

Review of the

Alcohol Laws

in

UGANDA

A working guide for stakeholders

Uganda Youth Development Link
September, 2009

Acknowledgment

This guide was developed with financial assistance from IOGT - NTO.

UYDEL is grateful to Ms. Damalie Nantudde Lwanga who helped in compiling and discussing the review guide.

List of Acronyms

AIDS	-	Acquired Immunity Deficiency Syndrome
HIV	-	Human Immunodeficiency Virus
IDP	-	Internally Displaced Persons
GAL	-	Government Analytical Laboratory
LLB	-	Liquor Licensing Board
ALB	-	Area Licencing Board
NGO	-	Non Government Organization
PCA	-	Penal Code Act
UNBS	-	Uganda National Bureau of Standards
UPF	-	Uganda Police Force
URA	-	Uganda Revenue Authority
UYDEL	-	Uganda Youth Development Link
VAT	-	Value Added Tax
ETA	-	Excise Tariff Act
ITA	-	Income Tax Act
CTA	-	Customs Tariff Act
WHO	-	World Health Organization
TRSA	-	Traffic and Road Safety Act

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Executive Summary

This report makes a review of the current laws relating to alcohol in Uganda. The laws reviewed include The *Enguli* (Manufacture and Licensing) Act, The Liquor Act and The Potable spirits Act. The report also examines and establishes to what extent other laws and policies relating to trade, manufacture, standard specifications, revenue collection, sale, premises and hours of sale, marketing, public health, traffic and road safety affect the enforcement and implementation of the laws relating alcohol in Uganda.

The *Enguli* (Manufacture and Licencing Act) prohibits consumption and export of enguli and creates institutions, procedures and offices to issue licences, regulate, control and monitor manufacture and trade in enguli, which is intended for refinement into Uganda Waragi. However, poor enforcement; complex investigative procedures and evidential requirements; excessively low and inadequate penalties for contravention of the law are grey areas which if not addressed will continue hindering its effectiveness.

The Liquor Act regulates the manufacture and sale of intoxicating liquor; provides for the issue and use of licences; premises and hours for the manufacture and sale of liquor. It also restricts consumption of liquor by children. However the Act provides very low fines; suffers from poor enforcement; makes cancellation of licences upon conviction discretionary; and does not adequately deal with drunkards; hence the need for reform. It is also recommended that the provisions concerning children be amended to ensure better protection by raising the minimum drinking age to 21 years in all circumstances, and creating offences for children who drink, to be handled by the FCC for rehabilitation purposes.

Under the Potable Spirits Act compounding of any spirits for profit or sale without a licence is prohibited. However, enforcement of this law is poor and must be stepped up to protect the public.

The TRSA prohibits driving while under the influence of alcohol, driving after consuming alcohol beyond the prescribed limit, and inducing or enticing a driver or person in charge of a motor vehicle to drink any intoxicating liquor. It provides stiff penalties for the above offences, and for causing bodily injury or death while driving under the influence of drink or a drug. This is an effective law but needs to be enforced more vigorously. It is also recommended that the compensation provided to victims of drunken drivers under section 108 should be in addition to other punishments imposed by the court rather than being fixed at 50% of the fine paid, and the courts should be given discretion to determine the appropriate amount thereof.

Under section 12 of the PCA the defence of intoxication which is availed to drunkards only favours the accused person but falls short of addressing issues of the deceased or victim and his or her relatives /dependants, and the need to protect society from such people. It is recommended that the law be amended to require courts to sentence such offenders to orders like compulsory alcohol abuse treatment and counseling, to rehabilitate them. Courts should also be empowered to order compensation to the victim/deceased or his/her family in all cases where people harm or kill others while under the influence of alcohol.

The UNBS Act establishes the UNBS to determine, formulate and enforce standards for commodities sold in Uganda including alcohol, for purposes of protecting the public. UNBS's capacity to enforce the law is however, limited due to inadequate resources. This coupled with the low penalties for contravention of its provisions affect the effectiveness of this law and should be addressed.

While the Food and Drugs Act creates offences in relation to the preparation, offering, labeling, advertisement, possession and sale of injurious food and adulterated food for human consumption, the penalties provided for contravention of this provision are too low and until they are revised upwards its effect cannot be realised.

The Shop Hours Act which makes provisions for the regulation of shop hours should be harmonised with the Liquor Act and specifically provide that the hours of sale of alcohol shall be governed by the Liquor Act.

Government collects substantial amounts of revenue from taxing alcohol, and the forfeiture penalties in cases of smuggling are an effective way of handling the offenders. Levying high taxes on alcohol is encouraged, and policies like low taxation on locally manufactured alcohol should take into account the harm that low taxes are likely to cause to society as a result of increased affordability of alcohol due to low prices.

There is serious need to review the laws and institutions which regulate alcohol to address the changing social and economic patterns, and government policies. The alcohol related laws should also be consolidated into one law for ease of reference and awareness about them. An area for further research is recommended. A comprehensive study of laws and policies relating to alcohol should be done to establish more deeply areas that need to be addressed, taking into account perceptions of the public and institutions involved in alcohol related matters, and a comparative study of alcohol laws from other jurisdictions.

1.0 Introduction

Uganda Youth Development Link (UYDEL) is a Non-Governmental Organisation involved in rehabilitating and improving the living conditions of young people. The Organisation is engaged in analysing the situation of alcohol in Uganda. It has carried out a study and produced a report on the state of alcohol in Uganda, which highlighted the extent of alcohol abuse and its effects on society.

It is in this realm that UYDEL seeks to understand the legislative regime as regards alcoholic beverages. Hence UYDEL contracted a consultant to undertake a review of the current laws which have a bearing on alcohol, with a view to assess their efficiency, efficacy, relevancy and adequacy in prevention of alcohol abuse and protection of society against its effects.

The report makes a review of each of the current laws which have a bearing on alcohol, and analyses their effectiveness in dealing with issues of alcohol in Uganda. It points out the gaps in the laws and their implementation, and makes recommendations on improving the legal situation of alcohol.

2.0 Background

Law is vital for the prevalence of peace, security, stability and development. It is a prerequisite for the prevention of conflicts and the promotion of lasting morals in the world. Legislation encompasses and touches on practically every aspect of our lives and must be clearly defined, guaranteed, guarded, defended and respected at all times. Respect for and enforcement of the legislations rest upon practical legislative frameworks in economic, social and legal structures in every society. Sound laws, democracy and economic viability are interdependent, interrelated and indivisible, and thus constitute inseparable ingredients in Uganda's quest for socio-economic prosperity and moral backbone.

Uganda has seen a marked increase in excessive alcohol consumption and addiction, including the energetic youth who instead of contributing to development of the country end up criminals, mentally and physically sick, unemployed, idle, disorderly, poor, unhealthy and intellectually malnourished. Alcohol has in some cases also caused death and blindness. The country is one of the leading consumers of alcohol in the

world. Indeed alcohol is among the best commodities which generate internal revenue towards the national budget. However, although the alcohol industry is an important source of revenue, the importance of regulating the importation, manufacture, trade, sale and consumption of all types of alcohol should not be overlooked, because society must be protected from its negative effects. It is globally established that alcohol causes considerable public health problems and is one of the leading risk factors for premature death and disability. Domestic violence has also been found to be high among people who get drunk frequently¹.

Alcohol abuse in Uganda is mainly attributed to the easy availability of alcohol, low levels of income, poor welfare, unemployment, feeble legislations and poor enforcement of laws. As a matter of fact, the core legislations forbidding consumption, use, trade and manufacture of illicit alcohol date as far back as the 1960s yet not much has been done to review or reform them to fit the current manufacture, trade, consumption, public health, society safety needs and the general socio-economic status in contemporary Uganda.

