

**Abstract**

*Drug abuse and offences represent a pressing concern in Nigeria, encompassing a wide spectrum of illicit activities related to controlled substances. These activities involve the production, trafficking, possession, and consumption of drugs, as well as ancillary acts such as cultivation, manufacture, and transportation of illicit substances. The prevalence of drug abuse and illicit drug trade has detrimental consequences for public health, social stability, and economic development. The researchers believe that by understanding the intricacies of drug offences, policymakers, law enforcement agencies, and the judiciary can better tackle the challenges posed by drug abuse and illicit drug trade. It is against the foregoing background that this paper examines the legal regime for drug offences in Nigeria. To achieve this, this work employed the doctrinal method of study, adopting the analytical as well as the interpretative approaches in analyzing the resource materials collected for this study which include statutes, books, journal articles as well as internet publications. The study found, among other things, that the machineries for implementation of the laws providing for the prevention and protection of drug-related offences in Nigeria are not adequate. In response, the work therefore recommends the provision of adequate machineries for the enforcement of those laws through improved funding of the necessary agencies.*

**Keywords:** Drugs, Offences, Law, Nigeria

**1.0 Introduction**

Drug offences represent a pressing concern in Nigeria, encompassing a wide spectrum of illicit activities related to controlled substances. These activities involve the production, trafficking, possession, and consumption of drugs, as well as ancillary acts such as cultivation, manufacture, and transportation of illicit substances. It is of paramount importance due to its multifaceted impact on individuals, families, communities, and the nation as a whole. The prevalence of drug abuse and illicit drug trade has detrimental consequences for public health, social stability, and economic development. Substance abuse leads to various health problems, including addiction, and mental disorders. Additionally, drug-related crimes contribute to a rise in violence, organized criminal networks, and corruption, which undermine the rule of law and hinder social progress. By comprehending the intricacies of drug offences, policymakers, law enforcement agencies, and the judiciary can better tackle the challenges posed by drug abuse and illicit drug trade. Also, the National Drug Law Enforcement Agency Act (NDLEA) Act, 1989<sup>1</sup> provides for the classification of drug offences into import, export, transportation or dealing in it by way of manufacture, sale, possession and others. In addition to the role of the judiciary, various legal instruments are employed to combat drug offences in Nigeria. The NDLEA Act serves as the principal law governing drug-related crimes in the country. This legislation provides the legal framework for the enforcement and control of illicit drug activities. Nigeria is also a signatory to several international conventions and protocols aimed at preventing drug trafficking and abuse, including the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988<sup>2</sup>. The deterrence effect of drug laws, the efficiency of law enforcement agencies, access to treatment and rehabilitation programs, public awareness campaigns, and addressing socio-economic factors that contribute to drug abuse all play a crucial role in determining the effectiveness of drug laws in Nigeria. The efficiency of law enforcement agencies in detecting, investigating, and prosecuting drug offences is another critical factor in assessing the effectiveness of drug laws. Adequate resources, training, and collaboration between law enforcement agencies, such as the NDLEA, the Nigerian Police, Nigeria Immigration Service and the Nigeria Customs Service, are necessary to effectively combat drug offences. Strengthening intelligence gathering capabilities, implementing proactive enforcement strategies, and adopting modern forensic techniques can enhance the efficiency of law enforcement efforts. It is against the foregoing background that this paper seeks to analyze the concept of drug offences in Nigeria and determine the effectiveness of extant laws in reducing it.

**2. Meaning of Drug Offences**

Drug is seen and defined from different perspectives. Drug in itself is neither good nor bad. A drug can be used differently by different people to cope with various emotional, physical and psychological conditions. The New International Webster's Comprehensive Dictionary of the English language<sup>3</sup> defines drug as "any substance, other than food, intended for use in diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals or any substance or chemical agent, exclusive of food employed for other than medical reasons to obtain a given psychological effect or to satisfy a craving."<sup>4</sup> Generally, drug is any substance that alters the body when absorbed. Drugs are abused when they are taken without legal prescription. Drugs commonly abused are addictive. This means that the body grows to depend on them and their presence to stay sane and function. Withdrawal of these drugs from an addict would usually spring up several effects. The urge to continue taking these drugs leads to illegal drug use and possession. This in turn motivates illegal cultivation, manufacturing, production, trafficking and sale of these drugs. On the other hand, offence, synonymous with crime refers to any act which the law expressly prohibit.<sup>5</sup> In Nigeria, an act or omission must be stated to be a crime in a written law for it to qualify as an offence.<sup>6</sup> Put together, drug offences are those illegal and unlawful acts and omissions associated with the use, manufacture, possession, transportation, importation and exportation of prohibited drugs. These laws include domestic and

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<sup>1</sup> Now Cap N30 LFN, 2004

<sup>2</sup>United Nations, 'United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988' <[https://www.unodc.org/pdf/convention\\_1988\\_en.pdf](https://www.unodc.org/pdf/convention_1988_en.pdf)> accessed 22/07/2023

<sup>3</sup> SS Smith, *The New International Webster's Dictionary of the English Language* (USA, Deluxe Encyclopedic Edition: Trident Reference Pub, 2003) p. 136

<sup>4</sup>'Punishment for drug abuse in Nigeria' <<https://infoguidenigeria.com/punishment-drug-nigeria/>> accessed May 13, 2023

<sup>5</sup> Criminal Code, 2004 s. 2

<sup>6</sup> Constitution of the Federal Republic of Nigeria, 1999 (as amended) s. 36(12)

international laws some of which Nigeria has ratified such as the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substance. Examples of prohibited drugs include; heroin, cocaine, marijuana, or other illegal drugs<sup>7</sup>.

