

RECENT DEVELOPMENTS IN COMBATING DRUG TRAFFICKING

A memorandum by the Government of Ghana

DOMESTIC PERSPECTIVE

Ghana's law on Drugs Trafficking is contained in The Pharmacy and Drugs Act 1961 Act 64.

2. There is a Schedule under the Act which classifies drugs into Clauses, namely:- Dangerous, restricted and exempted drugs. The possession of certain drugs classified as dangerous drugs is a Criminal Offence. These drugs include narcotic drugs e.g. Indian Hemp, Cocoa Leaves, Raw Opium or that prepared for smoking etc. and also include some intravenous drugs.

3. In Ghana it is an offence to mix, compound, prepare or supply restricted drugs unless the person is a pharmacist or is a licenced company or a licenced chemical seller and even then these drugs must only be supplied from licenced premises and only when the buyer has a prescription from a medical practitioner if it is a class A. Drug. Other controls apply to supply of certain drugs, all in an effort to prevent drug abuse.

4. There are similar restrictions on the supply of narcotic drugs. The law says, for example, that no person shall supply any opium or Indian Hemp of any species or description whatsoever, and no person is allowed even to possess without lawful excuse these narcotic drugs. It further says that no person shall, without lawful excuse, proof of which shall be on him, have any dangerous drug in his possession or control.

5. Smoking of Indian Hemp or opium is also prohibited and so is cultivation of any plant from which a narcotic drug can be extracted, without the written consent of the minister. There are also restrictions on the possession and supply of syringes designed for intravenous and intramuscular injections. Punishment is provided for breaches of these provisions. Section 57 of the Act provides:

"57(1) "If a person acts in such a way as to contravene a requirement, condition or prohibition imposed by or under the Act he shall be guilty of an offence under this act.

(2) A person guilty of an offence under this Act -

(a) where the offence relates to a narcotic drug, shall be liable -

- (i) on conviction on indictment to a fine not exceeding one thousand pounds, or imprisonment for a term not exceeding ten years or both;
- (ii) on summary conviction to a fine not exceeding two hundred and fifty pounds, or imprisonment for a term not exceeding 12 months or both;

- (b) where the offence is that of supplying of opium or Indian Hemp or of cultivating Indian Hemp contrary to section 28(2) or section 49 of this Act, as the case may be, and in each case the person has been convicted of that offence on two previous occasions, shall be liable to imprisonment for life;
 - (c) where the offence is that of smoking or having in his possession any opium or Indian Hemp contrary to section 48(a) or to sub-section (1) of section 47 of this Act as the case may be and the person has, in each case been convicted of that offence on two previous occasions, shall be liable to imprisonment not exceeding twenty years;
 - (d) in any other case, shall be liable on summary conviction to a fine not exceeding one hundred pounds, or imprisonment for a term not exceeding six months, or both.
- (3) A person guilty of an offence under this Act relating to Indian Hemp shall be sentenced to imprisonment for at least five years:

Provided that this subsection shall not apply if the court finds either that the offence was trivial or that there are special circumstances relating to the offence or the offender which would render its application unjust.

- (3)A Nothing in the last preceding subsection shall be construed as preventing a prosecution for an offence to which that subsection relates being brought before a District Court (other than in circumstances to which paragraph (b) or paragraph (c) of subsection (2) of this section applies) so however, that the District Court shall not pass sentence on a person convicted of such offence, but shall commit him for sentence to a Circuit Court, unless it finds in accordance with the proviso to the last preceding subsection; and the provisions of section 178 of the Criminal Procedure Code, 1960 (Act 30) (which section relates to committal for sentence), shall apply to any committal under this subsection as if it were a committal under that section.

- (4) Where proceedings are brought for an offence under this Act
- (a) the court may order the forfeiture and destruction or other disposal of any drug in respect of which an offence is found to have been committed;
 - (b) the court shall, as respects any drug taken away from its owner without payment and in respect of which no offence is found to have been committed, order that reasonable payment shall be tendered to the owner in respect of so much of the drug as is not returned to him in good condition."

6. In effect, therefore, in an endeavour by the Government of Ghana to control domestic drug trafficking the Pharmacy and Drugs Act was passed in 1961 which provides stiff penalties for unlawful trafficking and even possession and use of drugs. The provisions of this Act have always been strictly enforced and all contraventions have been prosecuted. It is believed that the strict enforcement of the law has resulted in a decline in the illegal trafficking of Drugs in this country.

7. But there still remains the problem of the cultivation and supply of narcotic drugs especially opium and Indian Hemp which plants thrive in our weather. Police have increased vigilance in detecting persons and areas where the plants are cultivated, and carry out raids and arrests. There is also the problem of illegal exportation and importation by suppliers and sellers but whenever arrested they are prosecuted.