The promotion and protection of society towards an alcohol safe society is everyone's responsibility and the best way to have Uganda's alcoholic beverages regulated is to work towards the protection of everyone through propagating sound legislations and institutional checks. This report will no doubt, contribute to the realisation of these goals.

3.0 Interpretation of words as given in the Laws Consulted

In this report, the interpretation of words used is that given under the laws reviewed, where they are strictly construed to the following meaning:-

- ◆ **“administration”** means the administration of a district;
- ◆ **“area licensing board”** means a board appointed under section 4 of the *Enguli* (Manufacture and Licensing) Act;
- ◆ **“authorized officer”** means any administrative officer, any police officer, any chief or any other person designated by the minister to be an authorized officer for the purposes of the *Enguli* (Manufacture and Licensing) Act;

- ◆ **“bar”** means any part of licensed premises exclusively or mainly used for the sale and consumption of intoxicating liquor;
- ◆ **“collecting centre”** means a place established by the Ministry under section 6(3)(a) for the purchase of *enguli* by the exclusive licensee from the holders of *enguli* licences;
- ◆ **“compounding spirits”** and its cognate expressions mean to communicate any flavour to or mix any ingredient or material with spirits but not so as to denature spirits;
- ◆ **“currency point”** means an equivalent of twenty thousand Uganda shillings.
- ◆ **“denatured spirits”** means spirits mixed with any substance so as to render the mixture unfit and incapable of being readily converted so as to be fit for human consumption as a beverage;
- ◆ **“distil”** includes **“redistill”**;
- ◆ **“enguli”** means any spirit manufactured in Uganda but does not include refined spirits produced locally by the exclusive licensee;
- ◆ **“intoxicating liquor”** means liquor or native liquor;
- ◆ **“excisable liquor”** means liquor on the manufacture of which an excise duty is imposed and “non excisable liquor” means liquor on the manufacture of which no such duty is imposed;
- ◆ **“exclusive buying license”** means a valid license granted under section 6 of the *Enguli Act – Cap 86*, and exclusive licensee shall be construed accordingly;
- ◆ **“licence”** means a licence issued under the specifications of the *Enguli (Manufacture and Licensing) Act* and/or the *Liquor Act*;
- ◆ **“native liquor”** means those intoxicating drinks which are prepared or manufactured in accordance with native custom otherwise than by distillation and are known as *omwenge*, *pombe*, *kangara*, *muna*, *marissa*, *amarwa*, *kwete*, *duma* and *nule* or any other intoxicating drinks so prepared or manufactured;
- ◆ **“Permitted hours”** means the period during which a licensee is authorized by his or her licence to sell intoxicating liquor;

- ◆ **“person”** includes a corporate, but not an unincorporated body;
- ◆ **“refined spirits”** means potable spirits, blended from a specially prepared alcoholic concentrate and pure neutral spirit produced from enguli; the resultant blend, after a suitable period of measuring being reduced or let down with treated water to drinking strength for bottling and which is manufactured by the exclusive licensee and marketed under the trademark of **“Uganda Waragi”** or any other trademark approved by the Ministry by statutory order;
- ◆ **“registered practitioner”** means any person registered by the Medical and Dental Practitioners Council to practice medicine, dentistry or surgery.
- ◆ **“sale by retail”** means in the case of beer, cider, perry and native liquor a sale of less than four gallons, and in any other case of less than two gallons;
- ◆ **“sale by wholesale”** means any sale other than a sale by retail;
- ◆ **“spirits”** and **“spirituous liquor”** means any spirits (including refined spirits but not including *enguli*) for human consumption or any drink containing such spirits; and
- ◆ **“nonspirituous liquor”** means liquor which does not consist of or contain such spirits;

4.0 About the Review

The purpose of this report is to show the establishment, efficacy and harmonization of the laws, regulations and policies, governing the regulation and restriction of the manufacture, use, consumption, trade, standardization, and production of alcoholic beverages in Uganda. The assignment seeks to illustrate how the various legislations intervene in the prevention of alcohol related harm to the users and the society at large. The report also makes recommendations that could help to ensure stronger measures to curb alcohol abuse.

The laws reviewed include the *Enguli* (Manufacture and Licensing) Act, the Liquor Act and the Portable spirits Act. The report also reviews and establishes to what extent other laws and policies relating to trade, manufacture, standard specifications, revenue collection, sale, premises and hours of sale, marketing, public health and traffic and road safety

affect the implementation and enforcement of the legislations concerning alcohol in Uganda.

The methodology used in this report included actual consultation with relevant laws and regulations, and reference to current enforcement, legal and other procedures of implementing these laws. The content, its quality, and standards were developed and agreed with UYDEL.

5.0 Legal provisions relating to Alcohol

Uganda has laws that regulate and control the manufacture, production, trade, use and consumption of alcohol. However, their performance is in some respects hindered by ineffective enforcement and implementation on the part of the state. There also exists gaps in some of the laws that require legal reform to make them more effective.

5.1 The *Enguli* (Manufacture & Licensing) Act - Cap 86

This Act generally regulates the manufacture, sale, possession and other dealings in enguli, and apparatus used for its manufacture.² It specifically prohibits consumption and export of enguli. Section 2 thereof prohibits the manufacture, sale or otherwise dealing in enguli, or having in one's possession or under one's management or control the apparatus used or intended to be used for the manufacture of enguli without a licence. Section 2(2) creates the offence of consuming enguli while section 2(3) prohibits its exportation. The punishment for contravention of these laws is a fine not exceeding three thousand shillings or imprisonment for a term not exceeding six months or both such fine and imprisonment.

The Act also establishes the Central Licensing Board (CLB) to appoint Area Licensing Boards (ALBs), determine and limit the total number of licences to be issued and the quantity of enguli to be manufactured in a year, subject to directions of the Ministry. The ALBs are intended to issue, revoke and otherwise regulate the operation of licences for the manufacture and trade in enguli. They grant exclusive buying licenses to exclusive licensees who must have permits to manufacture excisable goods pursuant to the East African Excise Management Act³. The exclusive licensee has powers to buy all the enguli offered to it for sale so long as the *enguli* sellers have valid licence and the sale takes place at designated collecting centres at statutory fixed prices. The Act however,

forbids the exclusive licensee from buying any *enguli* which is of strength less than such percentage of alcohol as prescribed under the Rules.

The ALBs are required to issue licences which specify the premises of operation, expiry dates, the maximum quantity of *enguli* a particular licensee will be allowed to brew per month and the collecting centre for its sale.

The act also prohibits transfer of licences, exceeding specifications issued in licences, doing any act contrary to the licence and engaging in any illegal aspect of *enguli* trade or manufacture, for instance under Section 7(3) of the Act, a holder of an *enguli* licence is neither allowed to buy or obtain in any way *enguli* from any other person nor sell or dispose in any way any *enguli* to any other person other than the exclusive licensee or an authorised agent of the exclusive licensee. In addition, a holder of an *enguli* license is not permitted to hold up/possess stock of *enguli* beyond that which is inscribed in his licence, and is required to keep records of his/her manufacture and disposal of *enguli* during the validity of the licence.

Under Section 16(2)(a) of the Act if a holder of an *enguli* licence is convicted for contravening the provisions of Sections 7(3)(a) or (b) Act, the licence may be revoked and he/she must surrender it forthwith to the ALB. He/she would also be ordered to forfeit the *enguli* and all the apparatus used for manufacturing the *enguli* as well as pay a fine not exceeding three thousand shillings (UgShs 3,000/-) or face imprisonment not exceeding six months, or both the fine and imprisonment.

The Act further gives powers to authorised officers to enter and inspect any premises, place, apparatus, records, samples, licence or vehicle that is being used or intended to be used for the sale, manufacture or transportation of *enguli*⁴. Obstructing any authorised officer who intends to execute the aforementioned duties is an offence punishable by a fine of five hundred shillings or imprisonment for a term of three months or both the fine and imprisonment. The Police are also given powers to arrest without warrant any person suspected to commit an offence.

