

DRUG ABUSE AND DRUG TRAFFICKING — THE ZAMBIAN EXPERIENCE

Memorandum by the Government of Zambia

INTRODUCTION

This paper addresses some aspects of the vexing questions of drug abuse and drug trafficking in recent years using Zambia's experience in attempting to combat the problem. The paper will, inter alia, attempt to examine the history and rationale of the legislation that seeks to control drug abuse and illicit trafficking, the escalation of the problem, the inadequacy of the law, the problem confronting law enforcement agencies in combating drug abuse and illicit drug trafficking and finally the paper will suggest possible remedies to the problems raised in the discussion.

I. Historical background and rationale for the legislation on the control of drugs

Almost all countries in the world have, in one way or the other, enacted laws to control the importation, exportation, production, possession, sale, distribution and use of dangerous drugs. In addition, numerous international attempts have been made to stop the scourge and ravages of drug abuse and trafficking such as drug addiction, health and socio-economic hazards. In this direction the international community has and continues to take steps to combat this deadly peril to mankind. As early as 1912 the International Opium Convention was signed at the Hague and was later amplified by the Geneva Conventions of 1925 and 1931. Furthermore, the United Nations set up the Commission on Narcotic Drugs resulting in the Protocols of 1946 and 1948². In 1961 the Single Convention on Narcotic Drugs was signed in New York. This was later amended by the Protocol of 1972. In 1971 the Convention on Psychotropic Substances was signed in Vienna³. The foregoing Conventions on narcotic drugs and psychotropic substances, only to mention a few, demonstrate the great concern with which individual nations and the international community view the problems of drug abuse and drug trafficking.

In Zambia, legislation on the control of importation, exportation, manufacture, production, use, sale, etc, of dangerous drugs may be traced back to as early as 1923 when the colonial authorities promulgated the Opium and Habit-forming Drugs Regulations Proclamation which was repealed and replaced by the Opium and Habit-forming Drugs Regulation Ordinance⁴. Further development of the law in this area is reflected in the Dangerous Drugs Acts of 1955 and 1956⁵ which were enacted by the now defunct Federation of Rhodesia and Nyasaland. The 1956 Act was designed to conform with the requirements of the various international conventions. The Act continued to apply to Zambia until in 1967 when the National Assembly passed the Dangerous Drugs Act⁶ in conformity with the Single Convention on Narcotic Drugs 1961 of which Zambia is a signatory. The Convention requires, inter-alia, that member states should control the manufacture, import, export, sale, production, distribution and use of narcotic drugs⁷.

In to the Dangerous Drugs Act, 1967, other laws governing drugs and other psychoactive substances are the following:

- (i) Penal Code Act, 146 (some provisions);

- (ii) Pharmacy and Poisons Act, Cap. 536;
- (iii) Food and Drugs Act, Cap. 553; and
- (iv) Customs and Excise Act, Cap. 662

All these laws provide penalties for offences committed under their provisions. An examination of the provisions relating to penalties under these laws, especially the Dangerous Drugs Act and the Pharmacy and Poisons Act, to mention a few, are too lenient for an effective deterrence to offenders or would-be -offenders. For instance, Section 19(1) of the Dangerous Drugs Act 1967 imposed, upon conviction of an offender, a fine not exceeding five hundred kwacha (K500.00) or imprisonment for a period not exceeding three years or both such fine and imprisonment. Under Section 27 of the Pharmacy and Poisons Act, Cap. 536 a fine of one hundred kwacha or imprisonment for six months or both such fine and imprisonment were prescribed. Both provisions provide for the forfeiture of any articles in respect of which such offence had been committed.

II. Escalation of the problem of illegal trafficking in drugs

It will be observed that since 1968 and especially in the seventies, the volume of illicit traffic in drugs has been on the increase, whereas the penalties prescribed remained lenient and grossly inadequate to curb or combat drug abuse or drug trafficking. However, it will be noted that drug abuse is to a great extent a developing problem as compared to drug trafficking in which Zambia is mainly used as a transit country or route. Statistics available will, later on in the discussion, illustrate this assertion.

