tobacco control information into the curriculum at all levels.
- d) **The Kenya Institute of Special Education (KISE)** is another SAGA with the mandate of reaching out to all children/youths/people with special needs. This structure can be used in tobacco control advocacy to reach out to children with disabilities.
- e) **The Kenya Education Staff Institute (KESI)** also a SAGA has the mandate of managing education staff on issues of staff development. It handles several units including emerging issues in education such as drug and substance abuse and tobacco control.
- f) **The Teachers Service Commission (TSC)** which handles issues of teacher recruitment, deployment and discipline, among others. Teachers are the first hand care givers of all school going pupils and

students thus they are very crucial on issues of IEC campaign for tobacco control.

- g) **The school Board of Governors** appointed as school managers and legally mandated to oversee operations of the school community.
- h) **The Parents Teachers Association** as a recognized structure in place. Although this structure lacks the legal mandate, it is widely accepted and used in all interventions on educational issues. It has the support from various government circulars highlighting their role within the school community.
- i) **The Non Formal unit of education** is a structure in place that intervenes in cases of children who have been out of school especially in urban slums and in other disadvantaged areas. Its draft curriculum and policy is currently being put in place.
- j) **Ministry of Labor through Adult and Continuing Education (ACE) and Adult Basic Education (ABE).**
- k) **Ministry of Higher Education Science and Technology** which currently houses the university section, technical colleges and institutions.
- l) **The Local Authority** that partner in the management of education within their areas of jurisdiction e.g. the Municipal Education and City Education sections.
- m) **Ministry of Youth Affairs** which has organized youth groups and structured ministry departments that can enhance interventions on IEC campaigns for tobacco control.

Limitation/ Gaps within the administrative structure.

- i. There is lack of capacity and facts on tobacco control among education officials within this structure.
- ii. There is lack of a focal person to steer tobacco control information and education at every point of the structure.
- iii. There is lack of data on the number of Non Formal Schools (NFSs) and Non Formal Education Centers (NFECs). This can hinder and limit tobacco control interventions in this area.
- iv. The policy document for NFSs and NFECs is still at draft level.

9 THE MINISTRY OF FINANCE INVOLVEMENT IN TOBACCO CONTROL

This has mainly been in the area of tax and price measures. Since 2005, the government has increased tobacco taxes by 10% in each financial year. This increase in tax has led to the continuous increase in cigarette prices in the respective years (MoH, 2008). The ministry also restricts the amount of duty free tobacco products allowed to people entering into the country to a maximum of ten packets of cigarettes per person.

10 INVOLVEMENT OF THE NATIONAL AGENCY FOR THE CAMPAIGN AGAINST DRUG ABUSE AUTHORITY (NACADAA) I N TOBACCO CONTROL

Formerly known as National Agency for the Campaign against Drug Abuse (NACADA), NACADAA is a parastatal charged with the responsibility of leading the national campaign against drug abuse. It has been involved in research on tobacco use and its dangers, lobbying for the passing of strong tobacco control legislation and printing and distribution of reading materials on tobacco control i.e. brochures and pamphlets.

11 LITIGATION AND TOBACCO CONTROL IN KENYA

There have been 2 types of tobacco litigation in Kenya:

- a) **Suits filed by consumers of tobacco products against the industry** – this have been few and far between due to the costs involved (the bulk of the Plaintiffs have already spent all their resources on treating tobacco related illnesses and tobacco tort litigation has not yet taken root among Kenyan lawyers) and resistance from the industry to prolong cases and bribe the Plaintiff's lawyer. The case of Amos Murigu vs. British American Tobacco (K) Ltd. is a case in point.
- b) **Suits filed by the tobacco industry against the government to delay the implementation of tobacco control measures.** When the Ministry of Health gazetted the Public Health (Tobacco Products Control) Rules, 2006 banning smoking in public places and advertisements for tobacco products, the industry filed two suits (HCCC 278 and 279 of 2006, Nairobi) challenging the Rules. Their main arguments were that they were not

consulted; they were not given enough time to comply, the Director for Medical Services did not have authority to pass such rules and that the rules were criminalizing the industry's legitimate business.

The two cases highlighted several weaknesses within the legal and judicial system with regard to tobacco control – insufficient jurisprudence to build a strong basis for tobacco control (this was the first case of its kind and there was therefore no precedent to go by), and lack of tobacco control knowledge by the presiding judge and personnel from the Attorney General's Chambers. ILA stepped in to give technical support to the Ministry of Health in defending the suit. Upon receipt of temporary injunction orders suspending the orders, the industry lost interest in prosecuting the suit which to date has not been finalized. The 2 suits have however been overtaken by events with the passing of the TCA.

12 CIVIL SOCIETY PARTICIPATION IN TOBACCO CONTROL IN KENYA

Non-Governmental Organizations

Individual members of the public and civil society organizations have been involved in tobacco control since the 1990s. However, their activities have largely been centered around the professional leanings of their founders.

Initial efforts were made by medical organizations like the Kenya Medical Association, Kenya Cardiac Society, Kenya Hearts & Lungs Society among others. Renowned activists are Dr. Charles Maringo and Prof. Peter Odhiambo. They concentrated on the health impact of tobacco use to get tobacco control on the legislative agenda.

Other organizations involved themselves in public awareness and education on the effects of tobacco consumption. Many of them were run by educationists such as Centre for Tobacco Free Education, Tobacco and Alcohol Free Initiative and Social Liberation and Health Promotion Club. The faith based organizations such as the National Council of Churches of Kenya, the Supreme Council of Kenya Muslims, the Hindu Council of Kenya and others like the Eastern Africa Regional Youth Network and the Daraja Civic Education Initiative have also participated actively.