Pursuant to the aforementioned provisions, the Act creates general offences and penalties for failure to comply with any of the provisions of the Act or any orders/directions issued under the Act. Thus, where no other penalty is provided, the general punishment is a fine not exceeding

three thousand shillings or imprisonment not exceeding six months or both such fine and imprisonment.

5.1.1 Observations:

It can be observed that the Enguli (Manufacturing and Licensing) Act is a good law to control and guard against abuse of enguli. This averment rests on the strength of the well endowed law and the institutions created viz. the CLB and the ALB which are established in every district, exclusive licences, and authorized officers, and the total ban on consumption and export of enguli.

However, it is important to note that much as the Act does expressly prohibit the consumption and export of *Enguli*, it permits its manufacture, dealing and sale once any seller or manufacturer obtains a licence. This weakens the ban against consumption and export of enguli, and makes its enforcement difficult. The fact of its being lawfully readily available makes it easy and tempting for illegal sellers, buyers and consumers to violate the law. The implication from the Act appears to be that the purpose for which manufacture and sale of enguli is permitted is for its refinement into Uganda Waragi. However, in reality enguli is widely consumed (to dangerous levels some times) due to its easy availability and cheap cost. Hence even the poorest and other vulnerable groups like children, students, slum dwellers and IDP communities can easily afford it, and in many cases excessively consume it to their detriment and that of other members of society. It is sometimes preferred to other types of cheap alcohol because of its potency, and the attendant capacity to produce the desired outcome faster.

The penalties provided for some offences under the Act are not deterrent enough to curb illegal manufacture, trade, sale and irresponsible or excessive drinking. Illegal manufacture, trade and consumption of enguli for example are punishable under the general punishment section which prescribes a penalty of a fine not exceeding three thousand shillings or imprisonment not exceeding six months or both such fine and imprisonment for contravention of any provision of the Act⁵. Moreover the illegal manufacture and trading in enguli greatly contributes to its being readily and cheaply available, given that no licence, tax or other charges are paid on it. This fuels its excessive consumption by even people who would not have been able to afford it in big quantities. However,

the three thousand shillings fine, which is the first sentencing option for courts can not deter offenders. It is only those whose alcohol and/or apparatus are forfeited that are humbled due to loss of business capital and apparatus. It is therefore necessary to legislate for higher sentences for the illegal manufacture and dealing in enguli in order to combat the practice and reduce illegal and excessive consumption.

The law should address illegal consumption of enguli more seriously. The current penalty of a fine not exceeding three thousand shillings or imprisonment not exceeding six months is not adequate to fight alcohol abuse in all cases. In cases of excessive, habitual or dangerous consumption it would be necessary for courts to sentence the offender to other rehabilitative measures like referral to alcohol and drug abuse treatment centres which do exist, some of which offer free services. Examples are the specialised Alcohol and Drug Treatment Centre at the National Referral Mental Hospital at Butabika, Kampala, and NGOs like the Serenity Centre located at Kawuku, Kampala and the Trans Cultural Psychosocial Organisation (TPO) which mainly operates in northern Uganda. However, under the current laws Courts' hands are tied as they cannot make orders that are not prescribed by the law. To a large extent, this is an indication that legislatively the problem of excessive alcohol consumption is still having a lacuna. There is therefore need for the law to provide courts with such other sentencing options that may be applied in appropriate cases involving alcohol consumption.

The other challenge in implementation of alcohol laws lies in enforcement, investigation and prosecution of the offences. There is widespread illegal manufacturing, dealing and consumption of enguli which takes place under the nose of law enforcement officers. Unfortunately some of them fall in the category which consumes enguli because it is cheap and readily available. This coupled with society support for cheap and conveniently available alcohol has made the law extremely difficult to enforce. There is general laxity on the part of the police to arrest offenders for prosecution.

The investigative procedures and evidential requirements for cases involving alcohol also pose another challenge. Such cases require forensic examinations to prove that the exhibit that the offender manufactured, traded, possessed or consumed was *enguli*. This can only be done by having a sample of it analysed and confirmed by a practitioner at the GAL.

However, the police lacks sufficient resources for timely investigations to be done on such matters. As a result many cases end up in court without those crucial aspects of investigation being completed. This results into dismissal of cases. Moreover proceeding for trial without these investigations being done is also not viable as the case would most likely end in acquittal of the offender. In the case of **Uganda v/s A.K. Lukusa**⁶ where the conviction of the accused was quashed and the sentence set aside this is what the court had to say:

“...in the prosecution of the offence of illegal possession of enguli, the prosecution had to prove by producing sufficient evidence of a witness who was in a position to swear that the contents of the bottle were enguli as defined by the Act.....”.

Worse still there are no prescribed quality and/or standard specifications for the manufacture of *enguli* and as such the UNBS is not of any relevance in this regard since it can not protect the public from *enguli* which is unfit for human consumption.

5.2 The Liquor Act – Cap. 93

The broad purpose of this Act is to regulate the manufacture and sale of liquor, to provide for payment of fees, licencing of traders, sale permits and licenced premises for any persons who wish to deal in liquor as well as establishing the offences and penalties therein.

The Act prohibits the selling of liquor any where in Uganda, or manufacturing or selling native liquor without a licence⁷. Contravention of this provision is an offence punishable by a fine of ten thousand shillings or imprisonment for 12 months or both such fine and imprisonment. Section 16 thereof penalises the manufacture of native liquor in contravention of a licence issued by a fine of one thousand shillings and on a second or subsequent conviction by a fine of three thousand shillings. The sale and consumption of intoxicating liquor outside the permitted hours is prohibited under section 15, and carries a penalty of a maximum fine of five thousand shillings.

This law provides for issuance of licences to qualified persons and mandates the licencing authority to issue provisional and duplicate

licences to liquor traders⁸, who are strictly forbidden from transferring their licences. Any licence issued must specify the premises, authorisation to sale liquor, authorisation to manufacture or sale native liquor and the specific location for which the licence applies in regard to the consumption of liquor. The Act stipulates that all licences granted therein must be exhibited in a conspicuous place within the licenced premises⁹. Failure to exhibit the license as stipulated is an offence and the offender is liable to a fine not exceeding five hundred shillings. This provision is commonly violated as many sellers of liquor are not licenced, hence have no licence to display.

The Act prohibits the issue or transfer of a licence to a person below the age of 21 years without the consent of the minister. Section 19 of the Act places a restriction upon the licensee not to allow persons under the apparent age of 18 to be in a bar or licenced premises during the period of the sale and consumption of intoxicating liquor. The offender is liable to a fine of two hundred shillings upon conviction. It also prohibits the sale of intoxicating liquor to children, and imposes a fine of five hundred shillings. Further, a licensee who permits or employs persons under the apparent age of 18 years to possess or sale or supervise or control the liquor on licensed premises contravenes the Act and is liable upon conviction to pay a fine of five hundred shillings¹⁰.

5.2.1 Observations

The liquor Act has very good provisions which regulate the sale, manufacture and consumption of liquor and native liquor. However, its implementation is far from satisfactory as discussed hereunder. There are also some areas that need to be revisited to match the law with the current trends and effects of alcohol abuse, especially among the youth

The provisions protecting children are plausible in so far as they restrain children who may have opted to enjoin themselves to consuming alcohol at an early age, which is dangerous to their development. It is however, proposed that offences similar to the above be created for persons below 18 years who go to bars and those who take intoxicating liquor, for their own good. These would be handled by the Family and Children Courts, which are empowered to make various orders aimed at rehabilitating children in cases where a criminal case is proved against a child¹¹. Furthermore, given the harm that drinking is capable of causing in

the lives and development of children, additional rehabilitative measures should be considered for a child against whom such an offence is proved. These could include undertaking compulsory alcohol abuse treatment and necessary social support to prevent further harm to the child.

