

# 1. Zambia Pushes Anti-Counterfeit Bill Despite Health Danger

## Ruth Langa

LUSAKA, Apr 30 (IPS) - Zambia is pushing forward with formulating an anti-counterfeit draft law which will include medicines, despite the controversy that has surrounded similar laws in East Africa and despite having existing legislation which has been used to successfully prosecute counterfeiters of medicines.

Kenneth Musamvu, registrar of copyright at the ministry of information and broadcasting services, confirmed in an interview with IPS that a proposal to draft an anti-counterfeiting bill that will include medicines has been put together and presented to the policy makers.

"We suggested having this law as a way of curbing intellectual property crimes, such as piracy and counterfeiting. As a unit, we are advocating the enactment of this law to ensure that crimes of this nature are reduced. The crime of counterfeiting will extend to medicines and spare parts."

Regarding the outcry in Kenya and Uganda where proposed and adopted anti-counterfeit laws have been challenged because they would threaten the importation or manufacturing of life-saving cheap generic medicines, Musamvu did not foresee similar problems in Zambia.

"What needs to be understood is that generic medicines are produced by way of buying a license from the brand owner. So that cannot be hindered by an anti-counterfeiting law which is aimed at protecting citizens from harmful drugs," he said.

Musamvu added that there had been many formal and informal meetings between countries regarding the drafting of anti-counterfeiting legislation. Lessons could be learnt from all of them, the biggest being that there must be constant consultation between policy makers and drafters of the law to ensure there was no room for misinterpretation.

But Zambia already has a law that prohibits counterfeit medicines. Currently, the Pharmaceutical Regulatory Authority (PRA), which is a government agency, is responsible for the regulation of medicines in Zambia. It ensures that pharmaceutical products, including herbal preparations imported or manufactured in Zambia, consistently meet the required standards of quality, safety and efficacy.

Esnat Mwape, PRA director general, told IPS that her organisation is guided by the Pharmaceutical Act which prohibits the manufacture and sale of counterfeit drugs: "Even without it being contained in the anti-counterfeit laws, fake drugs or counterfeits are properly and effectively proscribed in the act.

"There is a difference between counterfeit drugs, which are fakes, and generic drugs, which are cheaper versions of brand drugs. The PRA treats the sale of fakes or counterfeits as a criminal offence and we have successfully prosecuted people for this."

At the moment Zambia also has legislation on copyright and performance which deals mainly with literary and artistic property rights. The envisaged anti-counterfeit bill will be more comprehensive and have stronger enforcement powers.

The office of the registrar is waiting for a response from the minister of information and broadcasting services, Ronnie Shikapwasha, who is consulting with his colleagues in cabinet regarding the proposed anti-counterfeit law. It is still in the discussion phase as no bill has been drafted or presented to parliament yet.

Michael Zulu, an activist who was part of the action in Kenya where people living with HIV and AIDS appealed to the constitutional court to repeal the Anti-Counterfeit Act of 2008, said the problem there was that the law did not clearly make the distinction between fake and generic drugs.

"It was miscommunication. It was how the laws were worded that gave rise to confusion and fears that cheap generic drugs were banned. This was frightening, of course, because we depend on generics, especially for ARVs (antiretrovirals) and drugs to treat malaria," Zulu explained.

Some 90 percent of medical products on the Zambian market are generics imported from India.

Zambia's pharmaceutical industry is small. There are just six pharmaceutical manufacturers that produce a limited variety of drugs, such as cough mixtures and pain killers. There are about 100 importers and wholesale dealers and just over 90 retailers. (END/2010)

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