Some organizations focused on the economics of tobacco with regard to research on the socio-economic

impact of tobacco farming, alternative cropping, studies on revenue earned as compared to health costs. Such organizations include the Kenya Anti-Tobacco Growing and Anti-Smoking Association, the Social Needs Network, Institute for Natural Resources and Technology Studies and Letwal International. Other organizations have focussed on monitoring the industry and its activities such as Consumer Information Network.

From 2002, focus turned to the legal aspects of tobacco control and pressure mounted to domesticate the FCTC through legislation. This was largely due to the efforts of the National Agency Against the Campaign for Drug Abuse (NACADA), its National Coordinator Mr. Joseph Kaguthi and the Institute for Legislative Affairs. There were also dedicated Members of Parliament such as Hon. Gor Sunguh and Hon. Alfred Nderitu who lobbied fellow members of Parliament passionately and ensured that the Bill was enacted.

Despite a large number of organizations involved in various aspects of tobacco control, there was very little sharing of information and building of synergy among the tobacco control movement in civil society. At the FCA East African Tobacco Control Workshop in November 2005, the decision was taken to form a national alliance of tobacco control organizations. The Kenya Tobacco Control Alliance (KETCA) was therefore formed and eventually registered on May 29th 2007.

To date KETCA has 16 paid up members and has engaged in building the capacity of its members to address issues like tobacco taxation, how to use the media and lobbying for the passing of the Tobacco Control Act.

Researchers/Research Institutions:

The research that has been carried out in Kenya on tobacco control has been done by a broad mix of persons ranging from persons writing academic theses in learning institutions (largely unpublished), research institutions or organizations mainly in the non-governmental sector and national government/WHO surveys.

Though there are many research institutions in the country that could engage in research such as the Kenya Medical Research Institute (KEMRI), the Kenya Agricultural Research Institute (KARI), and the departments of economics, community/public health, economics and sociology of the 8 major public and private universities in Kenya, not much resources has

been allocated to research and this is an opportunity that needs to be exploited.

In addition, research institutions with a medical leaning such as KEMRI and the Centre for Disease Control (CDC) have focused their research more on other health conditions seen as more serious such as HIV/AIDS and malaria with very little research being done on tobacco control.

International Networking

The Kenya Tobacco Control Alliance and individual Kenyan NGOs have partnered with the following international bodies: the International Development Research Centre (IDRC) the Framework Convention Alliance (FCA), the American Cancer Society (ACS), the Canadian Cancer Society (CCS), the International Union Against Cancer (UICC) among others.

Several of them are members of networks such as Global Smoke Free Partnership, Framework Convention Alliance, Globalink and Stop Corporate Abuse.

The Opposition

The main opponents of tobacco control activities are the tobacco industry (TI) and their front groups such as various 'consumer rights' organizations, hospitality industry groups and farmers associations. Not much has been done to document the groups and further research needs to be done in this area.

Use of media in tobacco control in Kenya

This thematic area analysed how the media has been used both for and against tobacco control in Kenya. This involved a critique of how the Kenyan tobacco control movement has utilized the media in its campaigns, reviewing the role the media has played in the past in both tobacco promotion and control, and opportunities within media for tobacco control.

The last 10 years has seen ever-increasing numbers of new media stations ranging from private, public and community-owned television, radio and newspaper which has continued to expand the media space in Kenya. The Media Council of Kenya, the body tasked with over-seeing Media operations and businesses in the country, as well as the Media Owners Association of Kenya are yet to compile the specific official number of media houses; public, private and community owned.

While the Kenya Media both Print and electronic have fostered a rather steady relationship with notably high-risk societal issues like HIV, Reproductive Health and

the environment, Tobacco control has featured negligibly. Kenya's vibrant and ever-growing media society is missing in the important role of a tobacco-free society whilst the effects and devastating risks continue unabated.

Tobacco graces the front and prominent pages for all the wrong reasons. Media is aggressively driven by Advertising and marketing. This is due to multi-billion industries and corporates who have mastered the art of utilizing the media outlets for maximum market value. The Tobacco Industry is no exception.

In the Print media, yards of advertising space marked by double-pages and supplements by tobacco firms have ensured that maximum publicity has been achieved, while disregarding the devastating effects of tobacco production and consumption on the Kenyan public. In addition, the business section of the media keeps the public informed of what the industry is doing and their opinions by reporting on their functions and their CSR activities which are always attended by high profile government officials.

At a glance, coverage of tobacco from the aspect of tobacco control is limited to sporadic stories that appear randomly and that hardly have any "unique" angle. Most of the stories covered appear only when they are sensational and thus become 'the news' of the day. The bulk of the stories have covered the scandalous attempt by the industry to bribe Members of Parliament; the ban on smoking passed by the Ministry of Health and then the local authorities; the court cases filed by the tobacco industry, and the countdown to the enactment of the Tobacco Control Act in the years 2006 and 2007.

Though the stories capture the 'news' aspect of the event in that they report that it happened, they rarely go in depth to provide information. There is very little investigative journalism. For example, the media tracked the debate on the Tobacco Control Bill but little was said about the rationale for tobacco control. They pointed out at the effects of legislation on the tobacco industry but failed to compare this to the devastating environmental and health hazards resulting from tobacco.