In view of the growing problem of alcohol abuse and its attendant effects on the lives of the youth and those of society in general the minimum age for alcohol consumption should also be raised to 21 years in all circumstances.

In a similar vein the law should be amended to delete section 19(3)(a) and (b) which permit the sale of certain types of alcohol to 16 year old children at meals, and sale of liquor to children for consumption by another person. These provisions expose children to risks of alcohol abuse which is likely to affect their development, including studies.

It is important to note that imposition of a meager ten thousand shillings for a person who sells liquor or manufactures or sells native liquor without a licence is actually not a deterrent punishment¹². The fine is indeed too small compared to what is ripped from unlicensed sale of liquor or the manufacture and sale of native liquor. It is therefore necessary to revise the fine to a higher scale if there's ever to be deterrence of perpetual contraveners' and for the sake of stringent compliance with the law. In addition to the fine the law should also provide for forfeiture of the alcohol under manufacture or trade, and the equipment/apparatus used therein. A similar provision already exists in the *Enguli Act*, as discussed earlier¹³.

The other fines provided for other offences are also too little to have any effect on the levels of alcohol abuse. The Act still imposes fines of two and five hundred shillings which would definitely not deter any person from engaging in unlawful acts relating to alcohol. All the fines in the Act should be revised upwards and made more economically viable.

Section 18 provides for exclusion of drunkards, violent, quarrelsome and disorderly people from licenced premises. However, this is not the most appropriate way to deal with such people. The law should provide for arrest and handing over such people to police in order to maintain law and order, and to protect other members of society from their possible harmful acts. Such people should also be referred for alcohol abuse treatment.

The Act further stipulates for cancellation of licences at the discretion of court, where the licensee is convicted of an offence under various laws¹⁴.

It is suggested that this provision should be mandatory rather than discretionary, because of the increasing dangers of criminal negligence, recklessness and unlawful dealing in alcohol, which has even resulted into deaths.

Generally the hours of sale of alcohol are restricted. The third schedule to the Liquor Act limits wholesale of intoxicating liquor to the provisions of the Shop Hours Act (7:30 am – 8:00 pm), Most liquor licences are required to restrict retail sale of native liquor for consumption between 12:45 p.m and 2 p.m, and between 5:00 p.m and 10:00 p.m. It is the sale of non-spirituous liquor in off-licence and night clubs that is authorised for longer hours, and the entertainment licence which may authorise sales up to midnight. It is however, unfortunate that these hours of sale are not respected by the sellers of liquor, nor do they take trouble to obtain the required licences for sale of liquor. The situation is not helped by poor law enforcement as the police is hardly bothered by the operations of bars and shops which sell liquor, or their hours of operation.

The *Enguli* act and the Liquor Act are very old laws and new types of alcohol that were not on the market at the time of their enactment have since come on the scene, which are not addressed by these laws. These include *Ajono*, *Lira-Lira*, *Kasese* etc whose manufacture, sale and consumption needs to be specifically regulated, and their definitions covered under the various alcohol laws, to guide the public.

5.3 The Potable Spirits Act - Cap. 97

The legislative objective of the Potable Spirits Act is to control the compounding of potable spirits. The Act creates a general prohibition against compounding for profit or sale any spirits without a licence, and where one has been issued with a licence he or she may only compound spirits in accordance with the licence. There are however, exceptions where this provision does not apply to the bonafide compounding of spirits¹⁵. Compounding spirits without a licence carries a sentence of a fine not exceeding five hundred pounds or imprisonment for a term not exceeding twelve months or both such fine and imprisonment. **(It**

would appear that stating the fine in pounds was an oversight as fines in all Ugandan laws are usually stated in Uganda shillings).

The fine stipulated should however, suit the offence.

The licencing officer may issue specifications of formulae for compounding such spirits as he thinks fit. The minister responsible is also empowered to make regulations prescribing the fees payable for issue of a licence, duration and cancellation of licences and for better carrying of effects of the Act.

5.3.1 Observation

Due to poor enforcement of the law it is highly probable that many sellers of spirits do compound them unlawfully, sometimes to the extent of denaturing them. This exposes the public to serious problems, in worst cases resulting into death or serious harm to the consumers. Enforcement of the law should obviously be stepped up.

5.4 The Traffic and Road Safety Act (TRSA), 1998 - Cap 361

This law was enacted partly to revise the penalties prescribed in relation to road traffic offences and other issues connected with road traffic and road safety, drunk driving being one of them.

Section 108(1)(b) of the Act provides stiff penalties for causing bodily injury or death while driving under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle. The provision provides a penalty of a fine of not less than seventy-five currency points and not exceeding two hundred currency points or imprisonment of not less than two years and not exceeding five years or both. Section 108(2) provides that “the court which convicts a person under subsection (1) may award any person injured by the offence or the dependant of any person whose death arises out of the commission of the offence, compensation not exceeding 50% of the fine paid by the convict in respect of the offence”.

Driving while under the influence of drink or drugs to such an extent as to be incapable of having proper control of the motor vehicle, trailer or engineering plant is an offence, even where no death or injury is caused to anybody¹⁶. It carries a penalty of a fine of not less than five currency

points and not exceeding sixty currency points or imprisonment of not less than six months and not exceeding two years or both. Other cases of being in charge of a motor vehicle while under the influence of drink or drug are punishable by a fine of not less than five currency points and not exceeding thirty currency points¹⁷.

Section 112 generally prohibits any person who has consumed alcohol beyond the prescribed limit from driving, attempting to drive or being in charge of a motor vehicle, trailer or engineering plant. However, a conviction under this section is only sustainable if a laboratory test of the specimen of the offender's blood has been taken and proved by a registered practitioner to contain a proportion of alcohol that exceeds the prescribed limit. The prescribed blood alcohol level beyond which a person is not allowed to drive a motor vehicle is stipulated to be 80 milligrams of alcohol in 100 milliliters of blood¹⁸. The prescribed penalty is a fine not less than fifteen currency points and not exceeding sixty currency points or imprisonment of not less than six months and not exceeding two years or both.

Notwithstanding the above, a person who is driving, in charge of or under duty in connection with the driving of a motor vehicle is forbidden from drinking any intoxicating liquor. Further, inducing or enticing a driver or person in charge of a motor vehicle to drink any intoxicating liquor is an offence. These offences are punishable by a fine of thirty currency points or imprisonment not exceeding twelve months or both¹⁹.

5.4.1 Observations

From the above it can be concluded that the traffic laws are well defined and adequate to avoid any incidences of drunk driving thus avoiding the undesirable effects of alcohol consumption and abuse. The sentences prescribed are deterrent and would help prevent drunk driving if the law was effectively enforced, and the population knew it. However, effective enforcement of the law is lacking as police only makes surprise checks from time to time or carries out operations over a short period of time, after which the offenders are relieved and continue committing the offences with impunity, hence affecting the effectiveness of the law. It has also been noted that courts in many such cases do give just a caution to the offenders as the sentence, which would certainly not deter them or other people from committing the same offences.

There are other concerns raised by the able Act which hinder the efficacy and intervention of this Act towards sober driving.

Under section 112 a laboratory test by a registered practitioner to ascertain the proportion of alcohol in the blood is mandatory in order to secure a conviction. It should however, be noted that this section is redundant because traffic offences are committed all over Uganda but there is only one Government Analytical Laboratory (GAL) situate in Kampala. There are not even sufficient storage facilities and logistics upcountry to securely keep blood specimens pending their transfer to Kampala. Furthermore the GAL is grossly understaffed and such tests would take long to be done, thus delaying the conclusion of cases. The provision is therefore largely redundant and police mostly use breath analyser tests provided under section 114, which yield instant results that can be tendered in court immediately and the case disposed of fast. The prescribed breath alcohol level beyond which a person is not allowed to drive a motor vehicle is 35 milligrams of alcohol in 100 milliliters of breath²⁰.