Concerned with the upsurge of illicit drug trafficking in which both local and foreign traffickers were involved, the Party and its Government sought to amend the laws governing drug abuse and illicit drug trafficking in 1984 and 1985 in order to provide stiffer penalties for offences relating to dangerous Drugs. This resulted in the enactment of the Dangerous Drugs (Amendment) Act 1985⁸ by the National Assembly. Expression of Government concern for illicit drug trafficking may be found in the words of the Minister of Health when he introduced the Second Reading of the Dangerous Drugs (Amendment) Bill where, among other things, he said:

".....the volume of illicit traffic in drugs has increased tremendously since 1968, when the Act was passed. This increase presents a serious threat to the social well-being of the Republic. As the Secretary-General of the United Nations Organisation has pointed out, illicit drugs contaminate, corrupt and weaken the very fabric of society wherever they are produced or used. The abuse of drugs often leads to disastrous effects on political, social, cultural and economic life of the community. The effect on individual users and their families is well known to Hon. Members and does not require any elucidation at all"⁹.

The 1985 Amendment brought in stiffer penalties. Section 19 of the principal Act was amended. A convicted offender is now liable to a fine not exceeding two thousand kwacha (K2,000.00) instead of the original five hundred kwacha (K500.00). The term of imprisonment which may be imposed has been increased from a period not exceeding three (3) years to a period not exceeding fifteen (15) years. A combination of a sentence of both a fine and imprisonment is provided for.

It is hoped that these stiffer penalties will achieve the desired effect of reducing drug trafficking and their associated problems.

It is worth noting that prior to the foregoing legislative action to curb the escalating problem of drug trafficking other measures were taken by the Party and its Government. For example, a Methaqualone (Mandrax) Technical Committee was appointed by the Permanent Secretary and Director of Medical Services in November, 1982 within the Ministry of Health to examine, inter-alia, the extent of use and abuse of the methaqualone drug in Zambia and to advise the Ministry of Health on the need to ban or otherwise impose stricter control on the importation of the drug into Zambia and so on. Information received by the Committee revealed inter-alia that:

- (i) there were no reported cases of abuse of methaqualone in Zambia;
- (ii) the drug was not used by any health or medical institution in Zambia;
- (iii) the pharmaceutical wholesalers did not import the drug;
- (iv) there was no prescription demand on the private pharmacies for the drug;
- (v) there was considerable illicit importation in which Zambia was being used as a transit route for the illegal trade in Southern African countries.¹⁰

The Committee's opinion was that the drug was not needed in Zambia, more so that there were equally effective hypnotics available which did not have the potential for abuse. The Committee recommended that the drug (Mandrax) and the importation of amphetamines should be banned and that the legislation should be introduced to implement the United Nations Convention on Psychotropic Substances of 1971.

As a result of the escalation of the problem of drug trafficking steps have been taken to train police and customs officers in identifying various drugs that are imported into Zambia by traffickers. In 1979, the School of Medicine of the University of Zambia, in conjunction with the Department of Customs and Excise and the Police organised an intensive course on Drugs and Related Substances (legal and illegal issues)¹¹. Subjects of instruction included, among others:

- (a) Natural occurring Narcotics and their use;
- (b) Laboratory Sessions;
- (c) Drugs, Narcotics and their effects on the mind and body;
- (d) Aspects of law and legislation in Zambia;
- (e) Narcotics and Police involvement;
- (f) Narcotics and Customs involvement; and
- (g) Methods of surveillance and investigation and International Control.

All the foregoing events show the concern with which the Party and its Government views the escalation of the problem of drug trafficking in which Zambians and foreigners were engaged in trafficking various drugs especially methaqualone (Mandrax). Zambia has become one of the transit routes in this illicit drug trade in Southern Africa.

Arrests and seizure data show that vast amounts of methaqualone are smuggled into Zambia from Asia and certain Western European countries and that the contraband is mainly

destined for South Africa. Statistics have revealed that more than eight million (8,000,000) methaqualone tablets have passed through Zambia from Europe¹². Evidence from Police reports shows that Zambian traffickers, mainly couriers, have been arrested (in 1983-1984) at airports in various countries (United Kingdom, Botswana, West Germany, Holland, India, etc) for possession or importation of drugs such as cannabis, methaqualone (Mandrax) tablets and heroin.