A story appearing in the East African Standard, (13th March, 2008) by John Oyuke talks about the ban on smoking in public places. However, the report timidly picks out some of the provisions in the ban on tobacco and fails to clarify how such a ban can be efficiently implemented and subsequently how smokers targeted to quit the habit can be assisted to do so.

One or two stories appearing in the print media around this time touch on tobacco farmers and the implications of a ban on smoking on the tobacco industry but they fail to capture the real plight of tobacco farmers arising from the harmful health, environmental and socio-economic conditions of tobacco cultivation.

This can be attributed to factors such as:

- The financial influence exerted by the tobacco industry – the industry spends large amounts of money on advertising which the resource poor tobacco control advocates have been unable to match. They look for ‘free’ space in the form of articles, the environmental page of the newspaper etc.
- Lack of information and commitment to tobacco control – journalists are jacks of all trades. They rarely specialize in any area. As a result, they are not well informed, do not have the time for or interest in in-depth research and instead end-up scratching the surface over what would otherwise be considered a serious issue.
- The media culture of journalists who smoke while under pressure - a large number of senior editorial staff smoke. As a result, tobacco control advocates have complained that articles they write do not get published and very little editorial space or support is allocated to tobacco control. It is almost impossible to imagine anti-

tobacco coverage consecutively in any media outlet for a whole month.

- Inability by tobacco control advocates to ‘peek’ the interest of the media - Poor packaging of anti-tobacco news has over-shadowed the campaigns, giving the anti-tobacco lobby a very weak entry point to counter the media market forces.
- Lack of a comprehensive media strategy by the tobacco control advocates

To utilise the media effectively, the tobacco control movement needs to work on a comprehensive media strategy focussing around building relationships/networking with media personnel, messaging and countering the tobacco media strategy.

Participation of the country in international tobacco control activities

Kenya has remained an active participant and a regional leader in all matters of the FCTC and tobacco control generally. There has been good representation from government and civil society at the 1st and 2nd Conference of the Parties (COP 1 & 2), the working groups on the articles of the FCTC, the World Conferences on Tobacco or Health, the 1st African Conference on Tobacco or Health, several regional consultation meetings (WHO AFRO region) and has hosted the East African Tobacco Control Workshop in 2006 and the East African Tax Preparatory activity (2007).

PART FOUR

TOBACCO INDUSTRY INFLUENCE IN KENYA

The Tobacco Industry (TI) has an inherent conflict of interest with effective tobacco control. The Success of the FCTC is dependant on two key strategies; reduction of demand and regulation of supply of tobacco and tobacco products. These strategies demand a great deal of change in the way the TI has previously operated which will lead to massive losses by the tobacco companies. Therefore tobacco control is not in the interest of the TI.

Thus the TI has been very aggressive in fighting tobacco control measures including the FCTC both globally and in Kenya. This section examines the operating environment of the tobacco industry in Kenya, its penetration via marketing and promotion activities, its involvement in illegal trade and its influence on tobacco control policymaking, how the industry has presented its arguments in/through civil society and the availability of information on the industries activities including information from previously internal documents.

13 TOBACCO INDUSTRY IN KENYA

British American Tobacco (BAT) is the dominant player in Sub-Saharan Africa, with a market share of over 90% in 11 countries. It has been around since 1908, and is celebrating 100 years of operating in Africa this year, 2008. British American Tobacco (Kenya) Ltd. (BATK) was created in 1965 and is said to be the largest cigarette manufacturing company in East and Central Africa. The Kenyan Government is a shareholder in BATK.

With the liberalization of the 1980's, BAT-K's monopoly status was undermined with the launch of two local companies: Mastermind Tobacco (K) Ltd. and Cut Tobacco and by 2002 its market share had dropped from 90% to 71% with Mastermind and Cut enjoying 22% and 7% respectively.

BATK enjoys high political connections with some of its chairmen (former and current) and non-executive directors enjoying good relations with powerful individuals in successive political regimes, while some are strategically positioned in key sectors such as the education sector and the private sector. It is therefore not surprising that efforts to develop and implement legislation consistent with the FCTC treaty have been unsuccessful amid persistent reports of BAT influence (Patel et al, 2006).

Market And Promotional Activities

Market behaviour

Multinational tobacco Companies have manipulated farmers in poor developing countries to increase and improve tobacco production in the developing world while colluding to deliberately keep the tobacco leaf prices low (Campaign for Tobacco Free Kids, 2001) through monopoly/ oligopoly situation, creating a cycle of dependence on them.

In Kenya they have promoted unfavourable market systems that seek to increase leaf production while reducing their own need for it (through technological enhancement), under grade and therefore set lower leaf prices, ensure that farmers are perennially indebted and tied to a particular company while having no recourse. (Better elaborated in the "Tobacco growing in Kenya" section)

Advertising and promotional activities

The TI denies that advertising plays a role in encouraging people to smoke, and claims that its advertising is mainly for the purpose of promoting brand loyalty. However it has been very aggressive and innovative in promotion of tobacco products, by creating an appeal for more non-smokers to start the habit by associating smoking with dreamlike promises of prestige, power, freedom and luxury.

In the 70s and 80s tobacco advertising by BAT-Kenya was the fourth largest of any product category with mobile cinema units being extensively used (Chapman and Leng, 1990). There currently exists prohibition on radio and television advertising and limitation on certain types of outdoor advertising and sponsorship. Under national regulations, tobacco companies can promote their corporate social responsibility activities so long as they don't seek to persuade people to smoke. Tobacco Companies have circumvented existing regulations to achieve their desired goal. Partial bans/ restrictions to advertising and promotion only work to shift capital used in one form of advertising/ promotion to another without any effective results. Comprehensive bans have been known to be effective in reducing tobacco use (McKay & Erickson, 2002).

