

LEGAL FRAMEWORK ON DRUGS AND MONEY LAUNDERING ACTIVITIES IN NIGERIA

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Abstract

This paper focuses on the Legal Framework on Drug and Money Laundering Activities in line with its adequacy and effectiveness or otherwise in Nigeria. This became imperative considering enormous social, economic, as well as security threats of both drug and money laundering menace to the nations of the world, Nigeria inclusive. The study adopted primarily doctrinal approach with a view to evaluating various legal frameworks connected thereto. Having carefully analyzed various legal framework dealing with drug trafficking, money laundering, as well as the prospects and challenges to the enforcement drive, it was discovered that, it is not how excellent and available the legal framework are or seems to be, but the will power of the government of the day towards the implementation process of such laws in line with new trends adopted in committing such offences matter most. Hence, it was recommended that, for effective and purposeful implementation of such laws, there must be demonstrated government will power in providing better welfare packages, provision of adequate technological facilities, adequate manpower, training and re-training of officers and men, effective supervision on the part of the officers and relevant government agencies, as well as the poverty alleviation and economic empowerment of the citizenry with a view to having more effective enforcement mechanisms towards achieving the desired objectives.

Keywords: Drug, Drug Trafficking, Money Laundering

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1. Introduction

This paper focuses on the Legal Framework on Drug and Money Laundering Activities in line with its adequacy and effectiveness or otherwise in Nigeria. Drugs and money laundering menace are two social vices that erode the economic and social fabric of most nations of the world, creating different forms of social security threats and rapid growth of criminal elements in the society while economy of the nation is reduce to zero level. As man comes into contact with the natural environment from on set, he feeds, shelter and defecates on same. Hence, whenever he experiences certain unpleasant condition, he tends to be prone to seeking alternatives from the same environment. It is against this backdrop that the uses of mind-altering substances obtained from the same environment with a view to alleviating pain and provide an escape from reality have been in existence throughout history. The use of herpes in form of drug and over use or in other words, misuse of such drug also has been part of the history of mankind.¹

However, modern methods of drug abuse have expanded since the mid-1800s due to increase in availability of such drug, changing various social factors, creating different forms of social security threats to the society, and rapid growth of criminal elements. The economic factors that propel considerable institutional development of the society are also negatively affected.²

By the early twentieth century, the proliferation of drug trafficking for non-medical purposes necessitated various countries in taken certain measures with a view to addressing the situation. However, considering the expansive and extensive nature of different nations border, while the drug barons, agents and street vendors becoming more sophisticated in their operations, it sparks transnational dimension of drug trafficking while the proceeds generated from such illicit activities are also in the increase with concerted effort to conceals the true nature

¹ J. H. Warmund, 'Removing Drug Lords and Street Pushers: The Extradition of Nationals in Colombia and the Dominican Republic' [1998], p. 2392; *Fordham International Law Journal*, *The Berkeley Electronic Press (bepress)*. Vol. 22, issue 5, article 12; accessed at, <<http://ir.lawnet.fordham.edu/ilj>>, also accessible at <https://search.yahoo.com/yhs/search?hspart=adk&hsimp=yhs-adk_sbyhp&p=Re,> visited on the 21/03/2017.

² Ibid.

of such proceeds through the medium of money laundering process. As the situation was becoming unabated, it became imperative that, the issue of drug trafficking and the illicit proceeds accruing from it requires effective international cooperation; hence, the enactment of various national and international legal frameworks to regulate such illegal activities.³

2. Conceptual Clarifications

2.1 Drug

The word drug remains another complex phenomenon when it comes to its definition, as there is no universally accepted definition on it; however, the work will consider and adopt the definition of Stedman's Medical Dictionary,⁴ where it defined drug as:

Chemical substance used in the treatment, cure, prevention, or diagnosis of disease or used to otherwise enhance physical or mental well-being; it continued thus; any substance recognized in the official pharmacopoeia or formula of the Nation. And any substance intended for prevention of disease in human or other animals.

This definition seems to capture most of the ingredients or the notion of drug based on national interest or what a particular state considers as legitimate for the overriding interest of public health and safety of the people, which is the primary responsibility of any government.

2.2 Drug Trafficking

Drug trafficking is referred to as a global illicit trade involving the cultivation, manufacturing, distribution and sale of substances which are subject to drug prohibition law.⁵

It is therefore considered more than a mere possession of the illicit drug, as it was classically laid to rest by **Justice Bird** of the Court of

³ Ibid.

⁴ Stedman's Medical Dictionary, Reviewed in 2014-05-01-via Drugs.com; accessed at, <<http://www.dictionary.com/browse/drug>>, visited on 08/04/ 2017.

⁵ United Nations Office on Drugs and Crime (UNODC); accessed at <<https://www.unodc.org/unodc/en/drug-trafficking/>>, visited on the 11/04/ 2017.

Appeal British Colombia, in the case of **R v. MacDonald**⁶, where he ruled that: 'Some element or ingredient beyond mere possession is required to constitute trafficking. Unlawful possession is not an essential ingredient of trafficking and the accused person can be in unlawful possession though be not engaged in trafficking'.

Similarly, in **R v. Larson**,⁷ Justice Branca of the Court ruled that; Trafficking does not include the act of buying or accepting from a vendor. The one who buys, accepts or receives a drug might acquire possession of that drug for his own use and/or for the purpose of trafficking as defined in the *Narcotic Control Act*. If he receives possession in one of the ways aforesaid, unless he has a license, he is guilty of unlawful possession of narcotic.

Thus, it requires the act of moving and trade of the illegal drug from one country to another

2.3 Money Laundering

Money Laundering in a simple way can be described as the process by which a person conceals or disguises the identity or the origin of illegally obtained proceeds so that they appear to have originated from legitimate sources.⁸

⁶ (1963) 43 W.W.R. 238, 41 CR. 234 and at 1963 Carswell BC 98; Quoted by Duhaime's Online Law Dictionary; accessed at, <<http://www.duhaime.org/LegalDictionary/T/Trafficking.aspx>>, visited on 11/04/2017.

⁷ (1972) 2 W.W.R. 705. 18 CR (N.S) 149. 6 C.C.C. (2d) 145 and at 1972. Quoted by Duhaime's Online Law Dictionary; ibid.

⁸ United Nations, Office for Drug Control and Crime Prevention and International Monetary Fund, *Model Legislative on Money Laundering and Terrorism Financing (for Civil Law Legal Systems)* (Report) (IMF, UNODC, 1st December, 2005) 1; Cited by D. Roberto, in 'Redefining Money Laundering and Financing Terrorism', p. 4, accessed at, http://www.iae.edu.ar/pi/Documentos%20Investigacin/Research%20Seminars/New%20Definition%20of%20Money%20Laundering_RD.pdf, visited on the 21/04/2020.