### **3. Importance of Addressing Drug Offences in Nigeria**

The importance of addressing drug offenses in Nigeria cannot be overstated. Drug offenses have far-reaching consequences that impact various aspects of society, including public health, security, economic stability, and social well-being. Recognizing and addressing the importance of combating drug offenses is essential for the overall development and progress of the nation. First, drug offenses pose a significant threat to public health. Substance abuse and addiction can have devastating effects on individuals, families, and communities. Drug-related illnesses and deaths are some of the immediate health risks associated with the use of prohibited substances. By tackling drug offenses, Nigeria can protect the physical and mental well-being of its citizens and promote healthier lifestyles. Drug offenses also have profound implications for national security. The illicit drug trade often fuels organized crime, corruption, and violence. Drug trafficking networks contribute to the destabilization of communities and undermine the rule of law. Addressing drug offenses is therefore crucial in safeguarding national security, promoting stability, and protecting the rights and safety of Nigerian citizens. Moreover, drug offenses have significant economic implications. The illicit drug trade undermines legitimate economic activities, fosters the growth of an underground economy, and diverts resources away from productive sectors. It hampers economic growth, undermines investments, and contributes to income inequality. By combating drug offenses, Nigeria can create a conducive environment for sustainable economic development and ensure that resources are utilized effectively for the betterment of society. Also, addressing drug offenses is essential for promoting social well-being and fostering a cohesive society. Drug abuse not only affects individuals but also has detrimental effects on families and communities. By tackling drug offenses, Nigeria can create an environment that supports the well-being of its citizens, strengthens social bonds, and promotes a sense of community.

### **4. Classification of Drug Offences**

In Nigeria, there is no statutory classification of drug offenses. On a careful analysis, however, the classification of drug offenses could be ascertained from the various provisions of drug laws. Section 11 - 25 of the NDLEA Act contains salient issues about the nature and forms of drugs offenses, and they are broadly categorized into exportation of prohibited drugs, importation of prohibited drugs, dealing in prohibited drugs: and related drug offenses.

**Exportation of prohibited drugs:** a person is deemed to have exported a narcotic drug or psychotropic substance if he brings to or deposits the narcotic drug or psychotropic substance concerned at any customs area, station, port or other customs point.<sup>8</sup>

**Importation of prohibited drugs:** the act of bringing into Nigeria any prohibited act without a lawful authority constitutes an offence.

**Dealing in prohibited drugs:** "dealing" in this sense encompasses the possession, transporting, selling, buying growing or manufacturing or processing of illegal substances.<sup>9</sup>

**Related drug offences:** these are offences which do not fall entirely within the ambit of the above 3 classifications, but are related to drug offenses. These include where a person who is the occupier or is concerned in the management of any premises, unlawfully permits or causes the premises to be used for the purpose of storing, concealing processing or dealing in the drug popularly known as cocaine.<sup>10</sup> It also includes where a person who is unlawfully engages in the storage, custody, movement, carriage or concealment of cocaine, LSD, heroine, or similar drugs and while so engaged, is armed with any offensive weapon or disguised in any way.<sup>11</sup> Furthermore, the act of inciting, promising, inducing, conspiring, aiding and abetting the commission of a drug offences makes ones an accessory to the offence.<sup>12</sup>

It is pertinent to observe that a person shall be deemed to commit an offence under the NDLEA Act if;

- a.) he does the act which constitutes the offence; or
- b.) does or omits to do any act for the purpose of enabling or aiding another person to commit the offence; or
- c.) aids another person in committing the offence; or
- d.) counsels or procures any other person in committing the offence; or
- e.) counsels or procures any other person to commit the offence in which case he may himself be charged with committing the offence or with counseling or procuring the commission of the offence.<sup>13</sup>

### **5. Courts and Punishments for Drug Offences in Nigeria**

Courts are established in section 6 of the 1999 Constitution to resolve disputes. They equally have the powers to try suspects and impose punishment on offenders. Section 251 and 272 of the Constitution confers on the Federal and State High Courts the powers to try civil and criminal matters. Furthermore, the NDLEA Act gave the Federal High Court of Nigeria the exclusive jurisdiction to try offences contained therein,<sup>14</sup> including the imposition of penalties.<sup>15</sup> Section 20 of the Money Laundering (Prohibition) Act, 2011 as well confers exclusive jurisdiction on the Federal High Court to try offences contained in the Act, including drug related offences. This equally applies to the Food and Drugs Act,<sup>16</sup> and the Pharmacist Council of Nigeria.<sup>17</sup>

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<sup>7</sup> Justia 'Trafficking law' <<https://www.justia.com/criminal/offenses/drug-crimes/drug-trafficking>> accessed May 9, 2023

<sup>8</sup> NDLEA Act, 2004 S. 21(1)

<sup>9</sup> These activities are enumerated in section 11(a-4) of the NDLEA Act, 2004.

<sup>10</sup> NDLEA Act, 2004 s. 12

<sup>11</sup> NDLEA Act, 2004 s. 13

<sup>12</sup> NLEA Act, 2004 s. 14

<sup>13</sup> NDLEA Act, 2004 S. 21(2)

<sup>14</sup> NDLEA Act, 2004 s. 12(21)

<sup>15</sup> NDLEA Act, 2004 s. 12(2)

<sup>16</sup> Cap. F. 32 LFN 2004, s. 18

<sup>17</sup> Second schedule, item 3

In punishing drug offenders, the Dangerous Drugs Ordinance, 1935 being the first drug law enacted in Nigeria prescribed imprisonment terms.<sup>18</sup> The two principal bodies responsible for administering the provisions of the Act at the time were the Board of Customs and Excise (now Nigerian Customs Service) and the Nigerian Police.<sup>19</sup> The military government under Muhammadu Buhari enacted Decree No. 20 which prescribed death penalties for drug traffickers. It setup a military tribunal with the power to try and impose death penalty without the right of appeal; and the law applied retroactively.<sup>20</sup> However, the decree was shortly outlived following a public execution of three men by firing squad on April 10, 1985. Two of the executed persons were tried and found guilty of acts which were committed before the law was passed. This act evoked public protests amongst people from all walks of life, stating that death penalty was too harsh for the offences involved.<sup>21</sup> The Special Tribunal (Miscellaneous Offences) (Amendment) Decree was later enacted in 1986 to replace the death sentence with imprisonment terms.<sup>22</sup>