The TI disguises equally harmful products as less harmful compared to the conventional product by using terms such as "organic", "natural" and "additive

free", "lights "mild", "low tar" to imply harm reduction. Even though the use of some of these terms is banned in other parts of the world, they continue to be used in Kenya.

Promotion targeted towards the youth. The TI has denied targeting the youth in its marketing campaigns and stress that theirs is a product strictly for adult consumption and marketed as such. According to the BAT website, "...Ours is a mature market – one where everyone already knows what tobacco is.' However internal Tobacco industry documents have proved that BATK did in fact plan to target the youth aged between 18- 24 years as a response to decreased market share due to increased competition occasioned by liberalization of the market. "...admission that BATK has achieved only a low penetration of the 18- 24 year age group in low income segments is disquieting... the market is worth examining in its own right and suitable products developed to exploit it" (the East African, 3 December 2001).

Youth smoking prevention" programs introduced by many tobacco companies portray smoking as an adult decision that young people should wait to make when they become adults, making it even more attractive to the youth. BATK and the other tobacco Companies in Kenya have continued to promote sales of single cigarettes to attract the youth and the poor (www.ash.org.uk/hotmail/international/html/BATKenya060425.html).

Sponsorship of social activities- Sports sponsorship has been used by the TI in an attempt to associate smoking with health and athletic prowess. The industry itself has admitted that this is just an advertising gimmick "...We use sports as an avenue for advertising our products...". In Kenya for many years the famous Safari Rally was sponsored by the Marlboro cigarette brand. BATK has also been aggressive in sponsorship of schools' music and drama festivals as well as in participation at agricultural and trade fairs.

Women as target smokers/ gender issues. Although women especially in lower and middle income countries have been less prone to smoke; this has not been due to their awareness of the dangers of smoking. According to Dr. Gro Harlem Brundtland, Director General, WHO (1998) "...the current low levels of tobacco use among women in the world...do not

and women's low economic resources". However, female smoking is increasing in the developing world as the Tobacco Companies become more aggressive in the advertising and promotion.

The TI promotes cigarettes to women using seductive but false images of vitality, slimness, modernity, emancipation, sophistication and sex allure and has now produced brands specifically targeted to women. (Mackay and Erickson, 2002) In Kenya brands labeled as "Menthol" "lights" and "slim" are especially popular with women due to their perceived mildness compared to the normal brands, making them more acceptable to women.

Corporate Social Responsibility involves balancing stakeholder relationships and interests so as to add social, environmental and economic value to produce a positive sustainable impact for the business and for the society. In Kenya, tobacco companies have taken up the use of CSR to cast themselves in a favourable light. Some of the ways that this has been done in Kenya include:

- Development of business programmes for small business development. This involves sponsorship for, or expansion of businesses for small scale traders involved in tobacco products/ cigarette sales or other rewards. BATK through its brand Sportsman and more recently Pall Mall, has set up branded kiosks for small scale business people (BAT African Footprint, ASH from www.ash.org.uk). Similar branded products can also be found in entertainment spots such as restaurants and pubs.
- Education in terms of grants, scholarships, professorship and even creation of entire schools. In Kenya, recently a tobacco company offered K.Sh 500, 000 in bursaries to 21 high school students, children of its best performing farmers; in an event that was highlighted in the local dailies. This move is highly unsustainable.
- The tobacco industry is also involved in community level development projects such as the Kerio Trade Winds project in Kenya a partnership between the community and BATK that aims to "develop tobacco growing activities as an option towards alleviating poverty in line

with the government's poverty alleviation strategy"

- BATK has sought favourable publicity by making donation to the country's famine relief fund and a health facility in Eastern Kenya; ironically it was at the same time encouraging farmers to grow tobacco at the expense of food and vital crops (www.ash.org.uk).

Involvement In Illegal Trade

A third of all internationally exported cigarettes are diverted into the black market, smuggled into countries and sold illegally, evading taxation. Smuggled cigarettes are typically sold at lower prices, increasing volumes of sales and consumption, while reducing government revenue. According to the WB as well as previously confidential internal documents of the industry the TI does benefit from the existence of smuggling as this increases demand for the brand and influences governments to keep taxes low. This is significant in the anti- tobacco campaign as taxation is one of the most cost- effective measures of reducing tobacco consumption especially for the youth. Little information exists on smuggling of cigarette in the Kenyan market although both BATK and Mastermind To-bacco have recognized it as a problem. According to BATK's annual review and financial statements, a crackdown on illicit trade was part of the drivers of growth in volumes it recorded in the domestic market last year (2007).

Influence On Policy Making

The TI has for many years succeeded in shifting the terms of the debate from public health interest to the perceived damage that the tobacco control policies would have on tobacco growers, their communities, national economies and even cigarette consumers. The industry has worked directly with sympathetic politicians, business people and front organizations it has created and funded in an effort to manipulate the government and the public to oppose tobacco control policies and legislation, and thus public health.