The GAL should be decentralised and well equipped in order to improve on the efficiency and implementation of the Act.

Government especially the UPF should be assisted and encouraged to develop capacity building programmes to educate its officers on how to implement the traffic laws and prosecute traffic offenders successfully.

The compensation provided to victims of drunk drivers under section 108 is a good provision in as far as catering for the interests of innocent victims of drunk driving is concerned. However, it is strictly supposed to be 50% of the fine paid, which may not be adequate in all cases. Further more, in the event that an offender is only sentenced to a term of imprisonment without a fine, no compensation would accrue to the victim or his/her dependant. It is therefore proposed that this compensation should be in addition to the fine or other punishment imposed by court rather than being fixed at 50% of the fine paid. The courts should also be given discretion to determine the appropriate compensation to the victim after considering all the circumstances of the case and the injuries suffered by the victim or his/her family.

5.5 The Defence of Intoxication

Generally intoxication is not a defence to a criminal charge. However, section 12 of the PCA provides that where the accused did not know the nature or quality of his/her actions or omissions which constituted the offence it would be a defence if the person was by reason of intoxication insane, temporarily or otherwise. However, there is no clear-cut distinction between temporary insanity induced by drink and simple drunkenness. This distinction becomes important in determining whether the person did or did not know that what he/she is doing is wrong because of excessive drinking. The House of Lords in the case of **Director of Public Prosecutions v/s. Beard**²¹ had this to say:

“...drunkenness and the disease to which drunkenness leads are different things; and if a man by drunkenness brings on a state of disease which causes such a degree of madness, even for a time, which would have relieved him from responsibility if it had been caused in any other way, then he would not be criminally responsible”.

Section 12(4) of the PCA provides that intoxication must be taken into account for the purpose of determining whether the person charged had formed any intention, specific or otherwise, in the absence of which he or she would not be guilty of the offence. Hence in cases like murder which require proof of a specific intent, once the court is satisfied that by reason of intoxication the accused was incapable of forming an intention he or she will be excused not by reason of intoxication, but by reason of absence of intention. The accused need not even raise the defence.

If the court has reason to believe that from the facts before it, the accused was not capable of forming the required specific intent, it will consider it and convict him or her to manslaughter, which is a lesser offence. The burden of proving that the accused was capable of forming the necessary intent for the offence of murder is on the prosecution. It has the burden to prove that the accused was not so intoxicated as to be incapable of forming the requisite intent. In the case of **James Kolo v/s Uganda**²² where there was evidence that the appellant had been drinking prior to the murder, the court held that he could not have formed the specific intent, that is malice aforethought to kill the deceased.

5.5.1 Observation

The issue of concern is that the law only favours the accused person when considering the defence of intoxication and the capacity of the accused person to form an intention (*state of mind*), but falls short of addressing the effect of the drink on the deceased victim and his/her relatives/dependants, and the need to protect society from such people. Where the court decides to convict him of a lesser offence of manslaughter the accused only benefits from the self induced drunkenness as the sentence for the lesser offence is lower. He or she is not penalised in any other way and no other action is taken to address the conduct of a person who got him or herself drunk to that point of insanity which resulted into loss of human life. It is necessary for courts to be able to sentence people who commit offences out of self induced insanity to additional orders geared at rehabilitating the offenders and protecting society from their conduct. These could include compulsory alcohol abuse treatment and counseling. The court should also order compensation to the family of the victim/deceased in all cases where people harm or kill others under the influence of alcohol. The Traffic and Road Safety Act has a provision for such compensation as earlier discussed, although it should also be improved²³.

5.6 The UNBS Act - Cap 327

This Act establishes the Uganda National Bureau of Standards (UNBS) which determines, formulates and enforces standards for commodities for sale to the public in Uganda. It requires certain products to comply with certain standards and carries out tests of conformity with the standard specifications, for purposes of protecting the public against harmful and dangerous products. These include alcoholic beverages for consumption in Uganda.

The Act creates offences and prescribes penalties ranging between a fine of ten thousand to twenty thousand shillings for a first offence and twenty to thirty thousand shillings for subsequent offences, or twelve months imprisonment for a first offence and eighteen to twenty-four months imprisonment for a subsequent offence, or both such fines and imprisonment.

The UNBS Act has formulated standard specifications containing

compositional and other safety requirements aimed at ensuring the safety and quality of alcoholic beverages provided for sale to Ugandan consumers. The standard regulations provide hefty specifications for vodka, rum, whisky, brandy, gin and beer. They provide specific alcohol contents in the aforementioned alcoholic beverages in accordance with Uganda Standard Methods of sampling and testing for alcoholic beverages.

The standards also provide strict provisions in relation to degree of cleanliness in respect to containers, packaging,²⁴ labeling, premises for manufacture, persons engaged in the handling of alcoholic beverages and equipments used for manufacture of alcoholic beverages in accordance with the Uganda Standard Specifications for factory and employee requirements for food factories.

5.6.1 Observation

It is unfortunate that enforcement of the Act and its regulations is poor and in many respects wanting. The UNBS does not have the capacity to fully enforce the law, hence any cases of false or misleading labeling may not easily be detected. They have very few branches yet the entire nation needs to be monitored. It is important for UNBS to develop capacity for effective monitoring and enforcement of alcohol standards.

It should also be noted that no standards have been developed for native liquor and enguli, yet these are common alcohol beverages consumed by the common man who needs protection, particularly in view of the dangers posed to their consumers, the worst being death. There is need to develop standards for all types of alcohol to protect the public.

5.7 The Food and Drugs Act - Cap. 278.

Under the Food and Drugs Act food is defined to include drinks²⁵. The Act creates offences in relation with the preparation, offer, labeling, advertisement, possession and sale of injurious food and adulterated food for human consumption. Thus it is an offence to add or use any substance in food so as to render it injurious to health, when the food is intended for human consumption in that state. False and misleading labeling of food is also an offence. Further, selling of food unfit for human consumption is an offence.

The Act provides penalties for offenders of the said provisions as a fine not exceeding two thousand shillings or imprisonment for a period not exceeding three months and in some cases, to both such fine and imprisonment.

5.7.1 Observation

It should be noted that the penalties provided in this Act are meagre in comparison with the health effects that may be suffered by the consumer. They should be revised.

The law should have a requirement for prominent health warnings to be placed on labels and adverts of alcohol beverages. This will help to warn the public of the harm alcohol is likely to cause to their lives and save them from the effects of its excessive and reckless consumption.

5.8 The Shop Hours Act – Cap 99

This Act is enshrined to make provisions for the regulation of shop hours. The definition of the word shop in this Act is “any premises (not being part of a market established or deemed to be established under the Markets Act) where any retail or wholesale trade or business is carried on other than an office of the business of which relates to goods which are not stored or handled in the office or in the building communicating with the office. The Act restricts shop hours to between 7:30 a.m and 8.00 p.m on a week day, and 9:00 a.m to 1:00 p.m on a Sunday.

5.8.1 Observation

Section 5 of the Act exempts application of the regulations of shop hours to several businesses including the sale of liquor, restaurants and canteens. This is understandable since the Liquor Act stipulates the hours of sale and transportation of liquor for different licences and businesses²⁶. However, for clarity’s sake the Shop Hours Act should be harmonised with the Liquor Act such that the hours of sale of alcohol are clearly stated to be governed by the provisions of the Liquor Act. This should be specifically pointed out in the Shop Hours Act.