In recent times, the provisions of the NDELA Act provides for the forfeiture of assets or property constituted or derived from, including proceeds obtained directly or indirectly from drug offences under the Act.<sup>23</sup> Assets subject to forfeiture under the Act include personal property and real estate,<sup>24</sup> and any property within Nigeria which represents the proceeds of an offence under the laws of a foreign country involving the manufacture, importation, sale, distribution, illicit traffic, abuse or misuse of any narcotic drug or psychotropic substance within whose jurisdiction such offence or activity would be punishable by imprisonment for a term exceeding one year.<sup>25</sup> Other property include narcotic drugs or psychotropic substances,<sup>26</sup> raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing or exporting any narcotic drug or psychotropic substance<sup>27</sup> and instrumentalities of conveyance, including aircraft, vehicles, or vessels which are used or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession or concealment of prohibited substances.<sup>28</sup> All books, records and research, including formulae, microfilms, tapes and data;<sup>29</sup> monies, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for any narcotic drug or psychotropic substance in violation of this Act are also liable to forfeiture.<sup>30</sup>

The passport of any person convicted of an offence involving the illegal importation or exportation of any narcotic drug or psychotropic substance is liable for forfeiture to the Federal Government and cannot be returned except the President directs otherwise after the grant of a pardon or on the exercise of the prerogative of mercy under the constitution of the Federal Republic of Nigeria, as amended.<sup>31</sup>

#### **6. Legal Instruments for Eradication of Drug Offences in Nigeria**

The National Drug Law Enforcement Agency (NDLEA) Act No. 48 of 1989 (as amended), National Agency for Food, Drug and Administration Control Act No. 15 of 1993 and Money Laundering (Prohibition) Act, 2011 are some of the domestic laws regulating drugs in the country. Others include the Dangerous Drugs Act, 1935, Indian Hemp Decree, 1966 (as amended), Food and Drugs Act, 1976 (as amended); and the Counterfeit and Fake Drugs and Unwholesome Processed Foods (Miscellaneous Provisions) Act, 1999.

#### **National Drug Law Enforcement Agency (NDLEA) Act 1989**

The Act established the National Drug Law Enforcement Agency as the body responsible for enforcing drug laws in Nigeria. The Agency is tasked with combating drug-related offences and coordinating enforcement functions conferred by other laws on various individuals and authorities.<sup>32</sup> The Agency is composed of a chairman and several members, including representatives from the Nigeria Police Force, Military Intelligence, Customs, State Security Service, Federal Ministry of Justice, National Intelligence Agency, and other ministries. The President appoints the Chairman and specified members on the recommendation of the Attorney-General of the Federation. The Chairman serves as the chief executive and accounting officer of the Agency.<sup>33</sup> The Agency has various responsibilities, including enforcing and administering the provisions of the Act, coordinating drug laws and enforcement functions, adopting measures to identify and confiscate proceeds from drug-related offences, eradicating illicit cultivation of narcotic plants, and reducing illicit demand for drugs. The Agency is also responsible for preventing the use of ordinary means of transport for drug trafficking, conducting investigations, and facilitating international cooperation in suppressing drug trafficking.<sup>34</sup> The NDLEA has the power to conduct investigations into drug offences, including inquiries into the properties of individuals whose lifestyle and extent of properties are not justified by their ostensible source of income. The Agency can issue notices to individuals, requiring them to provide information, returns, accounts, books, or other documents related to drug offenses. However, the Agency must obtain the approval of the Attorney-General of the Federation before exercising these powers. The officers of the Agency have powers, authority, and

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<sup>18</sup>IKE Oraegbunam, 'Nigeria, Drug Offences and the way Forward' (2020) IJOCLLEP 2 (1) 2020 <[https://www.academia.edu/43340354/NIGERIA\\_DRUG\\_OFFENCES\\_AND\\_THE\\_WAY\\_FORWARD](https://www.academia.edu/43340354/NIGERIA_DRUG_OFFENCES_AND_THE_WAY_FORWARD)> accessed 18<sup>th</sup> May 2023

<sup>19</sup> *Ibid*

<sup>20</sup> *Ibid*

<sup>21</sup> *Ibid*

<sup>22</sup> *Ibid*

<sup>23</sup> NDLEA Act, 2004 s. 27 (1 - 3)

<sup>24</sup> NLEA Act, 2004 s. 31(a)

<sup>25</sup> NDLEA Act, 2004 s. 31(b)

<sup>26</sup> NDLEA Act, 2004 s. 32(a)

<sup>27</sup> NDLEA Act, 2004 s. 32(b)

<sup>28</sup> NDLEA Act, 2004 s. 32(c)

<sup>29</sup> NDLEA Act, 2004 s. 32(d)

<sup>30</sup> NDLEA Act, 2004 s. 32(e)

<sup>31</sup> NDLEA Act, 2004 s. 30

<sup>32</sup> [Section 1, Section 2(1)]

<sup>33</sup> Section 2(1)(2) & 3

<sup>34</sup> Section 3(1)(a)-(r)

privileges, including the power to bear arms, similar to members of the Nigerian Police Force. The Agency may also provide rewards to individuals who provide information or services that assist in its duties.<sup>35</sup>

The Act established three units within the Agency: the General and Assets Investigation Unit, the Prosecution Unit, and the Counseling Unit.<sup>36</sup> The General and Assets Investigation Unit is responsible for preventing and detecting offenses, collaborating with customs authorities, investigating assets and properties, and dealing with extradition and mutual assistance matters.<sup>37</sup> The Prosecution Unit handles the prosecution of offenders, provides legal support to the investigation unit, conducts proceedings for asset recovery, and performs other assigned legal duties.<sup>38</sup> The Counseling Unit collaborates with the Ministry of Health to educate the public on drug dangers, facilitate rehabilitation and social reintegration of addicts, and promote the welfare of convicts. Each unit has a principal officer appointed by the Agency to oversee its operations.<sup>39</sup> In addition, Section 11 criminalized the unauthorized importation, manufacturing, trafficking, sale, possession, and use of drugs like cocaine, heroin, LSD, or similar substances. Offenders face life imprisonment. Section 12 holds occupiers or managers of premises accountable for allowing the use of their properties for drug-related activities. Violators can be imprisoned for up to 25 years. Section 13 targets individuals involved in drug-related activities while being armed or disguised. Offenders are subject to life imprisonment. Section 14 covers the incitement, conspiracy, aiding, and abetting of drug offences. Convicted individuals face imprisonment ranging from 15 to 25 years. Section 15 prohibits impersonating NDLEA officers, carrying a maximum sentence of 10 years' imprisonment. Section 16 criminalizes the unauthorized removal, concealment, or tampering with seized drugs, resulting in imprisonment up to 25 years. Section 17 deals with the escape from custody or assisting others in escaping, carrying a maximum penalty of seven years' imprisonment. Section 18 targets those who obstruct witnesses from appearing in court, punishable by imprisonment up to seven years.