In 1994, BATK drafted a sample law on poaching and illegal out of season growing of tobacco which was later "adopted" by the government. Later on the regional Director was quoted to have pointed out that "... the Kenyan government has passed a law which looks as though it will be very successful...in stopping

poaching and illegal out of season growing. The law was actually drafted by us..." (Patel et al, 1994)

In the year 2000 through the International Growers' Association (www.tobaccoleaf.org) BAT-K implemented a strategy to take its message (that the World Bank and the FCTC were out to put the entire tobacco industry including farmers out of business) to decision makers in South Africa, Zimbabwe, Malawi, Kenya and India. At the Nairobi meeting, the Minister for Agriculture spoke in favour of the Industry by suggesting that in considering the FCTC, Kenya "cannot ignore the economic and social benefits this crop brings to our country". (Daily Nation, 30th May 2003)

When the Tobacco Control Bill finally made it to the second reading in the Kenyan parliament after years of failure due to TI influence, BAT-K And Mastermind Tobacco spent Ksh. 7 million to provide Members of Parliament with a lavish beach holiday/ retreat at an exclusive coastal resort where it is reported that efforts to do away with it or dilute it at the very least were put forward. This included giving the industry a role in the tobacco oversight committee.

When the Ministry of Health issued directives for smoke free legislation and health warnings consistent with the FCTC (LN 44 of 2006), BAT and Mastermind challenged the government in a court of law on the basis that they were not consulted yet they stood to incur massive losses if the rules were to be applied. They managed to have the measures suspended.

When city and town councils in Kenya invoked powers given to them by the Local Government Act to outlaw public smoking and designating smoking zones, the TI were toying with the idea of sponsoring dozens of litigants to sue the councils for infringing on their constitutional right to smoke. (East African, July 16-22, 2007)

With the introduction of the new Act on tobacco control to be enforced from July 2008, the TI has publicly complained that the compliance time is too short. During its AGM in May 2008, BATK postponed the issuance of bonus shares to its shareholders even after announcing a 17% growth in pretax profit to Ksh. 2.1 billion and domestic sales growth of 12% to wait and see the short- term effect of the Act. It is already complaining of the cost of implementation while Mastermind Tobacco is claiming that the Act criminalizes smoking and should be restricted to

protecting only non- smokers. (Daily Nation, 13th May 2008)

Information From Previously Internal Documents

In 1998, six million once secret/ confidential internal documents of the TI became available to the public as a result a series of events that culminated in legal action. The documents came from National and international offices of seven cigarette manufacturers doing business in the United States; including the BAT that has a heavy presence in Kenya (WHO, the Tobacco Industry Manual). About 100 documents related to Kenya were amongst those found and they make clear BAT's desire to manipulate developing countries and farmers (Campaign for Tobacco Free Kids, 2001) for their own gain.

As early as the 1970s the BAT was already strategizing on how to approach countries through their tobacco leaf buying connections rather than manufacturing interests to camouflage the real interests of the tobacco companies which were already under attack at the time. The Industry also tried to put the WHO and other UN agencies against governments with agricultural interests by emphasizing that efforts of the WHO to come up with anti- tobacco policies were a threat to their economic well being. They also planned to monitor various anti- tobacco activities being planned or carried out with the intention of devising strategies to neutralize or moderate such activities.

The documents also reveal that amongst other things, the TI:

- Successfully moved the Food and Agricultural Organization (FAO) from its strong anti- tobacco position with the assistance of growers/ farmers groups mobilized by themselves in a number of countries.
- Has always known about the risks of tobacco consumption including its addictive nature and has severally lied about it for decades. They have gone ahead to market a product known to them to be deadly to children, while manipulating the addictive content of the product to ensure addiction by the user.
- Has promoted “low tar” and other forms of cigarette as less harmful knowing too well that they are not.
- Recognized as early as the 1970s that passive/ environmental tobacco smoke (ETS) is harmful but went ahead to create controversy around it to discredit research proving the harm of ETS. They went further to create smokers’ rights organizations with the intention to counter bans on smoking in public places.
- Use their money to gain support of allied industries such as entertainment and advertising to oppose advertisement and sponsorship bans
- Actively lobby to avoid laws delay and/ or weaken them to circumvent them.
- Is aware of and is highly involved in illegal/illicit trade in tobacco as elaborated in the section on “involvement in illegal trade” above.
- Has operated for years with the deliberate purpose of subverting the efforts of the WHO to control tobacco use.
- Has used its marketing strategies by dividing its potential market into segments and with similar need such as young starters and older established smokers and targets them with appropriate pricing, distribution and product strategies. These strategies include but are not limited to enticing new potential smokers and keeping older ones addicted to the product.
- Has manipulated cigarette formulations in an attempt to making smoking more palatable especially for new users even though in public they have continued to deny this fact.
- Recruited scientists all over the world to challenge the science especially on passive smoking
- Lied to governments, the media and the smoker
- (BATK) Did in fact plan to target the youth aged between 18- 24 years as a response to decreased market share due to increased competition occasioned by liberalization of the Kenyan market in the mid 1990s.
- Has used the ITGA to masquerade as a representative of farmers while funding it to “control” the international voice of agro- tobacco on its behalf; and to defeat tobacco control measures internationally as well as nationally through its members.
- While arguing that advertising does not cause non-smokers to take up the habit, but is merely intended to get those already smoking to switch brands and while denying that they ever marketed to children; they have repeatedly used their “smoking is for adults” campaigns to not only appeal to public sympathy, but also to attract minors into the habit.
- The TI has used images of liberation, equality, slimness, health, vigor and good times to appeal to women especially with “women’s” brands labeled “slim”, “thin”, “mild” etc. TI Presentation Of Its

Argument

Tobacco production and consumption generates employment and revenue

For many years, the tobacco industry has exaggerated its economic and social importance by manipulating facts and figures and by suppressing their negative impact. The TI has used this to fight efforts to seek alternative sources of livelihood for tobacco farmers and to protect the health of the public.