It has also been defined by the Court in *Kalu v Federal Republic of Nigeria*⁹ as the varied means by which criminals conceal the origin of their activities. The term “laundering” as noted by the court, is used due to the techniques adopted which are intended to turn dirty money in to clean money.¹⁰

It would now suffice to define money laundering as a criminal process by which large amount of illegally obtained money most especially (from drugs, human, and arms trafficking, terrorist activity or other serious crimes) are transformed through other various legitimate manners to appear as having legitimate outlook.

3. Legal Framework on Drug and Money Laundering Activities in Nigeria

As a result of the increasing nature and other side effects of illicit drug, countries such as China, United States of America and other leading nations of the world had been looking for an avenue where international community could come together for the fight against the cultivation, production, processing, use and abuse of drug as no single nation of the world can do it alone. Thus, in this sub-topic, the study will primarily evaluate the provisions of the United Nations Convention Against Use of Illicit Drugs of 1961, popularly called the Single Convention of 1961; the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988; as well as the United Nations Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem, held in Vienna, from 11-12 March, 2009.¹¹ Nonetheless, the work will first appreciate and consider the effort made by the League of Nations by first looking into various control measures provided before the eventual creation of the United Nations.

⁹ (2012) LPELR -9287 (CA), cited by Mukhtar ibid, p. 152.

¹⁰ Ibid.

¹¹ United Nations Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem, held in Vienna, from 11-12 March, 2009.

3.1 International Legal Framework on Drug and Money Laundering Activities

3.1.1 League of Nations Era

Prior to the creation of the United Nations, the League of Nations and other organs in 1920 established an Advisory Committee on Traffic in Opium and other Dangerous Drugs; to study the situation with a view to advising the council on the subject¹². Consequent upon their report, three series of Conventions were convened during the pendency of the League of Nations. The first was the 1925 Convention which came into force on 25th September, 1928. The aim of this Convention was to supervise the statistical control system on Opium. It also established a system of import certification and export authorizations for the international trade of the illicit narcotic drugs.¹³

In 1931, another Convention was convened which came into force on 9th July, 1933, aimed at limiting the world's manufacture of drugs to the amount needed for medical and scientific purposes, by introducing a compulsory estimate system of the narcotic drugs. The third and the last convention during the pendency of the League was the one held in 1936 which came into force on September 26, 1939. This Convention was the first ever to call for the severe punishment of illicit drug traffickers, as mere controlling the illegal shipment of narcotic drugs were not sufficient to deal with the situation.¹⁴

3.1.2 United Nations Era

In 1946, the United Nations took over the drug control functions and responsibilities formerly carried out by the League of Nations. All illicit drug control and other related issues were transferred to the United Nations Commission on Narcotic Drugs, by the 1946 Protocol which came in to force on 10th October, 1947.

¹² O.O. Jacob, 'Historical Perspective of International Efforts at Eradicating Illicit Drug trade and Abuse' (2014); P. 54, *European Journal of Research and Social Science*, Vol. 2, No.3, issue no. 2056-5429; accessed at <<http://www.idpublications.org/wp-content/uploads/2014/07/historical-perspective-of-international-efforts-at-eradicating-illic>>, visited on 16/04/ 2017.

¹³ Ibid.

¹⁴ Ibid, pp. 54-55.

In 1948, another Protocol was signed which came into force on December 1st, 1949. Unlike the previous Protocols, this one sought to incorporate not only control of the Opium Poppy, the coca bush and the *cannabis* plants, but also many other man-made substances compounds synthesized drugs which had dependence-producing effects and were brought under the mantle of international law and control by the 1948 Protocol, as they were not taken care of by the 1931 Convention.¹⁵

3.1.2.1 Single Convention on Narcotic Drugs of 1961

In 1961, a Single Convention on narcotic drugs appeared to be one of the most important Conventions on narcotic drugs, as it unified all the previous international legal instruments dealing with the cultivation, procurement, sale, distribution, use and consumption of the narcotic drugs. The convention which came into force on December 13, 1964 was later amended by the 1972 Protocol. It is regarded as a major achievement in the history of international effort to control narcotic drugs. The convention established the International Narcotic Control Board (INCB)¹⁶, as one of the goals of the treaty was the extension of the existing control system to include the cultivation of plants that were grown as the raw material of natural narcotic drugs. The single convention prohibits the practices of Opium smoking, Opium eating, Coca leaf chewing, hashish (*cannabis*) smoking and the use of *cannabis* plant for any known medical purposes for the first time.¹⁷

In 1981, international drug abuse control strategy was launched by the United Nations with a view to monitoring drug activities ranging from drug control, abuse, trafficking, treatment, etc, for five years with effect from 1982 to 1986. The United Nations also emphasized on the ratification of the treaties, the participation of non-governmental organizations and agencies within the United Nations system to provide increase support to aid government in the aforementioned activities as enhancement of capacity for drug law enforcement.¹⁸

¹⁵ Ibid, p. 55.

¹⁶ Ibid, pp 55-56.

¹⁷ Single Convention of 1961, Article 2.

¹⁸ O.O. Jacob, P.56; Op cit p.4.

3.1.2.2 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988

In 1988, United Nations Convention against illicit traffic in narcotic drugs and psychotropic substances was held in which it was observed that, the menace of the drug trafficking and abuse of psychotropic substance are affecting millions of individuals either directly or from the criminal activities of the traffickers, related violence and ever-increasing corruption, as it did not only destroy human lives but also jeopardized the structure of society and even threatened the ability of governments or countries in most regions of the world, transcending national frontiers and social systems and all nations are vulnerable regardless of geographical location, political orientation or stage of economic development.¹⁹

In view of its alarming dimensions therefore, drug abuse phenomenon is now increasingly seen as a growing global challenge requiring a joint global response from all nations of the world. At the Convention adopted by 106 nations of the world, various new measures were proposed and adopted for implementation with a view to crippling the activities of drug traffickers²⁰. The Convention was designed to deprive the drug traffickers of ill-gotten financial gains and freedom of movement, by tracing, freezing and confiscation of proceeds and property derived from drug trafficking.²¹

Accordingly, the Convention in Article 14 provided that:²²

Any measures taken pursuant to this Convention by Parties shall not be less stringent than the provisions applicable to the eradication of illicit cultivation of plants containing narcotic and psychotropic substances and to the elimination of illicit demand for narcotic drugs and psychotropic substances under the provisions of the 1961 Convention, the 1961 Convention as amended and the 1971 Convention. Furthermore, each Party shall take appropriate measures to prevent illicit cultivation of and to eradicate plants containing narcotic or psychotropic substances, such as

¹⁹ Ibid, p. 58.

²⁰ Ibid, p. 58.

²¹ United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988; Article 5.

²² Article 14, Ibid.

opium poppy, coca bush and cannabis plants, cultivated illicitly in its territory...