As indicated earlier in this paper, stricter controls introduced by legislative and administrative measures to curb the influx of methaqualone has caused traffickers to change tactics and routes. Tight security at airports especially restrictions on access to VIP lounges have prevented the misuse of these facilities by traffickers. However, evidence shows that methaqualone (Mandrax) has also been trafficked through the mail, to post office boxes and also that the form of the drug is being varied to avoid easy detection and identification. For instance, there are liquid or powdered forms of the drug. This shows how difficult it is to stamp out the scourge of drug trafficking and drug abuse. All this means more problems for the law enforcement agencies, a problem that this paper now attempts to address.

III. Law Enforcement Agencies

The police and customs officers are in the forefront of the fight to curb drug trafficking and drug abuse. Their activities include arrest of drug traffickers and drug abusing suspects, drug seizures and prosecuting offenders. While the police, customs officers and other law enforcement agencies are doing a commendable job to combat drug trafficking and drug abuse, the problem continues to plague us. Statistics in the table below show a decrease in the number of persons apprehended for drug abuse and trafficking but this should not lead to the drawing of the conclusion that police and customs officers have succeeded in eradicating the problem:

DRUG CASES REPORTED TO POLICE IN ZAMBIA 1975 TO 1985¹³

YEAR	REPORTED	NO.OF PERSONS ARRESTED	CONVICTIONS	ACQUITTALS	MALES	FEMALES	JUVENILE
1975	675	595	540	30	496	18	23
1976	529	458	393	45	350	29	31
1977	490	388	320	39	284	16	21
1978	558	497	422	19	367	36	20
1979	700	628	530	39	519	10	19
1980	416	366	302	37	279	14	19
1981	411	338	282	33	185	40	57
1982	491	413	340	41	290	23	35
1983	414	381	304	41	244	19	11
1984	358	311	253	22	243	8	14
1985	396	345	280	41	228	39	19
TOTAL	5,438	4,720	3,966	387	3,485	252	269

From the 675 cases reported to the police in 1975 the number rose to 700 in 1979 and then dropped progressively to 396 in 1985. The number of arrests also rose from 595 in 1975 to 628 in 1979 and then dropped progressively to 345 in 1985. The decline in the number of arrests does not necessarily reflect a reduction in drug trafficking and drug abuse. It merely represented a reduction of cases that the law enforcement agencies succeeded in laying their hands on. This may also be attributed to the fact that drug traffickers might have become sophisticated in evading law enforcement agencies or that the agencies might not have sophisticated equipment and other methods to combat the problem.

Furthermore, statistics may not be the best method of judging changing trends in the rise and fall of drug trafficking and drug abuse. Firstly, official records are not easily available and secondly the available records sometimes do not show the categories of drugs for which the arrests have been made. Police arrests do not mean automatic conviction as shown and some of the acquittals do not signify innocence of the accused as they might have been for technical reasons such as lack of adequate evidence, or poor prosecution. To successfully deal with the situation, law enforcement agencies need to be strengthened and well equipped with sophisticated gadgets or devices and laboratories for their operations. Police and customs officers have to fully co-operate in preventing and detecting the illegal importation and export of drugs. There should be adequate gathering of intelligence about trafficking routes and techniques used by traffickers. To control entry points such as airports, ports and border posts they need to be provided with well-trained preventive staff and specialist investigators who should provide support for each other's operations.

All these efforts are required to combat smuggling which is by nature difficult to control because of the great volume of passenger and freight traffic which almost make it impracticable, for instance, to carry out physical searches on every occasion.

The foregoing discussion shows that the drug trafficking problem is international in character and therefore it requires both domestic and international co-operation. The problem requires international co-operation between governments, law enforcement agencies, professionals, etc. In this regard, countries that produce certain drugs and those that are used as transit routes require international co-operation and support from the international community to stop illicit production, to prevent international trafficking and to exchange information on means of preventing and reducing drug abuse and trafficking. Where raw materials are grown, people should be prevented from growing such crops and be encouraged to grow other new crops in place of illicit crops.