However:

- The Kenyan Ministry of Health estimates that while tobacco taxations raises around Ksh.5-7 billion each year, it costs the country five times as much in disease, disability and death. (www.ash.org.uk)
- Tobacco farmers and the regions they come from are some of the poorest in Kenya. Over production of tobacco leaf and the TI keenness to reduce its need for the leaf has driven the prices of the tobacco leaf lower and lower leading to less incomes and profits for farmers.
- Most jobs in the TI are seasonal and part time (as opposed to full time and year round as jobs in some other industries are) i.e. they include farmers who grow other crops besides tobacco, seasonal labourers, family members and part time workers., therefore the TI figures do not give the real picture on the ground. The World Bank (WB) suggests Full- Time Equivalent (FTE) figures that add up to only 1/3 of the TI estimates (Campaign for Tobacco Free Kids, 2001) the WB further points out that tobacco farming makes up only a tiny fraction of the agricultural labour force in most developing countries and an even smaller percentage of the total labour force.

Human rights perspective

The TI has presented the decision to smoke as a personal choice and a right. They have used various front groups and sponsored them to achieve their goal. In Kenya the companies contemplated to sponsor dozens of litigants to sue city and town councils following introduction and implementation of smoking bans in their jurisdictions, claiming that this infringed on their constitutional right to smoke. (The East African, July 16-22, 2007)

The TI is a stakeholder in the process and must be consulted

The TI is beginning to assert its authority in decision making that affects their bottom line by stating that

they too are stakeholders and must be consulted in the process. In Kenya, the Industry strongly opposed a health ministerial directive that sought to ban smoking in public places on grounds that it had not been consulted.

Conclusion

In Kenya, recently BATK announced a pretax profit growth of 17% in 2007 of Ksh. 2.1 billion. The industry will do whatever it takes to maintain their profits as they benefit it by giving the industry the motivation to oppose anything that could adversely impact upon its business while at the same time providing the resources to oppose any such measures.

The success of the TI has been greatly aided by amongst other factors:

- The addictive nature of the product
- The activities and the individuals in the industry
- Regulatory and political environment which have for a long time abetted the tobacco epidemic by giving tobacco and tobacco products advantage over other equally or less harmful products such as drugs and poisons and allowed the industry to manipulate other players in the market respectively.

The greatest obstacle to tobacco control efforts has been and continues to be the TI which spends millions to pro-mote their deadly products, prevent governments from protecting their people and mislead (potential) tobacco users regardless of the impact on public health .they use their resources to kill anti-tobacco policies or water them down and undermine their enforcement when they are passed. The TI will support only those measures that are known not to work well and may even be counter productive and oppose those that have been proven to reduce tobacco demand and consumption.

Comprehensive regulatory measures to prevent further escalation of the epidemic must be free from the influence of the TI. However, effective implementation of regulatory measures is dependent on availability of both financial and technical resources. This makes poor nations in the developing world increasingly vulnerable to the machinations of the TI. The FCTC "obligates parties to protect these (public health) policies from commercial and other vested interests of the tobacco industry.

PART FIVE

SWOT ANALYSIS, RECOMMENDATIONS AND CONCLUSIONS

14 SWOT ANALYSIS OF TOBACCO CONTROL IN KENYA

Strengths

- There is political will to pass strong tobacco control measures as manifested by the Tobacco Control Act 2007 and the several policy initiatives taken before the TCA was passed such as the initiative taken by municipal councils to pass bylaws banning smoking in public and the regular increments in tobacco taxation.
- A public that largely supports tobacco control as shown by the opinion poll conducted in 2007
- An Act of parliament that prohibits affiliation to the TI (at least at the level of the Tobacco Control Board)
- A total ban on advertising, promotion and sponsorship
- A widening pool of civil society organizations and professionals involved in tobacco control
- Good partnership/working relationship between WHO Country Office, Ministry of Health and civil society
- Kenya is a regional leader in tobacco control through strong participation in COPs and INBs.

Weaknesses

Poor Research capacity

- Government allocates little money to public re-search institutions for research
- Some research has been done by individuals, or-ganizations and institutions but is difficult to access largely because it is unpublished
- The number of people or Institutions researching on alternative crops to tobacco is still very small leading to inability to research on diverse crops and varieties for the different tobacco growing areas in Kenya
- Public research institutions like KEMRI and KARI which should research on tobacco control do not consider it a priority area

Infrastructure

- Though government has established an elaborate infrastructure for tobacco control it does not fund it
- Weak capacity for implementation and enforcement of government policy

- Poor dissemination of information be it through media, to various government departments and stakeholders and to the general public
- NACADAA, the government agency charged with the campaign against drug abuse focuses more on alcohol than it does on tobacco
- Poor strategic positioning of tobacco control advocates
- Weak capacity of civil society – due to inadequate funding, poor networking and dissemination of information among tobacco control advocates, not well-informed on all aspects of tobacco control, suspicion and mistrust that hinders the effective functioning of KETCA, few NGOs concentrate wholly on tobacco control, Many of the strong organizations are based in Nairobi leading to poor grassroot outreach, inadequate technological capacity
- Poor monitoring and evaluation of programmes, laws and policies
- Weak capacity of health personnel
- No formal cessation programmes/trained people in cessation With regard to the tobacco industry
- Compromise in legislation and enforcement when there is pressure from the industry
- Lack of awareness/ monitoring of TI activities
- Minimal comprehensive documented evidence of the TI activities in Kenya
- Weak provisions on TI liability for the harm they cause