The Convention also provides for the control of precursor and other essential chemicals used for the manufacture of such illicit drugs. Article 12 of the convention²³ introduced a number of control measures on various substances frequently used in the illicit manufacture of narcotic drugs and psychotropic substances. The Article entrusted the International Narcotic Control Board (INCB) with the responsibilities of monitoring the Implementation by Government of the control measures over such substances and assessing chemical substances for possible international control whenever necessary.²⁴

On the 23rd February, 1990, the United Nations General Assembly further agreed on a thirty point political declaration and a one hundred point to fight international war on drug abuse and to protect mankind from the scourge of drug abuse and illicit trafficking in drugs²⁵. During the political declaration, the member states committed themselves in effective implementation of the plan and action, where they resolved thus:

We, the States Members of the United Nations:

13. Agree that amphetamine-type stimulants and psychotropic substances continue to pose a serious and constantly evolving challenge to international drug control efforts, which threatens the security, health and welfare of the population, especially youth, and requires a focused and comprehensive national, regional and global response, based on scientific evidence and experience, in an international and multi-sectoral setting²⁶

39. Commit ourselves to implementing effectively the present Political Declaration and its Plan of Action through resolute international cooperation, in collaboration with

²³ Article 12, Ibid.

²⁴ O.O. Jacob, Pp.58-9; Op cit p.4.

²⁵ Ibid, p. 59.

²⁶ United Nations Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem, held in Vienna, from 11-12 March, 2009.

relevant regional and international organizations, with the full assistance of the international financial institutions and other relevant agencies and in cooperation with civil society, including non-governmental organizations, as well as the private and public sectors, and to reporting biennially to the Commission on Narcotic Drugs on the efforts to fully implement the Political Declaration and the Plan of Action, and also consider it necessary for the Commission to include on its agenda a separate item on follow-up to the Political Declaration and its Plan of Action...²⁷

3.1.2.3 United Nations Convention against Transnational Organized Crime (UNTOC) 2000

The United Nations Convention against Transnational Organized Crime (UNTOC) otherwise known as Palermo Convention was sponsored by the United Nations and adopted in 2000, however, came into force on 29 September 2003. The Convention was the first of its kind to with the primary aim at combating transnational organized crime, trafficking of human persons, terrorism and all other means and sources of sponsoring transnational organized crimes, money laundering activities inclusive.²⁸ The provision of this Convention equally mandates state members to adopt such legislative and other measures to criminalize laundering of proceeds of crime.²⁹

In order to achieve the desired objectives, the Convention adopted a measure to be implemented by member states with a view to combating money laundering activities as encapsulated in Article 7 (1) (a) of the Convention thus:

Each State Party:

(a) Shall institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions and, where appropriate, other bodies

²⁷ Ibid.

²⁸ Wikipedia.org, 'United Nations Convention against Transnational Organized Crime'; accessed at https://en.wikipedia.org/wiki/United_Nations_Convention_Against_Transnational_Organized_Crime, visited on 21st January, 2023.

²⁹ United Nations Convention against Transnational Organized Crime, 2000, Art. 6.

particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer identification, record-keeping and the reporting of suspicious transactions;

3.1.2.4 The United Nations Convention against Corruption (UNCAC) 2003

The United Nations Convention against Corruption (UNCAC) is an international anti corruption instrument deliberated and negotiated in 2003 by member states under the banner of the United Nations and came into force in 2005. The primary aim of the instrument among others was the prevention, suppression and providing punitive measures towards addressing the nature of corruption and the peculiar trend at which the proceeds of such crime transcends the boundary of national frontiers only to be traced thereafter with the aid of electronic/technological devices. In order to achieve the desired objectives, actions such as abuse of power both in the public and private sector leading to official stealing/ corruption and money laundering activities are to some extent addressed while international cooperation among the various law enforcement measures towards assets recovery were also adequately attended to.³⁰ The member nations are also to ensure the establishment of an independent body or bodies charged with responsibility of the prevention and suppression of corruption effectively without undue influence.³¹

Accordingly, member states are to ensure the provision of comprehensive domestic regulatory and supervisory legal framework regulating to the activities of banks and other financial institutions that provide formal or informal services for the transmission of money or value with a view to converting money laundering activities.³² Thus, Article 14 (1) (b) provides that; Each State Party shall:

(b) Without prejudice to article 46 of this Convention, ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering (including, where appropriate under domestic law, judicial authorities) have the ability to cooperate and

³⁰ United Nations Convention against Corruption (UNCAC) 2003, Art. 1 (a) and (b).

³¹ Ibid, Art 6 (2)

³² Ibid, Art, 14 (1) (a).

exchange information at the national and international levels within the conditions prescribed by its domestic law and, to that end, shall consider the establishment of a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential money-laundering.³³

However, in order to ensure internationally best standard practices, transparency, accountability and proper management of the public property in the course of investigation, prosecution, assets recovery and management of such public property, the Convention mandates all state members ***‘to promote integrity, accountability and proper management of public affairs and public property’***³⁴ in the course of implementing the provisions of this Convention.

Accordingly, it was further emphatically provided that:

Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability³⁵

However, one may pause to ask a question as to what extent the combine provisions of this Article 1 (c) and Article 5 (1) were complied with by the relevant enforcement agencies in Nigeria. Thus, from the date the Economic and Financial Crime Commission (EFCC) and other relevant enforcement agencies were created and charged with the responsibility of implementing the provisions of this Convention, there is no any single record be it central or otherwise indicating the actual amount of monies that were detected to have been misappropriated or stolen, trace, frozen, confiscated and repatriated into the government coffers.

³³ Ibid, Art. 14 (1) (b)

³⁴ Ibid, Art. 1 (c).

³⁵ Ibid, Art. 5 (1).

It is pertinent to observe that, even the monies that were reported to have been recovered by the EFCC from its inception to date could not be transparently accounted for. This is because there is no inclusiveness with other independent observer group or civil society; lack of transparency and accountability in the custody and management of the recovered assets; and lack of effective supervision from the relevant and responsible government agency (Federal Ministry of Justice). It is therefore the humble view of this author, that inclusiveness of the independent observer and civil society group, transparent and accountable manner in the recovered assets and management, as well as close supervision of the relevant investigation agencies as in line with the provisions of this Convention be ensured and emplaced for better achievement of the desired objectives.

The aforementioned provisions committed all the ratifying nations, Nigeria inclusive, to abide by and implement the provisions of the different treaties and Conventions so ratified. The aforementioned legal frameworks are some of the international Conventions and treaties dealing with the control and regulation of drugs and drug trafficking in the world applicable to Nigeria³⁶ as well as the money laundering activities.

3.2 Domestic Legal Framework on Drugs and Money Laundering Activities

For the purpose of criminalization, prevention, control as well as the operational conduct in the suppression of traffic in illicit narcotic drugs and psychotropic substances in Nigeria, certain legal frameworks may be relevant in the course of either investigation, prosecution, or in the course of extraditing offenders or proceeds of crimes as it relates to illicit drug activities. Some of the legal frameworks include Constitution of the Federal Republic of Nigeria 1999, the Evidence Act, 2011, Administration of Criminal Justice Act, 2015, among others.