It is paramount to note that the Shop Hours Act is not enforced currently, leading to violation of the law in many ways. Most shops

in different parts of the country do open for customers till very late hours in the night. Many of these shops which operate till late hours do also sell alcohol in addition to other merchandise, and without licence, hence violating the legal provisions on licencing of premises of sale of alcohol. This alcohol is also sold to anybody including children and young people, in total disregard of the relevant laws. It should be noted that regulating access to alcohol through restrictions on hours and premises of sale, purchasing and consumption age would particularly be effective in preventing alcohol related health and social problems such as alcohol addiction, violence among the youth and in families, and poverty due to little or no productive work as a result of the long periods people spend drinking. There is therefore very serious and urgent need to ensure enforceability of the laws relating to premises, age and hours of sale of alcohol.

5.9 Taxation of Alcohol

The government collects substantial amounts of revenue from taxing alcohol under various tax laws. The taxes payable include VAT, which is provided under the VAT Act - Cap. 349, covering the imposition and collection of VAT and other purposes connected to that tax.

The Excise Tariff Act (ETA) - Cap 338 generally provides for imposition and collection of excise duties and for other matters connected to excise duty. It focuses on remission of duty on all kinds of spirits, wine and beers, while the Income Tax Act (ITA) taxes income. The Finance Act provides the duty to be payable on beer made from local material²⁷.

The Customs Tariff Act (CTA) imposes import duty in respect to imported goods. The provision makes it possible for payment of import duty on imported alcohol in addition to withholding tax and the import licence commission.

5.9.1 Observation

It should be noted that taxes payable on imported alcohol are generally much higher than those payable on locally manufactured alcohol, hence their high prices, and the preference by majority of people for locally manufactured alcohol which is cheaper. Higher prices of alcohol generally translate into less consumption and reduced danger to society.

Therefore, policies like low taxation on locally manufactured alcohol should also take into account the harm that the low taxes are likely to cause to society as a result of reduced prices, which means increased affordability hence excessive consumption, which comes with health and social harm.

6.0 Conclusion

The effectiveness and efficacy of the laws on alcohol is greatly hampered by poor enforcement. Most of the laws in place would to a reasonable extent combat alcohol abuse in their current form if they were implemented. However, poor or non enforcement of these laws leave the offenders with much room for continued abuse and violation of the laws, which results into increased levels of alcoholism and many other health and social problems, especially to the youth.

The other bottleneck is the excessively low penalties that can not serve the purpose of discouraging or deterring people from consuming prohibited drinks, unlawful manufacture, sale and dealing in alcohol, and excessive drinking. Considering the current economic situation the sentences imposed are too lenient to serve their purpose.

Amongst other things, the study reveals that there is a deep need to build, review and promulgate fundamental laws and institutions that are aimed towards regulating alcoholic beverages in Uganda. Thus there is need for different stakeholders to increase awareness and adopt multi-sectoral integrated approaches to reduce alcohol abuse.

The law must not only correspond with social change and aspirations of the people, but also address the changing cultural and economic patterns, and government policies such as poverty alleviation, health and education.

7.0 Recommendations

- ◆ The laws on alcohol should be fully enforced by the responsible institutions. The institutions need to step up facilitation, training and capacity building for their law enforcement personnel.
- ◆ The penal provisions in the laws relating to alcohol should be revised to impose harsher penalties and deter offenders in order to combat illegal and excessive consumption and protect both the

users and society at large. More stringent and economically viable fines should be prescribed for courts to impose, with substantial discretion to adjudicate depending on the gravity and circumstances of the offence.

- ◆ The fine for a person who sells or manufactures native liquor without a licence should be raised. And in addition to the fine the law should also provide for forfeiture of the alcohol under manufacture or trade, and the equipment/apparatus used therein, as provided in the *Enguli Act*.
- ◆ The law should provide courts with more sentencing options and discretion in cases of excessive, habitual, dangerous and unlawful consumption of alcohol. These could include rehabilitative measures like referral to alcohol and drug abuse treatment centres and counseling.
- ◆ The cancellation of alcohol related licences by court upon conviction under the various laws should be mandatory rather than discretionary.
- ◆ All alcohol related laws should provide for not only the exclusion of drunkards, violent, quarrelsome and disorderly people from licenced premises, but also for the arrest and handing over of such people to police in order to maintain law and order, and to protect other members of society from their possible harmful actions. Such people should also be referred for alcohol abuse treatment.
- ◆ The law should create offences for persons below 18 years (children) who go to bars and those who take intoxicating liquor to be handled by the Family and Children Court, but in addition to the orders stipulated in the Children Act the court should be given power to make other rehabilitative orders like compulsory alcohol abuse treatment and social support, to prevent further harm to the children.
- ◆ The minimum age for alcohol consumption should also be raised to 21 years in all situations.
- ◆ The law should be amended to delete section 19(3)(a) and (b) which permit the sale of certain types of alcohol to 16 year old children at meals, and sale of liquor to children for consumption by another person.

- ◆ The laws relating to premises, age and hours of sale of alcohol should be enforced vigorously to prevent alcohol related health and social problems such as alcohol addiction, violence among the youth and in families, and poverty due to little or no productive work as a result of the long periods people spend drinking.
- ◆ The law should stipulate clear provisions in relation to regulations concerning labeling and standardization of alcohol. All the manufacturers/producers should mention vivid alcoholic contents in the bottles and add warnings about the harm that alcohol consumption is capable of causing.
- ◆ The GAL should be decentralized and well equipped in order to improve on the efficiency and implementation of alcohol related laws.
- ◆ The UPF should be assisted and encouraged to develop capacity building programmes to educate its officers on how to implement the traffic laws and prosecute drunk traffic offenders successfully.
- ◆ The compensation provided to victims of drunk drivers under section 108 of the TRSA should be in addition to the fine or other punishment imposed by court rather than fixing it at 50% of the fine paid by the offender. The courts should also be given discretion to determine the appropriate compensation to the victim after considering all the circumstances of the case and the injuries suffered by the victim or his/her family.
- ◆ The law should be revised such that courts are empowered to sentence people who commit offences out of self induced insanity to other orders geared at rehabilitating the offender and protecting society from such conduct. These include compulsory alcohol treatment and counseling, and compensation to the family of the victim/deceased.
- ◆ UNBS should be assisted to develop capacity for effective monitoring and enforcement of alcohol standards.
- ◆ UNBS should develop standards for all types of alcohol including native liquor and enguli, to protect the public.
- ◆ The UNBS should undertake serious staffing, deployment and capacity building in addition to decentralization of its offices and personnel.

- ◆ The penalties for offenders under the Food and Drugs Act should be revised to match the health effects that may be suffered by a consumer who takes food or drinks that are unfit for human consumption or otherwise unlawfully handled.
- ◆ The Shop Hours Act should be harmonised with the Liquor Act such that the hours of sale of alcohol are clearly stated to be governed by the provisions of the Liquor Act.
- ◆ The Government should raise taxes on alcohol, which will in turn raise prices and inevitably reduce consumption levels.
- ◆ Policies like low taxation on locally manufactured alcohol should also take into account the harm that the low tax policy is likely to cause to society as a result of reduced prices, which translates into increased affordability and excessive consumption which comes with health and social harm.
- ◆ All Districts and Local Governments should make bye laws regulating alcohol licences, availability, premises, hours of sale and related matters as authorized by the Local Government Act.
- ◆ Awareness raising and sensitization of the public about alcohol laws and the possible harm of alcohol to people's lives should be done.
- ◆ A comprehensive study of laws and policies relating to alcohol should be undertaken to establish more areas that need to be addressed, taking into account views of the public and institutions involved in alcohol related matters, and laws from other jurisdictions.