Section 21 defines the actions that constitute the exportation of narcotic drugs or psychotropic substances. It states that bringing or depositing such drugs or substances at any customs area, customs station, customs airport, customs port, or any other customs point constitutes exportation under the Act. The section further explains that a person can be held liable for the offence if he directly commits the act, aids or enables another person to commit the offence; counsels or procures another person to commit the offence. The penalty for this is the same as prescribed under the Act for the direct commission of the offence. Section 22 addressed the offence of exporting narcotic drugs or psychotropic substances from Nigeria. It states that if a person, whose journey originates from Nigeria without being detected of carrying prohibited drugs, is found to have imported such drugs into a foreign country, he shall be guilty of an offence under this Act. Similarly, any Nigerian citizen found guilty of a drug-related offence in a foreign country that brings disrepute to Nigeria is also deemed to have committed an offence under section 22 of the Act. The penalty for these offences is imprisonment for a term of five years without an option of fine, and the offender's assets and properties are subject to forfeiture.

Section 23 addressed attempts to commit offences under the Act. It states that if a person is charged with an offence under the Act and the evidence establishes an attempt to commit that offense, they may be convicted of attempting to commit the offence. Similarly, if a person is charged with an attempt to commit an offence but the evidence establishes the commission of the full offence, the offender cannot be acquitted and shall be convicted and punished as provided under the Act. Section 24 deals with offences committed by corporate bodies. It states that if an offence under the Act is committed by a body corporate with the instigation, connivance, or neglect of a director, manager, secretary, or similar officer of the body corporate, they, along with the body corporate, shall be deemed guilty of the offence and liable to be punished accordingly. Furthermore, if a body corporate is convicted of an offence under the Act, the Federal High Court may order the winding up of the body corporate and the forfeiture of all its assets and properties to the Federal Government. Section 25 imposed duties on commercial carriers to prevent the use of their means of transport in drug-related offences. This includes complying with appropriate security measures, training personnel to identify suspicious consignments or persons, promoting the integrity of their personnel, submitting cargo manifests in advance, using tamper-resistant seals on containers, and reporting suspicious circumstances to the Agency. Violation of these provisions constitutes an offence and can lead to penalties, including fines. Section 26 states that the Federal High Court has exclusive jurisdiction to try offenders under the Act and has the power to impose penalties. It also allows the court to consider unaccounted pecuniary resources or assets disproportionate to the offender's known source of income as corroborating evidence in a trial for an offence under the Act. Section 27 outlines the forfeiture of assets and properties after the conviction of an offence under the Act. It states that any person convicted of an offence under the Act shall forfeit to the Federal Government their assets. Section 28 states that properties belonging to individuals convicted of offences under the NDLEA Act and already subject to an interim order shall be forfeited to the Federal Government. Its purpose is to ensure that convicted individuals cannot retain properties acquired through illegal means. Under section 29, if it is determined that a convicted person possesses assets or properties in a foreign country, those assets or properties, subject to any relevant treaties or arrangements, may be forfeited to the Federal Government. The NDLEA, in collaboration with the Attorney-General's office, is responsible for facilitating the effective transfer and vesting of these forfeited assets in the Federal Government. In cases where individuals are convicted of offenses involving the illegal importation or exportation of narcotic drugs or psychotropic substances, their passports shall be forfeited to the Federal Government.<sup>40</sup> The convicted individuals cannot have their passports returned to them unless the President directs otherwise, either through a pardon or the exercise of the prerogative of mercy. Section 33 outlines the circumstances under which the NDLEA can seize property subject to forfeiture. It includes incidental seizure during arrests or searches and property liable for forfeiture under a process issued by the Federal High Court upon the Agency's application.

According to section 35, when a person is arrested for committing an offence under the Act, they are obligated to fully disclose their assets and properties by completing the Declaration of Assets Form provided in the Act. Failure to do so, or providing false information, can result in an offence punishable by imprisonment. Section 36 states that when assets or properties of a person arrested for an offence

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<sup>35</sup> [Section 4(1)-(4)]

<sup>36</sup> Section

<sup>37</sup> Section 8(1)

<sup>38</sup> Section 8(2)

<sup>39</sup> Section 8(3)

<sup>40</sup> Section 30

under the Act have been seized or when any asset or property has been seized by the NDLEA, an application shall be made to the Federal High Court for an interim order forfeiting the property to the Federal Government if there is *prima facie* evidence of its liability to forfeiture. Section 38 addressed the final disposal of forfeited property. Once a final order is received, the Secretary to the Agency takes steps to dispose of the property through sale or other means. Proceeds from the sale are paid into the consolidated Revenue Fund of the Federation. If any part of the property is money held in a bank account, the bank manager or person in control of the account must pay it over to the Agency upon receipt of the order. Section 39 specified the offences and penalties associated with dealing, selling, or disposing of property or assets that are subject to an attachment, interim order, or final order without proper authorization from the NDLEA. Any person found guilty of such offences is liable to imprisonment for a term of five years without the option of a fine. Additionally, it states that managers or persons in control of banks who fail to pay over the property upon the production of a final order are also guilty of an offence and may be imprisoned for a term of not less than one year and not more than three years, without the option of a fine. The court may make an order of revocation or confirmation of an interim order, depending on what is considered just, appropriate, or reasonable.<sup>41</sup> If an interim order is revoked, all assets and properties of the person concerned shall be released by the NDLEA. Section 41 empowers law enforcement officers, including police officers, customs officers, and NDLEA officers, to carry out searches, seizures, and arrests without a warrant in connection with offences under the Act. They have the authority to enter and search land, buildings, carriers (such as aircraft or vehicles), and other relevant instrumentalities. They can also perform tests and take samples of substances related to the commission of an offense, arrest individuals believed to have committed an offense, and seize items or substances used in the commission of an offense. The NDLEA must provide a written receipt for any item or substance seized under this section. Section 42 grants the chairman of the NDLEA the power to issue a freezing order on bank accounts of persons arrested under the Act if there is satisfaction that the money in the account was obtained through illegal drug trafficking. The order directs the bank to supply information, produce books and documents related to the account, and stop all outward payments and transactions. Prior written approval of the Attorney-General of the Federation is required for issuing such orders, and the form of the order is prescribed in the Fourth Schedule of the Act. Section 45 authorized the NDLEA to seek the President's authority to investigate individuals whose lifestyle appears to be beyond their known source of income. In such cases, the provisions of the NDLEA Act, including declaration of assets and forfeiture of assets and properties, apply to these individuals as if they were persons committing an offense under the Act. This provision allows the NDLEA to address cases where individuals may be involved in drug-related activities but have not been charged with specific offences under the Act.