³⁶ S. O. Ogege, 'Drug Prohibition and the Problem of Conformity in Nigeria' (2010), P. 92, *Journal of Psychology*, 1 (2) 91-97; accessed at <<http://www.krepublishers.com/02-Journals/JP/JP-01-0-000-10-Web/JP-01-2-000-10-PDF/JP-01-2-091-022-Omadjohwoefe-O-S/JP-01-2-091-0,>> visited on 17/04/2020.

Nonetheless, some of the legal frameworks will be explained in due course. They are:

3.2.1 Constitution of the Federal Republic of Nigeria, 1999

In Nigeria, the first legal framework dealing with illicit drug control and punishment revolves around the legal ground norm, which is the Constitution of the Federal Republic of Nigeria, 1999 as amended, which gave legal recognition to any other law in the country, be it an Act of the National Assembly or any international instrument applicable to Nigeria. Thus, in discharging their constitutional responsibilities, law enforcement agencies, such as the Police, National Drugs Law Enforcement Agency (NDLEA) or Economic and Financial Crimes Commission (EFCC) are expected to respect and abide by the provisions of the Constitution³⁷ as held by the court in the case of *Esai Dangabar v Federal Republic of Nigeria*³⁸ where the stated that;

Interestingly, the courts in various judicial decisions have readily held that security and law enforcement agencies [like the EFCC], acting pursuant to the asset freezing/forfeiture provisions in their Establishment Acts or any other enabling law, have powers to confiscate suspicious assets subject to validly made court orders, without violating the provisions of section 42 of the Constitution

3.2.2 The Dangerous Drugs Ordinance of 1935

One of the pre-independence legal instruments that shaped Nigeria's responses to drug menace was the Dangerous Drugs Ordinance of 1935, which was the first local legislation aimed at prohibiting the importation, exportation, transit, production, sales, distribution of opium, coca leaves, Indian hemp, morphine or heroin or other dangerous drugs; it was then followed by the Indian hemp Decree No. 19 of 1966, which prescribed a stiff punishment of death penalty or 21 years of imprisonment for the cultivation, 10 years imprisonment for exportation and for those found smoking it or having possession of

³⁷ CFRN (1999) as amended.

³⁸ (2014) 12 NWLR (Pt. 1422) 575; Quoted by Banwo Ighodalo, 'Re-Examining the Purport of the Executive Order No. 6 of 2018', (Posted in 2018); accessed at <<https://www.banwo-ighodalo.com/grey-matter/re-examining-the-purport-of-the-executive-order-no-6-of-2018?leaf=2>>, visited on 07/09/2020.

it.³⁹The two legislations were closely followed by the Indian hemp (amendment) Decree No. 34 of 1975, which came with less severe punishment but was immediately re-amended in 1975, bringing back the stiffer punishment. These legislations were followed by the special tribunal (miscellaneous offences) Decree of 1984, The Decree expressly prescribed death penalty by firing squad for dealing in, buying, selling, exposing or offering for sale or luring somebody to buy, sell, use, smoke, or inhale any drug known as cocaine or related drugs.⁴⁰

3.2.3 The National Drug Law Enforcement Agency (NDLEA) Decree No.48 of 1989

The National Drug Law Enforcement Agency (NDLEA) Decree No.48 of 1989, was the enabling law that established illicit drug enforcement agency to be called as the National Drug Law Enforcement Agency (NDLEA); it also provides the institutional, procedural as well as the operational framework of the Agency, which is charged with the responsibility among others, with the suppression of trafficking in and abuse of illegal drugs, taking over the responsibility from the narcotic section of the Nigeria Police Force.

The Decree specified the punishments for illicit drug use and trafficking, which included life imprisonment for trafficking in cocaine, Lysergic Acid Diethylamide (LSD), heroin or similar drugs; and 15 years but not exceeding 25 years for possession or use of same. This legal framework was followed by the NDLEA [Amendment] Decree 33, of 1990; the NDLEA (Amendment) Decree No. 15 of 1992 which were all amended/consolidated in 2004 by Cap N30 Laws of the Federation of Nigeria (LFN 2004)⁴¹. These provisions were followed by the Dangerous Drug Act⁴² and the Counterfeit and Fake Drugs and Wholesome Processed Food (Miscellaneous Provisions) Act⁴³, all with the primary responsibility for the control, suppression and enforcing

³⁹ S. E. Otu, 'The 'War' on Drugs' in Nigeria: How Effective and Beneficial is it in Dealing with the Problem? (2013) P. 124-5, *African Journal of Drug and Alcohol Studies*; accessed at <<https://www.ajol.info/index.php/ajdas/article/view/103581>>, visited on 16/04/2017.

⁴⁰ Ibid.

⁴¹ Ibid, P. 125.

⁴² Dangerous Drug Act Cap N30, LFN 2004.

⁴³ Counterfeit and Fake Drugs and Wholesome Processed Food (Miscellaneous Provisions) Act, Cap C34 LFN 2004.

relevant legal frameworks dealing with illicit drugs trafficking and proceeds emanating from the illicit activities.⁴⁴

3.2.4 Money Laundering (Prohibition) Act, 2004

The first legal framework enacted in the country to deal with the issue of Money Laundering activities was the Money Laundering (Miscellaneous Offences) Decree No.3 of 1995, which was re-enacted by the Money Laundering (Prohibition) Act No. 7 of 2004, primarily enacted with a view to depriving drugs lords benefitting from the illegal proceeds of their illicit business. This was devised with the creation of fund transfer reporting mechanisms in which Financial Institutions are directed to report any cash transaction involving five million Naira (N5,000,000.00) or its equivalent, in the case of an individual; or ten million Naira (N10,000,000.00) or its equivalent in the case of a body corporate, in case of transaction within the country;⁴⁵ while a transfer to or from a foreign country of funds or securities by a person or body corporate including a Money Service Business of a sum exceeding US\$10,000 or its equivalent shall be reported to the Central Bank of Nigeria, Securities Exchange Commission or the Economic and Financial Crime Commission (EFCC) in writing within 7 and 30 days respectively from the date of the transaction⁴⁶ irrespective of the Bank secrecy provisions.⁴⁷

In order to ensure compliance and easy tracing of violating customer(s), an individual or body corporate are required by law⁴⁸ to provide proof of his identity or certificate of incorporation disclosing his identity or existence to the Financial Institution or Designated Non-Financial Institution originals of receipts issued within the previous 3 months by public utilities or any other documents as the relevant regulatory authorities may require for the purpose of opening an account as part of customer due diligence compliance. Even though Customer Due Diligence violation is yet to be tested in Nigerian Courts but in the South African case of *Kwamashu Bakery Ltd v. Standard*

⁴⁴ National Drug Control Master Plan (NDCMP) 2015-2019, June, 2015, p.19.