Opportunities

- The provisions in the Tobacco Control Act with regard to:-

- The Tobacco Control Board
 - The Tobacco Control Fund
 - The submission of information by the tobacco industry
 - The incorporation of tobacco control awareness in the education curriculum, health care system and other government programmes
 - Liability by the tobacco industry that open up the possibilities of litigation
 - Multisectoral approach to tobacco control in terms of policy formulation and implementation
 - Taxation, alternative crops and livelihoods
- Following General Elections on 27th December 2007 in which most tobacco control champions within Parliament were not reelected, we have a new pool of policy makers who need to be inducted
 - The international networks to which civil society is affiliated that are a source of funding, information acquisition and dissemination and capacity building e.g Bloomberg Initiative, this situational analysis
 - Alternative crops
 - The little research indicates that farmers are willing to stop tobacco cultivation
 - There are viable alternative crops some of which farmers are familiar with and have even grown previously on their own
 - Research
 - Provision in education policy to encourage research in institutions of higher learning
 - The STEPS survey to be carried out by the Ministry of Health this year
 - The Kenya Health Demographic Survey to be carried out every 5 years
 - Cessation
 - Pharmacies/chemists, VCT Centres, Youth Clinics, Health care Professionals can all be used to give cessation information.
 - Integrating prevention and promotion
 - National school festivals like drama, music and games gives opportunities for exposing the dangers of tobacco.
- Establishment of NACADAA as a parastatal with its own budget creates an additional government agency that can focus wholly on substance abuse generally and tobacco control specifically.
 - KETCA provides an opportunity for strengthening the coordination of civil society initiatives in tobacco control.
 - Lots of Information on the internet such as the Tobacco Academy, tobacco control websites etc.
 - Dr Ahmed Ogwell, formerly of the Ministry of Health now working as Head of WHO Technical Assistance Department.
 - Increased media space especially the community and vernacular radio stations.
 - The policy on non-formal education is currently being formulated. There is opportunity to get tobacco control into its curriculum.
- ### Threats
- The tobacco industry and its resistance to enforcement of tobacco control, its influence within political circles, its resources that far outweigh those of tobacco control advocates and its front groups.
 - Alternative Crops-
 - Gender disparity in preference of different crops, some being seen as more within the female domain by the male head of households,
 - There is still uncertainty among the farmers on the viability and profitability of the Alternative crops with regard to markets, farm input and labour, and ability of their land to support new crops due to the soil degradation caused by tobacco.
 - The high number of journalists who smoke especially at senior editorial level.

15 RECOMMENDATIONS

This section covers both short and long term interventions required based on the data gathered during the situational analysis.

Research

Health impacts of tobacco use

1. There is need to collect longitudinal data on tobacco use among all target groups so that the effects of tobacco control are measurable on implementation. Regular data collection on tobacco use disaggregated by sex and age will permit identification of trends and health effects on males and females of all ages. The data collection should reveal potential links of tobacco use.
2. Research on other forms of tobacco use other than smoking should also be focused on.
3. Social research, including qualitative approaches that re-veal the impact of gender on smoking initiation, types of tobacco use should be utilised so as to enrich the quan-titative data.
4. Need to do research on how many people are dying from tobacco illness, and the costs of treatment.
5. Research on the interaction of tobacco use with other major communicable and non-communicable diseases like HIV/AIDs, diabetes, cardiovascular diseases and cancers.
6. Research on the levels of tar, nicotine and other constituents of tobacco products and their emissions in Kenya,

Economics of Tobacco

1. An in-depth analysis of the Tobacco industry – why Kenya is such a conducive environment, a search of their internal documents, the extent of illicit trade in tobacco products in Kenya, Documentation of their CSR activities to expose the real extent as opposed to their exaggerated accounts
2. Research in the field of taxation with regard to determining the price elasticity of demand and assessing the impact of the regular 10% increases in tobacco taxes and the impact that has on reduced consumption.
3. Research on other forms of employment in the tobacco industry especially with regard to the impact of tobacco control on employment creation. The impact of other policy interventions also needs to be assessed, especially with regard to the effect on the industry, the farmer and the general public.

Alternative cropping

1. Further research on different varieties of alternative crops for various regions of the country with regard to feasibility, markets, technical support and inputs.
2. Research on alternative sustainable livelihoods for those involved in tobacco production other than through farming. This includes how much they make and within what time frame especially for individual sellers.

Infrastructure development and Capacity building

Documentation

1. Publish the situational analysis, do a concise summary which we could publish as a paper in journals
2. Establishment of a Tobacco Control Resource Centre where copies of research documents can be availed to the public
3. We need to map where the NGOs involved in tobacco control are found, what are their niches, what has been their impact and what are their needs in terms of capacity building
4. We need to establish a database of media houses, their contacts, their coverage, map the journalists writing on health, environment and business news or other tobacco related issues, map who has ever been trained on tobacco control.

5. Need to identify champions and opponents by name and have an annual reward/name and shame ceremony
6. Need to identify other government infrastructure outside the Ministry of Health and Education such as the Ministries of Gender and Children, Youth and Sports, Agriculture and also among religious groups
7. Development of a national tobacco control action plan to be implemented by government and civil society

Capacity Building

1. Establishment and Capacity Building of the Tobacco Control Board
2. Build networks locally, regionally and

internationally especially with the East African countries who share a common multinational (BAT).