### **National Agency for Food, Drug and Administration Control Act 1993**

The National Agency for Food and Drug Administration and Control (NAFDAC) is established with a broad range of functions and responsibilities pertaining to the regulation and control of various products. These functions as outlined in Section 5 of the Act include:

**Regulation and Control:** NAFDAC is tasked with regulating and controlling the importation, exportation, manufacture, advertisement, distribution, sale, and use of food, drugs, cosmetics, medical devices, bottled water, and chemicals.

**Compliance and Quality Control:** The agency conducts appropriate tests and ensures compliance with standard specifications approved by the governing council. These tests and specifications are crucial for maintaining effective control over the quality of regulated products, including their raw materials and production processes.

**Investigations and Quality Assurance:** NAFDAC undertakes investigations into production premises and raw materials related to regulated products. It establishes relevant quality assurance systems, including issuing certificates for production sites and regulated products.

**Inspection of Imported Products:** NAFDAC carries out inspections of imported food, drugs, cosmetics, medical devices, bottled water, and chemicals. This includes establishing quality assurance systems and certifying the production sites and regulated products.

**Standard Specifications and Guidelines:** The agency compiles standard specifications and guidelines for the production, importation, exportation, sale, and distribution of regulated products. These specifications and guidelines serve as benchmarks for ensuring the quality and safety of such products.

**Registration:** NAFDAC undertakes the registration of food, drugs, cosmetics, medical devices, bottled water, and chemicals. This registration process is crucial for monitoring and ensuring compliance with regulatory standards.

**Export Control and Certification:** The agency controls the exportation of regulated products and issues quality certifications for food, drugs, cosmetics, medical devices, bottled water, and chemicals intended for export.

**Laboratory Establishment:** NAFDAC establishes and maintains relevant laboratories or institutions in strategic areas of Nigeria. These facilities are necessary for conducting analyses, tests, and research to support the agency's functions.

**Quality and Safety Pronouncement:** The agency pronounces on the quality and safety of food, drugs, cosmetics, medical devices, bottled water, and chemicals after conducting appropriate analysis and evaluation.

**Narcotic Drugs and Psychotropic Substances:** NAFDAC takes measures to ensure that the use of narcotic drugs and psychotropic substances is limited to medical and scientific purposes.

**Authorization and Control of Controlled Substances:** The agency grants authorizations for the import and export of narcotic drugs, psychotropic substances, and other controlled substances. This control is crucial for preventing misuse and illegal trade.

**Collaboration and Eradication of Drug Abuse:** NAFDAC collaborates with the National Drug Law Enforcement Agency (NDLEA) to implement measures aimed at eradicating drug abuse in Nigeria. This collaboration enhances the effectiveness of efforts to combat drug abuse.

**Advisory Role:** The agency provides advice to federal, state, and local governments, as well as the private sector and other interested bodies, regarding the quality, safety, and regulatory provisions related to food, drugs, cosmetics, medical devices, bottled water, and chemicals.

**Research Coordination:** NAFDAC undertakes and coordinates research programs on various aspects related to the storage, adulteration, distribution, and rational use of regulated products. These research initiatives contribute to the enhancement of regulatory frameworks and practices.

**Advertisement Guidelines:** The agency issues guidelines, approves, and monitors the advertisement of food, drugs, cosmetics, medical devices, bottled water, and chemicals. This ensures that advertising practices align with regulatory requirements and safeguard public health and safety.

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<sup>41</sup> Section 40

**Data Compilation and Publication:** NAFDAC compiles and publishes relevant data resulting from the performance of its functions under the Act. This data includes information on regulatory activities, compliance, safety assessments, and other pertinent aspects related to food, drugs, cosmetics, medical devices, bottled water, and chemicals. The publication of such data promotes transparency, knowledge sharing, and evidence-based decision-making.

**Conferences and Sponsorship:** NAFDAC has the authority to sponsor national and international conferences that are deemed appropriate. These conferences serve as platforms for sharing expertise, exchanging information, and fostering collaborations in the field of food and drug regulation.

**Collaboration and Liaison:** The agency liaises with relevant establishments within and outside Nigeria to facilitate the effective performance of its functions. This collaboration includes partnerships with regulatory bodies, research institutions, industry stakeholders, and international organizations involved in similar areas of focus.

**Suitability Assessment:** NAFDAC determines the suitability or otherwise of medicines, drugs, food products, cosmetics, medical devices, or chemicals for human and animal use. This assessment is based on scientific analysis, evaluation of safety and efficacy, and adherence to regulatory standards.

**Expedient Activities:** NAFDAC is empowered to carry out any necessary or expedient activities that support the performance of its functions under the Act. This provision allows the agency to adapt to emerging challenges, technological advancements, and evolving regulatory needs.