⁴⁵ Money Laundering (Prohibition) Act, 2011; S. 10 (1)(a) and (b).

⁴⁶ Ibid, S.2 (1) of the Act.

⁴⁷ Ibid, S. 6 (10) of the Act.

⁴⁸ Ibid, S.3 (2) and (3) of the Act.

*Bank of South Africa Ltd*⁴⁹ the court held that, banks are required in terms of common law to identify and verify prospective clients before opening an account.

3.2.5 Economic and Financial Crime Commission (EFCC)(Establishment) Act, 2004

In the investigation and prosecution of offences relating to the illegal proceeds of illicit traffic in narcotic drugs and psychotropic substances, the provisions of the Economic and Financial Crimes Commission Act may be applicable considering the nature or nexus of the offence with financial matters, coupled with the legislative intendment when couching the provisions of the EFCC Act in which the Chairman of the National Drug Law Enforcement Agency was made a member of the Commission.⁵⁰

Secondly, the Commission was statutorily mandated to liaise with the National Drug Law Enforcement Agency among others towards the eradication of economic and financial crimes in the country.⁵¹ The Commission was also vested with powers by the provisions of Section 7 (2) of the Commission⁵² to enforce the provisions of the respective legislation as provided thus:

- (2) The Commission is charged with the responsibility of enforcing the provisions of;
 - (a) the Money Laundering Act 2003; 2003 No.7 1995 N0. 13
 - (b) the Advance Fee Fraud and Other Fraud Related Offences Act 1995;
 - (c) the Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Act 1994, as amended;
 - (d) The Banks and other Financial Institutions Act 1991, as amended; and
 - (e) Miscellaneous Offences Act

⁴⁹ 1995 1 SA 377; Quoted by Ibrahim Abdu Abubakar in 'Overview of Key Sections of Nigeria's Money Laundering (Prohibition) Act, 2012' *International Journal of Law*, (2018) P.52, Vol. 4; Issue 2; accessed at <<https://www.google.com/search?client=firefox-b-d&q=Money+lauding+prohibition+Act+implementation+in+Nigeria>

⁵⁰ Economic and Financial Crimes Commission (EFCC) Act, 2004; S.2 (1) (d).

⁵¹ Ibid; S. 6 (o) of the Act.

⁵² Ibid; S.7 (2)(a—f) of the Act.

- (f) Any other law or regulations relating to economic and financial crimes, including the Criminal code of penal code

The aforementioned provisions were not in any way aimed at taking over the duties of the National Drug Law Enforcement Agency when it relates to the issues of investigating, identifying, tracing, freezing, confiscating or seizing proceeds of illicit drugs activities, rather it was aimed at complementing the effort of one another with a view not to create a vacuum. This may be clearly deduced from the provisions of Section 3 (c) of the Agency's Act,⁵³ when it provides that, 'the Agency shall have the responsibility for the adoption of measures to identify, trace, freeze, confiscate or seize proceeds derived from drug-related offences or property whose value corresponds to such proceeds'. The aforementioned provision with all respect intends to admit or allow discretionary or coordinated measure in identifying, tracing, freezing, confiscating or seizing the illicit proceeds of drug or drugs related offences, as no single agency or country can successfully do it alone.

3.2.6 Evidence Act, 2011

In the course of investigation and prosecution of financial crimes in this country by any agency, the provisions of the Evidence Act⁵⁴ must not only be taken into consideration but must be religiously observed as its provisions applies to all criminal proceedings in Nigeria with the exception of a court martial. It is also applicable in all civil judicial proceedings except those civil causes and matters before the Sharia Court of Appeal, Customary Court of Appeal, Area Court or Customary Court.

Thus, its provisions are to be observed from the point of recording of suspects and witnesses statements with a view to ensuring the relevancy⁵⁵ and admissibility⁵⁶ or otherwise of such valuable evidences its provisions are relevant and also applicable throughout the proceedings, extradition matters before the Federal High Court inclusive, in case if it relates to the issue of extradition of offenders.

⁵³ NDLEA Act, Cap N30, LFN, 2004.

⁵⁴ EA, LFN, (2011), S.1.

⁵⁵ Evidence Act, (2011), Ss.4,5,6,7,8,9,11,12 and 12.

⁵⁶ Ibid, Ss. 21-27.

3.2.7 Extradition Act, 1966

In the event of the need or possibility to extradite drug or money laundering offenders, the provisions of Extradition Act,⁵⁷ Laws of the Federation of Nigeria has to be applied. The applicable Extradition Act to Nigeria was enacted on 31st December, 1966, which came into operation in January 1967. It was enacted to repeal all previous extradition laws made by or applicable to Nigeria before independence and to provide for a more comprehensive legal regime with respect to extradition of fugitive offenders.⁵⁸

The Extradition Act which initially conferred Magistrates Court with the jurisdiction to determine extradition proceedings;⁵⁹ however, with the coming into force of the 1999 Constitution, the position was altered sequel to the provisions of Section 251(1) (i) of the Constitution,⁶⁰ which grants the Federal High Court exclusive jurisdiction to entertain and determine all extradition related matters in the country. This change therefore brought into limelight the application of Extradition Act (Modification) Order 2014 which replaced magistrate with the judge of the Federal High Court and also transferred the supervisory powers from the state's High Courts to the Federal High Court. Therefore, for the purposes of reading, interpreting and application of the Extradition Act, the Extradition Act (Modification) Order⁶¹ must be seen as an integral part of the Extradition Act, therefore applicable in this context. Similarly, where the issue of transfer of some evidence or proceeds of crime located in foreign countries is involved, the provisions of Mutual Assistance in Criminal Matters Act⁶² may be applied with a view to using international law enforcement cooperation mechanism so as to facilitate effective and efficient transfer of such evidences or proceeds of crime as the case may be.

⁵⁷ Extradition Act (1966).

⁵⁸ L Oluwafemi and O O Elijah '*Cases and Materials on Extradition in Nigeria*:' (2016), P.6; accessed at < <https://www.google.com/search?client=firefox-b-d&q=cases+and+materials+on+extradition+of+offenders+to+nigeria+pdf,>> visited on the 11/08/2019.

⁵⁹ Ibid.

⁶⁰ CFRN, (1999) as amended.

⁶¹ Extradition Act (Modification) Order, 2014.

⁶² Mutual Assistance in Criminal Matters Act, LFN, (2019) as amended.