7.1 Area for Further Research:

A comprehensive study of laws and policies relating to alcohol should be undertaken to establish more deeply areas that need to be addressed, taking into account perceptions of the public and institutions involved in alcohol related matters, and laws from other jurisdictions. This study will focus on effectiveness of alcohol related laws and will help establish to what extent these laws are enforced by the relevant institutions. It will ascertain the factors that affect their enforcement and implementation, with a view to make appropriate recommendations for operationalising them and overcoming the challenges involved. The specific areas of research should include:

- ◆ To establish whether licencing boards, licencing officers and authorised officers do exist at the various levels in all local government establishments as required by the laws and whether they are carrying out their functions efficiently.
- ◆ To examine the roles of the Ministers mentioned in the alcohol related laws and how they are performed under the various laws.
- ◆ To have sample tests carried out on enguli, native liquor and other locally manufactured intoxicating liquor, with a view to advise UNBS about their standard specifications.
- ◆ To examine the policies relating to alcohol that do exist in Government institutions and departments, academic institutions, and their contribution to implementation of the law.
- ◆ To find out to what extent bar and shop owners do comply with the laws and regulations relating to licences, premises, age and shop hours of alcohol.
- ◆ To establish the extent to which manufacturers, traders and sellers of enguli do comply with the laws and regulations regarding licences, selling, buying, export, collecting centres etc.
- ◆ To establish the treatment and support services that exist for victims of alcohol abuse, their accessibility and procedures.
- ◆ To examine URA taxation policies and establish their impact on enforcement/implementation of alcohol laws.
- ◆ To study and make comparisons between Uganda alcohol laws and those of other countries like Kenya, Tanzania, Zambia, Zimbabwe, and their implementation.
- ◆ To develop an action plan to address the issue of alcohol abuse.

8.0 Focal Areas for Alcohol Policy Actions

8.1 Introduction

Measures below should be implemented expeditiously in order to build a comprehensive system of legal regulatory, educational and treatment measures to deal with alcohol -related problems from a public health perspective.

Given the evidence that alcohol consumption represents a current and future threat to public health in Africa, and the need to promote Alcohol Policy measures that are evidenced based, the following document is designed to serve as a reference for evaluating the adequacy of local and national policies in the countries of East Africa, to suggest how to improve current policies that may not be effective, and to build a comprehensive system of legal, regulatory, educational and treatment measures to deal with alcohol-related problems.

Focal area 1: Price and tax measures to reduce the harm done by alcohol

1. Recognizing that price and tax measures are a highly cost-effective and important means of reducing the harm done by alcohol by all segments of the population, including young people and heavier drinkers;
2. Tax policies and, where appropriate, price policies, on alcohol products should be introduced so as to contribute to the health objectives aimed at reducing the harm done by alcohol;
3. Tax policies and tax levels should take into account the following principles;
 - ◆ The price of alcohol should take into account the external costs of consumption, the inadequate knowledge that consumers have about the harm done by alcohol and its dependence producing properties;
 - ◆ The price of alcohol should be increased above levels of inflation;
 - ◆ Taxes should be proportional to the alcoholic content of alcoholic beverages, including all beverage types and with no threshold. Countries with higher taxation should not reduce their taxation levels; and
 - ◆ A proportion of alcohol taxes should be earmarked (hypothecated tax) to fund programmes to reduce the harm done by alcohol, including treatment, prevention, and research and policy evaluation.

Focal area 2: Illicit Trade in Alcoholic Products

1. The elimination of all forms of illicit trade in alcoholic products, including smuggling, illicit manufacturing and counterfeiting are essential components of alcohol policy.
2. Effective legislative, executive, administrative or other measures should be implemented to ensure that all unit packages of alcoholic products and any outside packaging of such products are marked to assist in determining the origin of alcoholic products and any point of diversion and to monitor, document and control the movement of alcoholic products and their legal status.

Focal area 3: Availability of alcohol

1. Recognizing that reducing the number and density of outlets, changing the location of outlets and reducing the days and hours of opening can all reduce the harm done by alcohol;
2. Countries that regulate outlets through number and density, location and hours and days of sale should not relax their regulations;
3. Countries without such regulations or with very liberal regulations should consider:

Focal area 4: Packaging and labeling of alcohol products

1. Recognizing the importance of appropriate packaging and labeling of alcohol products;
2. Effective legislative, executive, administrative and other measures necessary to ensure appropriate packaging and labeling should be implemented;
3. Packaging and labeling policy should take into account the following principles:
 - ◆ Alcohol product packaging and labeling should not promote an alcoholic product by any means that are false, misleading, deceptive or likely to create an erroneous impression about its characteristics or health effects, including any term,

descriptor, trademark, figurative or any other sign that directly or indirectly creates the false impression that a particular alcoholic product is more attractive or healthier than other alcoholic product;

- ◆ Each unit package of alcoholic beverage should carry warnings describing the harmful effects of alcohol when driving or operating machinery, or other appropriate messages;
- ◆ Each unit packet and package of alcoholic products and any outside packaging and labeling of such products should, in addition to health warnings, contain information on its alcohol concentration (% by volume) and alcohol content (grams of alcohol).

Focal area 5: Reducing harm in drinking environments

1. Recognizing that drinking environments can impact on the harm done by alcohol, legislative, executive, administrative and other measures necessary to improve drinking environments to reduce the harm done by alcohol should be implemented;
2. Measures to improve drinking environments should take into account the following principles:
 - ◆ Introduction and strengthening of alcohol sales laws which prohibit the sales of alcohol to minors and intoxicated persons;
 - ◆ Adequate policing and enforcement of alcohol sales laws;
 - ◆ Effective and appropriate training for the hospitality industry and servers of alcohol to reduce the harmful consequences of intoxication, harmful patterns of drinking and the risk of drinking and driving;
 - ◆ Server training programmes can be backed up by civil liability for subsequent alcohol related traffic accidents to increase their effectiveness.

Focal area 6: Sales to minors

1. Recognizing that alcohol consumption, the harm done by alcohol and binge drinking amongst young people is increasing at an alarming rate in many African countries, effective legislative, executive, administrative and other measures necessary to restrict sales to minors should be implemented;
2. Measures to restrict sales to minors should take into account the following principles:
 - ◆ The sales of alcoholic products to persons under the age set by domestic law, national law or eighteen years should be prohibited.
 - ◆ All sellers of alcoholic products should place a clear and prominent indicator inside their point of sale about the prohibition of alcohol sales to minors and, in case of doubt, request that each alcohol purchaser provide appropriate evidence of having reached full legal age;
 - ◆ The manufacture and sale of alcoholic sweets, snacks, toys or alcoholic snacks, toys or alcoholic drinks such as “alcopops” designed as soft drinks, or any other objects which appeal to minors should be steadily reduced and prohibited within five years.
 - ◆ The distribution of free alcoholic products (including brand related paraphernalia such as t-shirts, ash trays, glasses, caps, etc.) should be prohibited to minors.
 - ◆ Penalties against sellers and distributors, in order to ensure compliance with relevant measures should be implemented.

Focal area 7: Alcohol Advertising, Promotion and Sponsorship

1. Recognizing that a comprehensive ban on advertising, promotion and sponsorship would reduce the harm done by alcohol, and that self-regulation is an ineffective mechanism to reduce the harm done by alcohol, effective legislative, executive, administrative and other measures necessary to strictly regulate advertising, promotion and

sponsorship of alcohol products through statutory controls should be introduced both within and across borders;

2. Regulation of advertising, promotion and sponsorship should take into account the following principles:
 - ◆ All forms of alcohol advertising, promotion and sponsorship that promote an alcoholic product by any means that are false, misleading or deceptive or likely to create an erroneous impression about its characteristics, health effects, or hazards should be prohibited;
 - ◆ Appropriate health warnings or messages should accompany all alcohol advertising and, as appropriate, promotion and sponsorship.
 - ◆ The use of direct or indirect incentives that encourage the purchase of alcohol products (sales promotion) should be prohibited
 - ◆ Expenditures by the alcohol industry on advertising, promotion and sponsorship should be disclosed to relevant governmental authorities;
 - ◆ All alcohol advertising, promotion and sponsorship on radio, television, print media and, as appropriate, other media, such as the internet, should be restricted to information about the product only, and should not include images; to the extent that image advertising is permitted under current self-regulation guidelines promoted by the alcohol industry, an independent board should be constituted to review complaints about violations of industry self-regulation codes for responsible marketing.
 - ◆ Technologies and other means necessary to regulate cross-border advertising, promotion and sponsorship should be developed.