These functions collectively establish NAFDAC's role as a regulatory authority responsible for safeguarding public health, ensuring the quality and safety of regulated products, and promoting compliance with regulatory standards. By undertaking various activities such as regulation, inspection, research, collaboration, and advisory roles, NAFDAC plays a critical role in protecting consumers and maintaining the integrity of the food and drug industry in Nigeria. Section 25 of the Act outlines offences and penalties for non-compliance. Obstructing an officer of the Agency in the performance of his duties carries a fine of N5,000 or imprisonment up to two years. Unspecified offences result in a fine of N50,000 or imprisonment for one year. Corporate bodies and individuals involved may face a fine of N100,000 for the offences. The Federal High Court has exclusive jurisdiction for trying offences under the Act; and section 26 states that an officer of the Agency, with consent from the Attorney-General, can conduct criminal proceedings

#### **Money Laundering (prohibition) Act 2011**

The Act is a legislation that repeals the Money Laundering Act 2004 and updated provisions to combat the financing of terrorism and money laundering in Nigeria. It imposed penalties, expanded the scope of supervisory authorities, and addressed challenges in implementing anti-money laundering measures. The Act aims to deter illicit activities, strengthen regulatory oversight, and uphold international standards in combating financial crimes. Section 15(1) of the Act establishes the offence of money laundering. It states that any person who converts or transfers resources or properties derived directly from specified criminal activities with the intention of concealing their illicit origin or aiding others to evade the legal consequences shall be guilty of an offence - and this include illicit traffic in narcotic drugs and psychotropic substances. The penalty for this offence is imprisonment for a term not less than 5 years but not more than 10 years. Section 16(1) of the Act outlines various other offences related to money laundering. These include warning or intimidating the owner of funds involved in a transaction about the required report, destroying or removing required registers or records, carrying out transactions under a false identity, making or accepting cash payments exceeding authorized limits, failing to report international transfers of funds or securities, and contravening provisions of the Act. The penalties for these offences range from imprisonment to fines, depending on the specific offence committed. Section 17 addresses the offence of retaining proceeds of a criminal conduct. It states that a person who conceals, removes, transfers, or retains proceeds of a crime on behalf of another person, knowing or suspecting their involvement in criminal conduct or benefiting from it, commits an offence. The penalty for this offence is imprisonment for a term not less than 5 years or a fine equivalent to 5 times the value of the proceeds, or both. Section 18 states that a person who conspires with, aids, abets, counsels, attempts, or is an accessory to an offence under the Act commits an offence and is liable to the same punishment as prescribed for that offence. Section 19 states that if a corporate body commits an offence under the Act, and it can be proven that the offence was instigated, connived, or neglected by a director, manager, secretary, or similar officer of the body corporate, they shall also be guilty of that offence and liable to be proceeded against and punished accordingly. Additionally, the court may order the winding up of the body corporate and forfeiture of its assets and properties to the Federal Government upon conviction. The Federal High reserves the exclusive jurisdiction to try offences contained in the Act.

#### **Pharmacists Council of Nigeria Act 1992**

The Act contains relevant provisions regarding the licensing of Pharmacists to practice and deal in drugs in Nigeria. It contains provisions for the licensing of Nigerian and Non-Nigerian Pharmacists, including the criteria for the approval of pharmacy institutions.

#### **Dangerous Drugs Act 1935**

The Act applies to drugs such as raw opium, coca leaves, and Indian hemp. It empowers the President to make regulations controlling the importation, exportation, manufacture, sale, and use of opium and other dangerous drugs and provides for the issuance of export authorizations and import authorizations, which are required for the lawful export and import of dangerous drugs. The Controller-General of the Customs Service has the authority to issue export authorizations, subject to the presentation of a valid import certificate from the destination country. The Minister of Health has the discretion to grant import authorizations, subject to specified conditions. The Act also includes provisions regarding the transit of dangerous drugs, seizure and detention of drugs in certain circumstances, and the requirement of removal licenses for the movement of dangerous drugs within Nigeria. Section 15 of the Act states that it is unlawful for any person to tamper with a dangerous drug in transit. This includes any process that would alter the nature of the drug or intentionally opening or breaking a package containing a dangerous drug, unless done under the instructions of the Controller-General of the Customs Service and in the manner directed. Section 16 prohibits any person from causing or procuring a dangerous drug brought into Nigeria in transit to be diverted to a destination other than its original consignment. In cases where a drug in transit is accompanied by an export authorization or a diversion certificate issued by a competent authority of another country, the country stated in that authorization or certificate is considered the country of destination. The Controller-General of the Customs Service has the discretion to issue a diversion certificate for a dangerous drug in transit. To obtain a diversion certificate, the person seeking diversion must provide a valid and current import certificate issued by a competent authority in the country to which the drug is

proposed to be diverted. If the country is not a party to the Convention, alternative evidence may be required to demonstrate that the drug will be sent lawfully and for a proper purpose. The diversion certificate is issued in duplicate, with one copy accompanying the drug upon export from Nigeria, and the other copy being sent by the Controller-General of the Customs Service to the appropriate authority in the country of diversion. Upon issuance of a diversion certificate, any accompanying export authorization or diversion certificate is detained and returned to the issuing authority along with notification of the country to which the drug has been diverted.

Section 17 of the Act grants certain powers of inspection. Authorized police officers or persons appointed by the Minister of Health have the authority to enter the premises of individuals engaged in the business of producing, manufacturing, selling, or distributing drugs covered by the Act. They can demand the production of and inspect any books or documents related to the dealings in such drugs, as well as inspect the stocks of these drugs. If a magistrate receives information under oath indicating reasonable grounds for suspecting that drugs covered by the Act are in the possession or control of any person in any premises or vessel, or that documents related to transactions or dealings in contravention of the Act are in the possession or control of any person, the magistrate may issue a search warrant. The warrant authorizes named police officers to enter the specified premises or vessel, even by force if necessary, and search the premises, vessel, and individuals present. If there are reasonable grounds to suspect that an offence under the Act has occurred in relation to the drugs found or that the document is connected to an offense, the police officers can seize and detain the drugs or documents. Under Section 18, fees for licenses or authorities issued by the Minister of Health or the Controller-General of the Customs Service will be determined by the regulations pertaining to such licenses or authorities. The regulations may prescribe the fee amount, or if not prescribed, the Minister of Health or the Controller-General of the Customs Service has the discretion to determine the appropriate fee. Section 19 defines offenses and penalties under the Act. Various actions are considered offenses, such as acting in contravention of the Act, failing to comply with its provisions or license conditions, making false declarations or statements, or aiding and abetting the commission of offenses in other jurisdictions.