3.2.8 Federal High Court (Extradition Proceedings) Rules, 2015

As the power to adjudicate extradition matters was transferred from the Magistrate to the Federal High Court, there was the need to have rules regulating the conduct of extradition proceedings before it, hence, the Federal High Court (Extradition Proceedings) Rules, 2015 which were made pursuant to the powers conferred on the Chief Judge of the Federal High Court by the Constitution.⁶³ These powers enable the Chief Judge of the Federal High Court to make procedural rules relating to matters over which the Federal High Court has jurisdiction. Although the Extradition Act has certain procedural provisions, however, they are inadequate and therefore do not cover some areas of the proceedings.⁶⁴

The Federal High Court (Extradition Proceedings) Rules were made to ensure clarity in extradition proceedings and to promote efficient and expeditious hearing of extradition applications. However, where there is conflict between the Federal High Court (Extradition Proceedings) Rules and that of Extradition Act, the later prevailed.⁶⁵

It is worthy to state here that, a close evaluation of different enumerated regulatory legal framework applicable to Nigeria ranging from the international conventions or treaties, as well as the domestic enactments dealing with the ‘use of illicit drugs and drug trafficking’ one may be tempted to state that, there are sufficient legislations if effectively and efficiently implemented to control the menace of illicit drugs activities in Nigeria. It is also the opinion of this work that the recent suggestion made by Jenner⁶⁶ calling for ‘Universal legalization’ of narcotic drugs as the seeming possible solution to the current drug abuse and drug trafficking may not be the best solution to the West African sub-region and indeed Nigeria in particular due to the simple reason of clear divergence in socio-educational factor. In this part of the world, the educational enlightenment is far behind that of the

⁶³ CFRN, (1999).

⁶⁴ L. Oluwafemi and O.O Elijah, P.11; Op cit p.16.

⁶⁵ Ibid,

⁶⁶ M. S. Jenner, ‘Drug Trafficking: A Global Problem with a Domestic Solution’, (2011), P.919, *Indiana Journal of Global Legal Studies*, Vol. 18 issue 2, Article 10; accessed at <<http://www.respository.law.indiana.edu/ijgls/vol18/iss2/10>>, visited on 04/04/ 2017.

United State of America and the Canada, thus, if such illicit drugs are legalized here, the level of addiction would be tremendous, to the extent that, our annual budget may not be sufficiently enough to control the consequential effect of drug menace in our societies.

4. Effectiveness of the Legal Framework

It is not always potent to have a sweeping statement on a subject matter or issue based on its age or structure but based objective cardinal points that are found to be militating against either its corporate existence or effective social responsibility or both. Thus, a careful evaluation needs to be carried out with a view to identifying such areas requiring major or minor modifications or amendments that are capable of adding value to corporate establishment for effective service delivery. It is therefore pertinent after a careful evaluation of the National Drug Law Enforcement Agency (NDLEA) Act,⁶⁷ which was amended last in 2004, to state that, it is not totally devoid of requiring certain amendment at this point in time, while the Money Laundering Legal Framework for now may be given a breathing space.

It is therefore the considered view of the researcher of this paper that certain amendments with regards to certain provisions of the Act⁶⁸ are desirable for now and considered to be valid and capable of adding value to the overall effective performance of the Agency. The Agency survived over three decades of its existence with lots of officers and men of proven integrity, experience and passion for the job. It is therefore based on this consideration that the provisions of Section 2 (2) of the Act which provides for the appointment of the Agency's Chairman needs to be amended. The provisions of the aforementioned Sub-section provides:-

(2) The President shall appoint the chairman and the members specified in paragraph (a)-(c) of subsection (I) of this section on the recommendation of the Attorney-General of the Federation.

This provision is long overdue for amendment to provide precision, sense of belonging and indeed avoid abuse of power. Thus, a different

⁶⁷ NDLEA Act. Cap N30, LFN 2004.

⁶⁸ Ibid.

section for the appointment and qualifications of the Chairman need to be created with a view to capturing the area of consideration (precision) when considering the appointment of the Chairman of the Agency. Such area of consideration should be relative not an open door recruitment, while the servicemen should be given opportunity to prove their leadership proficiency. A subsection also needs to be inserted to provide for the qualifications of the person to be appointed as the Chairman of the Agency, which could be framed as follows:-

The president on the recommendations of the council of States shall appoint a person of proven integrity who distinguish himself from the service of the Agency from the rank of a director or any senior officer of the Military not below the rank of a Brigadier General, or senior Police Officer not below the rank of a Commissioner of Police, or a person who is qualified to hold the office of a Judge of a Court of Appeal or a retired Judge of a Court of Appeal.

Secondly, the method of disposing recovered exhibits needs to be reviewed from outright disposal by way of burning to considering the auction of such items to law abiding pharmaceutical industries so that the proceeds could be used by the governments and the Agency in carrying out its responsibilities. Based on the above therefore, the provisions of Section 38 of the Act which deals with the final disposal of the forfeited property needs to be amended. It is also the considered view of this researcher that, the provisions of Section 4 (5) of the Act⁶⁹ which deals with the reward system of the Agency be amended. The existing provisions provide reward system for any person not employed by the Agency, who provides useful information which facilitated their successful operations. It is recommended that, servicemen who distinguish themselves in the discharge of their responsibilities be rewarded with a certain percentage out of the proceeds of crime they arrested and confiscated with a view to promoting the welfare of the personnel on one hand and avoiding connivance with the culprits on the other, thereby promoting corruption.

Additionally, considering the facts that, investigation and prosecution of drug related cases involve huge amount of money, it is the passionate appeal of this researcher to all concern and relevant government officials who owe it a duty to ensure the practical operations of Section

⁶⁹ Ibid.

46 (1) of the Act.⁷⁰ The subsection provides that ‘The Agency shall establish and maintain a fund from which shall be defrayed all expenditure reasonably incurred by the Agency for the execution of its functions under this Act’, this so call fund is presently and practically not operational and most of the failed operations are attributed to lack of accurate intelligence which involved money and other required necessary logistics.

Conversely, when closely evaluating legal framework dealing with the issue of money laundering activities, it is the humble view of this researcher that the combine provisions of Article 1 (c) and Article 5 (1) of the United Nations Convention against Corruption be implemented to ensure inclusiveness with other independent observer group or civil society; to ensure transparency and accountability in the custody and management of the recovered assets; as well as close supervision of relevant investigation agencies as in line with the provisions of this Convention for better achievement of the desired objectives.

Considering the aforementioned legal framework, it is the opinion of this researcher that, there seems to be sufficient laws to take care of the present situation in the country even though with minor identified recommendations. Thus, it is not how excellent and available the legal frameworks are or seem to be, but the will power of the government of the day towards the implementation process of such laws in line with new trends adopted in committing the offences is what matter most.

5. Nexus between Drug and Money Laundering Activities

Legal historical perspectives indicate that the 1988 United Nations Convention⁷¹ is deemed to be the first international legal framework that set up the legal nexus between money laundering and the drugs trafficking offences which was primarily with the purpose of combating illicit drug trafficking through the money element and depriving persons and groups involved in drug trafficking from the proceeds of their illicit trade and enjoyment of proceed⁷². This

⁷⁰ Ibid.

⁷¹ 1988 United Nations Convention; Op cit p.7.