There are several U.N. Conventions aimed at eradicating drug trafficking and drug abuse, some of which have been alluded to at the opening of this discussion. There are also agencies that oversee the effectiveness of the conventions, for example, the United Nations Commission on Narcotic Drugs, the International Narcotics Control Board, etc, form part of the International co-operation to promote co-operation in combating drug abuse and drug trafficking and thus making efforts to save mankind from the scourge and ravages of dangerous drugs.

IV. Inadequacy of the Law

Our law on drug abuse and drug trafficking was enacted at the time when this problem was almost non-existent in the country and as such the present law cannot adequately meet all the exigencies of drug abuse and drug trafficking. The penalties under the law, as already pointed out earlier in the discussion, were lenient to deter traffickers. Certain drugs were also not covered by the law. The problem of drug abuse and drug trafficking at one time escalated to such an extent that the Party and its Government found it necessary to detain a large number of alleged traffickers under the Preservation of Public Security Regulations in order to curb the incidence of trafficking drugs.

However, in October, 1985, His Excellency the President, Dr K D Kaunda set up a tribunal to review cases of people detained for their alleged involvement in Mandrax (methaqualone) trafficking. The tribunal was chaired by a High Court Judge who sat with four members who consisted of one lawyer and three educationists. The tribunal has since submitted its report to the President and at the time of writing this paper the detainees had been released.

This goes further to show how vexing the problem of drug trafficking and abuse is to almost all countries of the world. In Zambia, the relevant Ministries are co-operating and co-ordinating efforts to come out with legislation that would cover all conceivable aspects of drug abuse and drug trafficking.

V. Suggestions on how the problem may be tackled

All countries and their governments are faced with the problem of drug abuse and drug trafficking and how to combat this deadly peril. There are several approaches that may be taken in attempting to combat drug abuse and drug trafficking. Some of these approaches may be to -

- (i) strengthen deterrence (by increasing penalties and forfeitures);
- (ii) improve prevention;
- (iii) reduce supplies from abroad;
- (iv) tighten controls on illicit drugs prescribed in a country;
- (v) eradicate cultivation of drug crops such as cannabis.

In addition to the foregoing, international co-operation between governments, law enforcement agencies and many other institutions is of paramount importance in the fight against drug abuse and drug trafficking. For co-operation to succeed, it will require individual countries to -

- (i) adhere to and implement United Nations Conventions on drug and other psychotropic substances;
- (ii) co-ordinate and share intelligence on illicit drug trafficking and abuse;
- (iii) collect and process data on various dangerous drugs;
- (iv) co-ordinate training of law enforcement personnel;
- (v) conduct regional seminars, workshops, etc to exchange experience and ideas on how to combat drug abuse and drug trafficking; and
- (vi) strengthen and utilise the already existing bilateral relations between countries and extend that co-operation to other countries.

There is no doubt that these proposals, though not exhaustive, and others that shall be brought forward during the deliberations of the Law Ministers, will go a long way to ensure that we succeed because failure in combating drug abuse and trafficking would be calamitous to the entire international community. No country is immune from the scourge or ravages of dangerous drugs.

FOOTNOTES

1. Report of the International Narcotics Control Board for 1985, United Nations, New York, 1985 Appendix III.
2. Ibid
3. Ibid
4. Northern Rhodesia Gazette, for the year 1926, Vol. XVI, Government Printer, Livingstone, 1926 pp. 146-150
5. Acts 28 of 1955 and 25 of 1956, Cap. A.L. 28 of Applied Laws, Government Printer, Lusaka, 1965.
6. Parliamentary Debates, No. 10 of 1967, Col. 73, Government Printer, Lusaka
7. Ibid.
8. Dangerous Drugs (Amendment) Act No. 19 of 1985, Government Printer, Lusaka.
9. Parliamentary Debates, No. 68 of 1985, Government Printer, Lusaka, Co. 314.
10. Methaqualone Technical Committee appointed by the Permanent Secretary and Director of Medical Services, Ministry of Health in 1982, chaired by Dr C C Mambwe.
11. Interview with Professor D C Morgan, Head of the Department of Biology, University of Zambia, Lusaka.
12. Report on the International Narcotics Control Board for 1985, pages 48-49, paragraph 247 - see footnote 1.
13. Zambia Police Force Annual Reports, 1975-1985, Government Printer, Lusaka.