8. There is no doubt that addiction of drugs is a modern development in all countries and the sad part is that the youth are the main users. This use of drug by the youth is assuming alarming proportions and needs to be curbed quickly. The criminal pedlers, for huge monetary profits introduce the youth to the drugs and these are the people who should be arrested and severely punished. The youth are victims who should be pitied and rehabilitated. Perhaps a method of detecting the big time drug pedlers is to grant immunity of prosecution to the mere small time possessor and user of drugs in exchange for information.

9. Addiction to drugs brings in many problems to the user, his family and the community at large including drug related disabilities like insanity, and other disability. Government is then saddled with cost of curing and rehabilitation. What is the solution? Preventive measures should be employed to advise and lecture the youth on the effects of drug abuse both at school and by other religious and voluntary organisation. The Social Welfare Department, the Medical Pharmaceutical Association and Medical Council should also hold periodic lectures and seminars both radio/television and in the newspapers to educate and advise. Prevention is better than cure and efforts at preventions are very important must be very seriously pursued as the rehabilitation of drug users is costly to a Country and causes a wastage of manpower with subsequent miserable effects on families. Every country owes a responsibility to the innocent victims in searching for effective solutions to the drug problems. Our Criminal Law merely punishes drug users but this is not enough. There should be provision for rehabilitation orders to be made under the Pharmacy and Drugs Act 1961 and not merely punitive orders. An innocent youth addict is a sick person who needs to be cured and rehabilitated more than punished. It is the big time Drug pedlers who should be punished severely to deter them from their nefarious activities. Outside the Criminal law it is important that there should be an increase in activities to enlist the participation of the news media, parents, teachers, doctors, police and social workers in an effort to eradicate drug abuse from the society as Drug abuse is the greatest evil of contemporary society.

THE INTERNATIONAL PERSPECTIVE

10. There is no doubt that there is need for further cooperation amongst law enforcement and other governmental agencies to enhance existing levels of cooperation in order to combat the international trade in illicit drugs. There should be a Computerised Intelligence System and specialised training in investigation. Interpol should also be encouraged to compile a list of all known big time dealers in illicit drug trade, and mount surveillance on entry points to check their importation, and effect arrests of persons concerned. This list should be circulated to all countries with a description of the modus operandi of each known trafficker, this would make detection easier. More Police Officers should be trained and fortified in detection duties relevant to this particular problem.

11. Another deterrent is to give out to offenders stiff penalties. In some countries even the death penalty is used, but other severe punishment, like life imprisonment should be introduced in cases of the drug importers and exporters as without these criminals there would be no users. They are the ones who actually introduce and induce young persons to indulge in drug use for their own selfish ends.

12. In Ghana even though there is provision for punishment and forfeiture of the drugs there is no provision for forfeiture of monies derived from illegal drug trade. This should be seriously considered as forfeiture of such monies or of properties into which such monies have been converted would serve as a further deterrent to traffickers.

13. Furthermore, there should be international drug control plan which should include activities aimed at strengthening and developing civil cadres of preventive trainers in health, education, youth matters and law enforcement and detection matters in the various member countries. This would supplement the efforts of Police in curbing the use of drugs. There should be frequent international seminars by medical and other organisations on effects of drug abuse, and tighter control should be exercised by pharmacists on the supply of dangerous drugs. Children frequenting drinking bars, discotheques and importuning for immoral purposes should be strictly checked by police so as to protect them from contamination and introduction to the use of Drugs.

14. There are disastrous effects of drug abuse on citizens of any country especially the youth who are the future citizens, and problems associated with drug use is assuming alarming proportions. The detrimental effect on manpower, on families and the countries at large should as quickly as possible be effectively halted by international action and cooperation as the problem has now assumed international proportions. Member states ought therefore to come together and find solutions by mounting massive frontal attack to combat the pervasive problems of drug abuse. Cooperation is needed because the menace of drug abuse and illicit trafficking confronts us all with increasing serious problems which no nation can solve alone. We all owe a responsibility to the innocent victims in searching for effective solutions.

15. There is no doubt that huge financial profits are made by the drug traffickers which monies are channelled into legitimate business, but this is not easy to trace. However, if it can be proved and the monies traced into legitimate business and that business should be confiscated after due prosecution of the persons involved. It might involve asking the offender to declare the source of his business finances which would involve long drawn out enquiry. The easy solution could be the alternative of increase in punishment imposing a huge fine on the offender including the seizure of his properties and business without prior enquiry or tracing of the money used to acquire these properties.

16. In short stiff penalties of death, imprisonment, huge fines coupled with seizure of drugs and properties of offenders would counter the growing infiltration of narcotic profits into legitimate businesses. .

17. In finding solutions to the problem of drug abuse no punishment should be considered too harsh as the problem of drug abuse poses deadly threat on all member countries with the resultant destruction of countless innocent lives and the undermining of the economies, integrity and stability of societies.