⁷² Middle East and North Africa Financial Action Task Force (MENAFATF); Typologies Report on ‘Illicit Trafficking in Drugs and Psychotropic Substances, and Money Laundering’; P. 19; accessed at

Convention limits money laundering criminalization to the proceeds generated from illicit drug trafficking only, because the convention is mainly concerned with these offences without any other consideration.⁷³This is provided in the provisions of Article 3 Section 1(b) of the Convention⁷⁴ as follows:

- i) The conversion or transfer of property, knowing that such property is derived from any offence or offences established in accordance with subparagraph (a) of this paragraph, or from an act of participation in such offence or offences, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an offence or offences to evade the legal consequences of his actions;
- ii) The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from an offence or offences established in accordance with subparagraph (a) of this paragraph or from an act of participation in such an offence or offences.

Subparagraph (a) refers to illicit drugs.

Similarly, the provision of Article 8 of the convention⁷⁵ provides;

The Parties shall give consideration to the possibility of transferring to one another proceedings for criminal prosecution of offences established in accordance with article 3, paragraph 1, in cases where such transfer is considered to be in the interests of a proper administration of justice.

The above cited provision also expressly indicates the transfer of cases or material documents evidential in relating to drugs and money

<http://www.menafatf.org/images/UploadFiles/Illicit_Trafficking_and_ML_Eng.pdf>, visited on 24/04/2017.

⁷³ Ibid, p. 20.

⁷⁴ 1988 United Nations Convention; Op cit p.7.

⁷⁵ Ibid.

laundering offences thereby indicating that, at the initial stage or originally, drug trafficking was the only recognized principal offence.⁷⁶

Nonetheless, all other modifications effected in various local enactments (Nigeria inclusive) were made thereafter with a view to encapsulating other new emerging financial offences. Based on the above therefore, these two broad offences are the main subject of our discussions in this paper.

6. Prospects and Challenges on Enforcement Drive

Nigeria in the past has not been a passive player in the fight against the sale, use and trafficking of narcotic drugs and other psychotropic substances, as most of the international frameworks dealing with the prohibition of the illicit narcotic drugs and psychotropic substances have been domesticated, while huge amount of money spent annually towards the enforcement drive with lots of achievements.⁷⁷ In 2008, Nigeria was certified by the United States of America in the anti-narcotic crusade for eight successive times. President George Bush said that Nigeria had made significant progress in counter narcotics and had effectively co-operated with the United States on drug-related and money laundering cases;⁷⁸ even though this issue of certification raises certain political and academic argument than real and positive issues⁷⁹ which is one of the characteristics of democratic society.

The recent effort of the National Drug Law Enforcement Agency in the fight against the monster proved the proponents of political certification wrong, when it continuously upon high discreet intelligence, identified, raided and dismantled several methamphetamine laboratories across the country, arresting many Nigerian suspects including four Mexicans by name Cervatos Madrid Jose Bruno, Rivas Ruiz Pastiano, Castillo Barraza Cristobal and Partida Gonzalez Pedro who were the co-owners of one of the biggest illegal laboratories in Nigeria, which upon intelligence was identified in March 2016 and dismantled by the Agency. The laboratory which was

⁷⁶ (MENAFATF) Report, P.22; Op cit p.20.

⁷⁷ S. E. Otu, Pp 126 and 129; Op cit p.12

⁷⁸ Newswatch Magazine. 7th October, 2008.

⁷⁹ I. S. Obot, 'Assessing Nigeria's Drug Control Policy, 1994 – 2000', (2004), P.25, *International Journal of Drug Policy*, vol.15, Pp.17-26; accessed at, <www.sciencedirect.com>, visited on the 27/03/ 2017.

located in Asaba, Delta state, was capable of producing 3,000 to 4,000kilogrammes of methamphetamine drugs per circle of production and was destroyed in the process of their second production, while a total of 1.5kg of finished methamphetamine and 750 liters of liquid methamphetamine were recovered at the operation.⁸⁰

Furthermore, on 27/03/2019, the Agency smashes another methamphetamine syndicate in Lagos, and recovered a total of 309 kilogrammes of methamphetamine and arresting six suspects in the operation.⁸¹ It has been reported that, between 2011 to 2018, a total number of 16 Methamphetamine laboratories have been discovered and destroyed in Delta, Anambra, Enugu and Imo states of Nigeria, and with the latest discovery in Lagos in March, 2019⁸², the total number of destroyed laboratories increased to 17, while the effort of the enforcement Agencies is always in the making.

Accordingly, Some of the notable achievement in the area of money laundering campaign in Nigeria are the unraveling of the high profile looting of public treasury cases that tested the credibility and competency of the agency includes, the case of the former governor of Bayelsa State, Diepreye Solomon Peters (DSP) Alamieyeseigha, who was arrested, arraigned and subsequently pleaded guilty to charges of corruption and money laundering brought against him by the EFCC before Justice Mohammed Shuaibu of the Federal High Court, Lagos. He was convicted and sentenced to 2-years in prison, while his assets, valued at about £17.7 million were confiscated to the Federal Government. Similarly, the former governor of Enugu State, Dr. Chimaroke Nnamani was charged on the same day before Justice Peter Olayiwola of the Federal High Court, on corruption and money laundering charges. The former governor was indicted by the EFCC for

⁸⁰U. Chioma, 'NDLEA Uncovers Hard Drugs Laboratory in Asaba' *The Nigerian Lawyers.com*; accessed at <<https://thenigerialawyer.com/ndlea-uncovers-hard-drugs-laboratory-in-asaba/>>, visited on 02/02/2020.

⁸¹J. Achema, 'NDLEA Dismantles Methamphetamine Syndicate' *NDLEA Official Website*; accessed at <<https://www.ndlea.gov.ng/new-and-event/ndlea-dismantles-methamphetamine-syndicate/>>, visited on 02/02/2020.

⁸²J. Achema, 'National Drug Law Enforcement Agency (NDLEA) National Drug Use Survey 2015-2019/Annual Report'; accessed at <<https://drive.google.com/file/d/11dnY5H6MKyyffz-rE2JLfjAiIw6fEzjF/view>>, also accessible at <<https://www.ndlea.gov.ng/annual-reports/>>, visited on 02/02/2020.

stealing close to N6 billion from the treasury of Enugu state proceeds, with which he bought 172 houses and invested in several businesses that were confiscated by the EFCC through court order.⁸³

Accordingly, after series of drama, the former Governor of Delta State Mr. James Onanefe Ibori, was finally arrested and arraigned before the City of Westminster Magistrate Court on 25-Count charges for money laundering and fraud after he was located, arrested and extradited from his Dubai residence by the Interpol and flowed to London in December, 2010, to face his trail despite all effort to evade Justice. Before his final arraignment, his other accomplices which includes his wife Theresa Nkoyo-Ibori, his sister, Christine Ibie-Ibori, and his mistress, Udoamaka Okonkwo (nee Onuigbo) had already been found guilty and sentence to five-year jail, while his United Kingdom lawyer, Bhadresh Gohil, was also sentenced to 10-years imprisonment in April 1, 2011 for complicity to the crime.⁸⁴