3. Funding - Lobbying for adequate budgetary allocations to the Tobacco Control Fund and research funds for public institutions, training in proposal writing for civil society, training in financial management and donor reporting for accountability
4. Sourcing for technical and financial support in developing regulations under the TCA and tobacco control policies.
5. Mentoring of new tobacco control advocates for sustained capacity for tobacco control
6. Capacity building for health professionals to prevent and reduce tobacco consumption – providing them with IEC materials that they can dispense alongside other medical care, modification of health systems so that they can take cognizance of risk factors for chronic diseases including tobacco use.
7. Capacity building of policy makers, decision makers, health care workers and information providers
8. Build the capacity of KETCA to effectively coordinate organizations involved in tobacco control
9. We need a tobacco control calendar of events that is availed to all tobacco control advocates

Public education, information and communication

Development of a nationwide public education and awareness campaign on the provisions of the new Act and tobacco control generally with the following components:

1. Dissemination of the Tobacco Control Act
2. Development of IEC materials in print and electronic form
3. Review the content of tobacco control in the curriculum for basic education covering primary, secondary and some tertiary institutions to give more visibility to tobacco control
4. Evaluate component of tobacco control in curriculums of institutions of higher learning
5. Recommend to universities that drug and substance abuse be a common course with a component on tobacco control
6. Evaluate the amount of tobacco control education offered through the guidance and counseling offered in primary and secondary schools, train teachers to pass the information
7. Creating awareness on the tobacco industry's interference with public health in Kenya, especially educating government departments charged with collecting information on the need for verifying information supplied by the industry.
8. Identify performing artistes who can be used to pass on the message.

Use of Media

Working with journalists drawn initially from the following media houses:

Print Media: The Nation Media Group, The East African Standard, The East African, The Kenya Times Daily, The People Daily, The Daily Metro, The Nairobi Star, The Business Daily and Taifa Leo

Television Stations: The Nation TV (NTV), The Kenya Television Network (KTN), The Kenya Broadcasting Corporation (KBC), Citizen TV and K24

Radio Stations: The Kenya Broadcasting Corporation (KBC), Easy FM, Kiss & Classic FM, Metro FM, Capital FM, Radio Citizen, Radio Simba, Waumini Radio, Hope FM, Sayare

Vernacular Radio Stations: Kameme FM, Mulembe FM, Musyi FM, Kas FM, Radio Lake Victoria, Egesa FM

Community Radio Stations: Ghetto FM, Ghetto Radio, Pamoja FM, Umoja FM and Koch FM

It is proposed to establish the Journalists Against Tobacco Forum (The JAT Forum) which will recruit and train both urban and rural based journalists within print and Electronic Media to report positively on tobacco control. Special effort shall be put on recruiting journalists within tobacco growing areas.

The JAT Forum will conduct the following activities:

- Frequent communication through email
- The JAT Forums Quarterly Consultative meetings
- Training of journalists on various tobacco control topics
- The JAT Forum quarterly publications
- The JAT Forum Annual Conference
- The JAT Forum Annual Media Awards.
- Media Tours to conduct investigative journalism (e.g. to Tobacco growing zones)
- Media seminars and workshops for journalists, editors, media house owners
- Media Briefings and functions
- Securing airtime on slots within media houses that cover health, environment, youth and women.
- Preparation of documentaries
- Training of the tobacco control advocates on proper utilization of the media/development of the tobacco control media strategy
- Networking with other regional and global networks of journalists with a similar focus
- Forums to reach out to smoking journalists and create smoke free media houses/workplaces

Monitoring and evaluation of policy measures

We need to strengthen our institutional capacity to enforce the Act by

1. Assessing the capacity requirement for policy implementation
2. Training of enforcement agents especially the police, the municipal council officers
3. Drafting and passing of regulations under the Act
4. Development of policy in the following areas – alternative livelihoods, tax and price policies, cessation and rehabilitation,
5. There is a need to evaluate the health warnings on ciga-rette packets; whether they describe the specific harmful effects, whether the warnings are large, clear, visible and legible, and if written in all the principle languages of the country.
6. Monitoring the ban on advertising, promotion and sponsorship
7. Evaluation of tax measures to determine whether the increments are adequate to cause a reduction in consumption

8. Enforcement of smoke free laws
9. Monitoring the TI, identifying its lobbyists and front groups anticipating their arguments/positions and developing counter positions/arguments.
10. Lobby for stronger more explicit measures at the national level to protect health policies from commercial and other vested interests of the TI. This must go hand in hand with support for guidelines being developed by the WHO on article 5.3, as these will go a long way in guiding nations on how (not) to interact with the TI. Weak areas of the Act could be strengthened to avoid loopholes that the TI could take advantage of.
11. Lobby for further development and enforcement of laws that hold the TI liable for the harms they cause.
12. Monitoring court cases filed against the industry both under civil and criminal liability as well as the numbers filed for other violations under the TCA.

Cessation

Kenya needs to establish effective interventions for tobacco users who want to quit. This would entail: 1. Training health care professionals to provide cessation information. The curriculum of all institutions training such professionals needs to be examined to see whether they offer such training and if not this component needs to be added. 2. The opportunity to incorporate tobacco cessation services within various support services in the public hospitals should be pursued. In addition to this there is a need to find out about the cessation services offered by some private health clinics.

CONCLUSION

The baseline assessment indicates that a lot of progress in tobacco control is now evident in Kenya. The passing of the Tobacco Control Act is a historical milestone as it serves as the starting point for implementation of the key interventions in tobacco control. The analysis also brings out the need for holistic implementation of the various measures to get maximum impact, the need for synergy between the government and civil society to deal with the tobacco menace in Kenya.

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Notes

Notes

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