Focal area 8: Reduction in drinking while driving

1. Recognizing the heavy burden that drinking and driving places on premature mortality, harm to people other than the driver and economic costs to society;

2. Effective legislative, executive, administrative and other measures necessary to reduce drinking and driving should be implemented;
3. Drinking driving policies should take into account the following principles:
 - ◆ A maximum blood alcohol concentration limit of 0.5 g/L (and breath equivalent) should be introduced throughout Africa with immediate effect; a lower limit of 0.2 g/L should be introduced for novice drivers and drivers of public service and heavy goods vehicles, with immediate effect; countries with existing lower levels should not increase them.
 - ◆ Unrestricted powers to breath test, using breathalyzers of equivalent and agreed standard, should be implemented in countries with high rates of alcohol-related motor vehicle injuries;

Focal area 9: Education, Communication, Training and Public Awareness

1. Recognizing that, unfortunately, in general it is difficult to show any lasting effects of education in reducing the harm done by alcohol, but that education and information approaches can be effective in mobilizing public support for alcohol policy measures;
2. Effective education, communication, and training programmes should be implemented to raise public awareness;
3. Education, communication, and training programmes should take into account the following principles:
 - a. Public awareness of alcohol policy issues should be strengthened and promoted using all available communication tools
 - b. Broad access to effective and comprehensive educational and public awareness programmes on the health risks including the intoxicating and addictive characteristics of alcohol consumption should be provided
 - c. Public awareness about the benefits of reducing hazardous and harmful alcohol consumption should be increased

- d. Public access, in accordance with national law, to a wide range of information on the alcohol industry as relevant to the implementation of alcohol policy should be provided
- e. Effective and appropriate training or sensitization and awareness programmes on alcohol policy to persons such as health workers, community workers, social workers, media professionals, educators, decision-makers, administrators and other concerned persons should be addressed
- f. Awareness and participation of public and private agencies and nongovernmental organizations not affiliated with the alcohol industry in developing and implementing intersectoral programmes and strategies for alcohol policy should be promoted.

Focal area 10: Interventions for hazardous and harmful alcohol consumption and alcohol dependence

1. Recognizing the heavy burden that hazardous and harmful alcohol consumption and alcohol dependence place on the health care sector, individuals, families and societies, and recognizing that brief interventions for hazardous and harmful alcohol consumption are amongst the most cost effective of all health sector interventions, effective legislative, executive, administrative and other measures necessary to promote the widespread delivery of interventions for hazardous and harmful alcohol consumption and alcohol dependence should be implemented;
2. The following principles should be taken into account:
 - ◆ Appropriate, comprehensive and integrated guidelines based on scientific evidence and best practices to promote reductions in hazardous and harmful alcohol consumption and adequate treatment for alcohol dependence should be developed, disseminated and implemented.
 - ◆ Effective programmes aimed at promoting the reduction in hazardous and harmful alcohol consumption, in such locations as educational institutions, health care facilities and workplaces should be designed and implemented

- ◆ The identification and management of hazardous and harmful alcohol consumption should be included in national health and education programmes, plans and strategies, with the participation of health workers, community workers and social workers as appropriate
- ◆ Programmes for diagnosing, counseling, preventing and treating hazardous and harmful alcohol consumption.

Focal area 11: Implementing Policies

1. Each country (and, where relevant, region within a country), and the African continent as a whole, should develop, implement, periodically update and review comprehensive multi-sectoral alcohol policy strategies, plans and programmes;
2. When developing and implementing comprehensive multisectoral alcohol policy strategies, plans and programmes, the following principles should be taken into account:
 - ◆ Regional and country coordinating mechanisms or focal points for alcohol policy should be established or reinforced and financed;
 - ◆ Effective legislative, executive, administrative and or other measures in developing appropriate policies for preventing and reducing the harm done by alcohol, and the harm done by other people's drinking should be adopted and implemented
 - ◆ In setting and implementing public health policies with respect to alcohol policy, such polices should be protected from commercial and other vested interests of the alcohol industry;
 - ◆ Cooperation, as appropriate, should be made with competent international and regional intergovernmental organizations and other bodies to achieve the implementation of policies, plans and programmes to reduce the harm done by alcohol, including the World Health Organization.

Focal area 12: Research, surveillance and exchange of information

1. Research and research programmes, surveillance, and exchange at the regional and country levels in the field of alcohol policy should be developed and promoted.
2. Principles should include:
 - ◆ The promotion and strengthening of training and support for all those engaged in alcohol policy activities, including research, implementation and evaluation.
 - ◆ Establishment of programmes for regional and country surveillance of the magnitude, patterns, determinants and consequences of alcohol consumption and the harm done by alcohol. Alcohol surveillance programmes should be integrated into health surveillance programmes so that data are comparable and can be analyzed at the appropriate levels.
 - ◆ Cooperation should be made with the World Health Organization in the development of general guidelines or procedures for defining the collection, analysis and dissemination of alcohol-related surveillance data.
 - ◆ The exchange of publicly available scientific, technical, socioeconomic, commercial and legal information, as well as information regarding practices of the alcohol industry should be promoted and facilitated
 - ◆ An updated database of laws and regulations on alcohol policy and, as appropriate, information about their enforcement, as well as pertinent jurisprudence, and co-operation in the development of programmes for regional and country alcohol policy should be established and maintained;
 - ◆ An Africa-wide system to regularly collect and disseminate information on alcohol production, manufacture and the activities of the alcohol industry which have an impact on alcohol policy activities should be established and maintained.

References:

1. Uganda 2006 Demographic and Health Survey.
2. See definition of **enguli** under the interpretation section.
3. Laws of the Community.
4. Section 14 of the Act – Cap 86.
5. Section 16 of the Act – Cap. 86.
6. [1972] HCB 55.
7. Section 2 and the First Schedule of the Act – Cap 93.
8. Sections 7 and 8 of the Act – Cap 93.
9. Section 11 of the Act – Cap 93.
10. Section 19 of the Act – Cap 93.
11. Sections 93 and 94 of the Children Act.
12. Section 2 of the Act – Cap 93.
13. Section 16(2)(ii) of *Enguli* Act – Cap 86.
14. Section 14(1) of the Act – Cap 93.
15. Section 2(3) (a-f) of the Act – Cap 97.
16. Section 111 of the Act – Cap 361.
17. Section 111 of the Act – Cap 361.
18. Regulation 2 of the Traffic and Road Safety (Prescribed Alcohol Limit) Regulations.
19. Section 112(4) and (5) of the Act – Cap 361.
20. Regulation 3 of the Traffic and Road Safety (Prescribed Alcohol Limit) Regulations.
21. [1920] AC 479 at 501.
22. Court of Appeal Criminal Appeal No. 8 of 1996
23. Section 108(2) of the TRSA – Cap 361.
24. Containers shall be sealed to prevent leakage of the contents and any possible contamination and adulteration.
25. Section 2 of the Act – Cap 278.
26. Third schedule to the Liquor Act – Cap 93.
27. Section 3 (3) and the 5th and 7th column of the 3rd Schedule to the Finance Act 2000.