The penalties for offences can include fines up to two-thousand-naira, imprisonment for up to ten years, or both. Upon conviction, the court may also order the forfeiture and destruction or disposal of articles related to the offense. In cases where the offense relates to regulations on record-keeping or issuing and dispensing prescriptions, and the court is satisfied that the offense was committed inadvertently and not in connection with any other offense, the maximum fine or imprisonment without the option of a fine is limited. If a person attempts to commit an offence or incites others to do so, they can be held liable for the same punishment and forfeiture as if they had committed the offence. If a company is convicted of an offence, the chairman, directors, and officers involved in its management can also be held guilty unless they can prove that the offense occurred without their knowledge or consent. Section 20 states that in proceedings against any person for an offence under the Act, the burden of proof for any licenses, authorities, or other matters of exception or defence lies with the accused. Under Section 21, police officers have the power to arrest without a warrant any person who has committed, attempted to commit, or is reasonably suspected of having committed or attempted to commit an offence under the Act.

#### **Food and Drugs Act 1976**

Section 1 of the Act established strict regulations regarding the sale, importation, manufacture, and storage of various items such as food, drugs, cosmetics, and devices. It prohibits the presence of poisonous or harmful substances in food, unfit or adulterated food and drugs, unsanitary conditions in the production and storage of food, drugs, and cosmetics, and the inclusion of harmful substances in cosmetics and potentially hazardous devices. These provisions prioritize consumer safety and the quality of products intended for consumption, medical use, or personal care. Sections 2, 3, and 4 of the Act addressed different aspects of consumer protection and regulatory control. Section 2 prevents misleading claims about the efficacy of products in treating specific diseases, emphasizing accurate information and regulatory approval. Section 3 controls the importation, exportation, manufacturing, sale, and distribution of specified drugs to ensure compliance with authorized regulations and protect public health. Section 4 empowers the Minister and authorized representatives to request information on substances used in the production of food, drugs, or cosmetics, enabling informed decision-making and safeguarding confidentiality. Section 5 of the Act prohibits misleading practices in the sale and advertising of food, drugs, cosmetics, and devices. It ensures that labeling and advertising do not create false impressions about their quality, composition, or safety. Compliance with prescribed standards is required, and substances must not be misrepresented as regulated products. Section 6 prohibits the unsanitary manufacture, preparation, packaging, and storage of food, drugs, and cosmetics. Section 7 mandates that a certificate from the Minister is required for the manufacture and sale of drugs specified in the Fourth and Fifth Schedules. It ensures that manufacturing premises and processes meet safety standards, and batches of drugs must be certified as safe before they can be sold. Distribution of these drugs as samples is also regulated. Section 9 authorizes the Minister or designated individuals to order manufacturers to provide a declaration confirming compliance with the Act and regulations. Importation of food, drugs, cosmetics, or devices requires certificates from manufacturers and the exporting country, ensuring adherence to standards. Under section 10, the Minister can designate qualified individuals as food and drug analysts or inspection officers based on prescribed qualifications. Analysts must have chemistry degrees, suitable facilities, training, and experience, while drug analysts need pharmacy qualifications and relevant experience. Also, inspecting officers have the authority to enter premises, examine articles, take samples, inspect containers, examine records, and seize items that violate the Act or regulations. Cooperation is expected from premises owners. Seized articles are stored and returned if compliant. Analysis reports by analysts serve as evidence, and copies are shared with the owner if legal proceedings occur.<sup>42</sup>

The Act includes provisions that prohibit the intentional inclusion of false statements in required certificates or documents<sup>43</sup> and obstructing or providing false statements to inspecting officers.<sup>44</sup> It also grants inspecting officers the authority to examine imported food, drugs, and cosmetics, and take samples for analysis. The release of these items to importers is contingent upon compliance with the Act and regulations.<sup>45</sup> In cases where substances are seized, they may be forfeited to the Minister upon consent of the owner or by

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<sup>42</sup> Section 10

<sup>43</sup> (Section 11)

<sup>44</sup> (Section 12)

<sup>45</sup> (Section 13)

court order if the person is convicted of an offence under the Act. A judge may also order forfeiture if it is determined that the substance is being used to contravene the Act or regulations.<sup>46</sup> The Act allows the Minister to establish the Food and Drugs Advisory Council, which assists in formulating and reviewing regulations related to the Act. The Council includes members with expertise in relevant areas, representing producers, distributors, consumers, or users of food, drugs, cosmetics, or devices.<sup>47</sup> Regulations play a crucial role in implementing the Act. They cover various aspects such as defining adulteration criteria, setting standards for labeling, packaging, and sale, regulating importation, prescribing manufacturing methods, establishing record-keeping requirements, determining testing procedures and fees, regulating advertisements, and more.<sup>48</sup>

Any person who contravenes the Act or its regulations or fails to comply with the requirements can be convicted of an offense. The penalties for such offenses include a fine of not less than fifty thousand naira, imprisonment for a maximum of two years, or both.<sup>49</sup> If an offence is committed by a body corporate with the consent, connivance, or neglect of a director, manager, secretary, or similar officer, they can be deemed guilty of the offense as well. Both the body corporate and the individual can be proceeded against and punished accordingly.<sup>50</sup> The Federal High Court has exclusive jurisdiction to try offenses under the Act. This means that all cases related to violations of the Act will be heard and determined by the Federal High Court.<sup>51</sup> It can be a defence in proceedings for the sale of substances in contravention of the Act or regulations if the accused can prove that they sold the drugs in the same condition and packaging as when they bought it and could not have reasonably known about the contravention. However, this defence must be disclosed to the prosecution in advance.<sup>52</sup> The Act recognizes the *evidentiary* value of certificates signed by analysts. The production of such a certificate serves as *prima facie* evidence, but the opposing party has the right to cross-examine the analyst. Additionally, employers or principals can be held liable for offences committed by their employees or agents, and there is a presumption that if a prescribed substance is found in the possession of an individual charged with manufacturing adulterated food or drugs, the products are presumed to be adulterated unless proven otherwise.<sup>53</sup>

### **Counterfeit and Fake Drugs and Unwholesome Processed Foods (Miscellaneous Provisions) Act 1999**

The Act is a crucial legislation aimed at safeguarding public health and ensuring the quality and safety of drugs and processed foods. The Act begins by prohibiting the sale, distribution, production, importation, and possession of counterfeit, adulterated, banned, or fake drugs, as well as substandard or expired drugs and unwholesome processed foods. It emphasizes the seriousness of these offenses and outlines the corresponding punishments, including fines and imprisonment. Additionally, the Act addresses the issue of illegal sale and display of drugs and poisons in unauthorized premises or places. It highlights the importance of licensing and registration of establishments involved in the sale and distribution of drugs or poisons. Offenders engaging in hawking, selling, or displaying drugs or poisons in unlicensed locations, such as markets, kiosks, and roadside stalls, are held accountable under the Act. The Act also establishes the Federal Task Force, responsible for enforcing the Act's provisions at the federal level. Comprising representatives from various regulatory bodies and enforcement agencies, the Federal Task Force coordinates and monitors activities related to combating counterfeit and fake drugs and unwholesome processed foods. Their functions include conducting inspections, seizing illicit products, and sealing premises involved in offenses until remedial actions are taken. At the state level, the Act provides for the establishment of State Task Forces to complement the efforts of the Federal Task Force. These task forces play a vital role in enforcing the Act's provisions within their respective jurisdictions, with specific members appointed to ensure the involvement of relevant stakeholders, such as the police force and the Pharmacists Council of Nigeria. The Act's penalties are significant, reflecting the gravity of the offences committed. Individuals found guilty of offenses under the Act can face substantial fines and lengthy imprisonment terms. Moreover, the Act holds not only the body corporate but also individuals responsible for offences committed by the corporation. The Act donates the Federal High Court with exclusive jurisdiction to hear cases related to offences under this legislation. This ensures a specialized legal process and expeditious resolution of cases, contributing to the effectiveness of enforcement efforts.

### **7. Effectiveness of Drug Laws in Nigeria**

The effectiveness of these laws could be assessed using the following criteria:

**Drug Trafficking:** Nigeria has implemented drug laws and established the NDLEA to combat drug trafficking. However, the effectiveness of these laws can be assessed by considering factors such as the prevalence of drug trafficking, the success rate of arrests and prosecutions, and the overall impact on drug trafficking activities. While the NDLEA has made significant efforts in intercepting drug shipments and arresting traffickers, drug trafficking remains a persistent issue in Nigeria, indicating that further measures may be needed to enhance the effectiveness of drug laws.

**Drug Abuse Prevention:** Nigeria has laws in place to address drug abuse, including provisions for treatment and rehabilitation. However, the effectiveness of these laws can be evaluated by examining factors such as the prevalence of drug abuse, the availability and accessibility of treatment and rehabilitation services, and the success in reducing drug abuse rates. Nigeria continues to face challenges in combating drug abuse, with high rates of substance use reported among certain segments of the population. This suggests that additional efforts may be necessary to strengthen drug abuse prevention strategies and improve access to treatment and rehabilitation services.

**Control of Counterfeit Drugs and Unwholesome Processed Foods:** Nigeria has enacted laws to prohibit the sale and distribution of counterfeit drugs and unwholesome processed foods. However, the effectiveness of these laws depends on the enforcement and

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<sup>46</sup> (Section 14)

<sup>47</sup> (Section 15).

<sup>48</sup> (Section 16).

<sup>49</sup> [Section 17(1)]

<sup>50</sup> [Section 17(2)]

<sup>51</sup> [Section 18]

<sup>52</sup> [Section 19]

<sup>53</sup> [Section 20(1)(3)(4)]



implementation mechanisms in place, including the capacity of regulatory bodies such as NAFDAC. While progress has been made in combating counterfeit drugs and unwholesome foods, challenges still exist, and further efforts are required to enhance the effectiveness of these laws.

**International Cooperation:** Nigeria actively engages in international cooperation to address drug-related issues. This includes collaboration with organizations such as the United Nations Office on Drugs and Crime (UNODC) and participation in regional initiatives. The effectiveness of international cooperation efforts can be evaluated based on factors such as information sharing, joint operations, and capacity building. Nigeria's engagement in international cooperation demonstrates a commitment to addressing drug-related challenges collectively. However, the impact and effectiveness of these efforts in combating drug trafficking and abuse vary and require continuous evaluation and improvement.

## **8. Conclusion**

Drug offences in Nigeria pose significant challenges that require a comprehensive approach. While Nigeria has enacted laws and established institutions like the NDLEA to combat drug offenses, the effectiveness of these laws needs continuous assessment and improvement. Prevention and education are crucial in reducing drug abuse. Comprehensive drug education programs, community outreach initiatives, and public campaigns targeting different demographics can raise awareness about the dangers of drug abuse and promote healthy lifestyles. It must be observed however that the realities of the present day Nigeria is that there are no adequate mechanisms for implementation of the provisions of the laws discussed in this paper. The NDLEA and other organisations involved in the implementation and enforcement of the provision of these laws that provide for drug offences are poorly funded. This affects their ability to acquire the necessary facilities that will help in the prevention of drug related offences as well as their ability to enforce the laws. There is therefore the need to properly fund these institutions by providing them with the necessary finances and tools like patrol vehicles, modern technologies, necessary ICT supports, effective rehabilitation centres as well as adequate manpower to help in their prevention and enforcement responsibilities. Law enforcement efforts should focus on disrupting drug trafficking networks, dismantling drug manufacturing facilities, and apprehending offenders. Strengthening the capacity of law enforcement agencies by providing the basic facilities like patrol vehicles, improving intelligence gathering and sharing, and promoting international cooperation are key steps in combating drug offenses effectively. Rehabilitation and reintegration of drug offenders are important aspects of addressing drug offenses. Providing access to treatment, counseling, and support services can help individuals overcome addiction and reduce the likelihood of relapse. Adequate allocation of resources is essential for the implementation of effective drug control strategies. This includes investing in training programs for law enforcement, improving forensic capabilities, and enhancing rehabilitation facilities. It is finally submitted that by continuously evaluating and improving drug laws, strengthening enforcement measures, promoting prevention initiatives, and providing rehabilitation services, Nigeria can work towards reducing drug offenses, protecting its citizens, and building a healthier and safer society.