However, on 27th February, 2012, James Ibori pleaded guilty before Judge Anthony Pitts of the Southwark Crown Court, London and was accordingly sentenced to 13years imprisonment for stealing and laundering \$250m (£160m) over eight years he served as Governor of Delta state, while about \$35m of his alleged UK assets were frozen in 2007.⁸⁵

In an operation carried out on the 12th April, 2017, via a ‘whistle blower’ policy of the Federal Government, EFCC stormed into a residential building on the 7th floor of a four-bedroom apartment at Osborne Towers located at 16 Osborne Road, Ikoyi, Lagos, where different foreign currencies and naira notes, to the tune of \$43.4m, £27,800 and N23.2m were recovered.⁸⁶ The monies were found in three

⁸³ Sahara Reporters, ‘DSP Alamieyeseigha pleads Guilty-Jailed 2 years’, reported on 25/07/2007; accessed at <<http://saharareporters.com/2007/07/25/dsp-alamieyeseigha-pleads-guilty-jailed-2-years>>, visited on 6th Feb, 2020.

⁸⁴ Sahara Reporters, New York ‘Ibori Is Charged In London With Money Laundering And Fraud, Ending His Escape Plots,’ *Sahara Reporters*, reported on 15/04/ 2011; accessed at <<http://saharareporters.com/2011/04/15/ibori-charged-london-money-laundering-and-fraud-ending-his-escape-plots>>, visited on 6th Feb, 2020.

⁸⁵ Sahara Reporters, New York, ‘Ibori Pleads Guilty to Money Laundering Charges in London Court’, *Sahara Reporters*, reported on 27/02/2012; accessed at <<http://saharareporters.com/2012/02/27/ibori-pleads-guilty-money-laundering-charges-london-court>>, visited on 6th Feb, 2020.

⁸⁶ Ibid.

fireproof cabinets disguisedly hidden behind wooden panels of the wardrobe by the operatives in one of the rooms. Upon assessing the content of the cabinets, neatly arranged were US dollars, British pound starlings, and some naira notes in sealed wrappers. Preliminary investigation indicated that the funds are suspected to be proceeds of unlawful activity.⁸⁷ The apartment was later traced to be the property of the former PDP National Chairman and former Governor of Bauchi State Mr. Adamu Muazu, even though he was not the occupant of the apartment when the currencies were discovered;⁸⁸ even though some arrest in respect of the matter were made; the former Director General of the National Intelligence Agency (NIA), Mr. Ayodele Oke and his wife, Folasade, were said to have indicted in connection of the matter.⁸⁹

Accordingly, in a related development, on the 3rd February, 2017, the sum of \$7.772 US Dollars and £74.000 Pounds were recovered at the house of the former Group Managing Director's house, Dr. Andrew Yakubu in Kaduna where the monies were carefully concealed.⁹⁰ On the 1st May, 2016, the sum of \$15 Billion Dollars were said to have been misappropriated and laundered in connection with arms contract scandals, while the sum of \$2.1Billion Dollars were recovered from the former National Security Adviser, Col. Sambo Dasuki (rtd) allegedly out of the proceeds, which resulted into the setting up of the presidential committee to investigate the matter.⁹¹

⁸⁷ Ibid.

⁸⁸ Sahara Reporters, New York 'Former PDP Chairman Finally Admits to Ownership of Building Where EFCC Found \$50m', reported on 13/04/2017; accessed at <<http://saharareporters.com/2017/04/13/former-pdp-chairman-finally-admits-ownership-building-where-efcc-found-50m>>, visited on 23rd April, 2017.

⁸⁹ Sahara Reporters, New York 'EFCC Declares Ex-NIA Boss, Ayodele Oke, Wife Wanted', reported on 24/03/2019; accessed at <<http://saharareporters.com/2019/03/24/efcc-declares-ex-nia-boss-ayodele-oke-wife-wanted>>, visited on 6th Feb, 2020.

⁹⁰ W. Uwujaren 'How EFCC Recovered \$9.8million From Ex-NNPC GMD Andrew Yakubu' *Sahara Reporters* reported on 03/02/ 2017; accessed at <<http://saharareporters.com/2017/02/10/how-efcc-recovered-98million-ex-nnpc-gmd-andrew-yakubu>>, visited on 23rd April, 2017.

⁹¹ O. Adetayo and E. Akinkuotu, '\$15bn Arms Scandal: Presidential Panel Uncovers Massive Fraud In The Nigerian Army' *Sahara Reporters*, reported on 01/05/ 2016; reported on the 1st May, 2016; accessed at, <<http://saharareporters.com/2016/05/01/15bn-arms-scandal-presidential-panel-uncovers-massive-fraud-nigerian-army>>, visited on 23rd April, 2017.

Similarly, the sum of \$115 Million Dollars were recovered from the former Minister of Petroleum Resources Mrs. Diezani Allison Madueke, while her extradition matter from the United Kingdom to Nigeria is still pending; the sum of \$15 Million Dollars from the former First Lady Mrs. Patient Goodluck Jonathan; and the sum of #49 Million Naira from Mr. Alex Badeh while a mansion worth #1.5 Billion Naira belonging to him confiscated.⁹² Similarly, in a dramatic manner, the sum of #49 Million Naira was abandoned at Kaduna Airport on Tuesday the 14th March, 2017, when the crack team of the EFCC Kaduna Zonal Office trailed a passenger in an attempt to launder the money, but on sighting the EFCC operatives, he abandoned the money and fled without boarding the scheduled air craft.⁹³

However, despite all the achievements and glorification in form of prospects attained by the Nigeria enforcement agencies, the enforcement drives on drug and drug trafficking is not without contemporary challenges; some of which are discussed below:

6.1 Corruption

Corruption is a social virus that does not only affect the public officials but also infects the political, judicial as well as the other sectors of the society and indeed the functioning economy. Drug trafficking and Money Laundering activities globally involves huge amount of money annually; hence, it is very easy for the perpetrators to use what they have and get what they want considering the meager salary of the public officials.⁹⁴

Corruption therefore is far the greatest enemy of any developmental process which tends to make government officials and public office holders sell the trust bestowed on them, abuse the function of their offices and ultimately negating effective fight in social vices, drug trafficking and Money Laundering activities inclusive.⁹⁵ Based on the

⁹² Economic and Financial Crimes Commission (EFCC) 'N49m Recovery Not A Stunt, EFCC Clarifies' *Sahara Reporters*, reported on 16/03/2017; accessed at, <<http://saharareporters.com/2017/03/16/n49m-recovery-not-stunt-efcc-clarifies>>, visited on 23rd April, 2017.

⁹³ Nigerian Tribune, No. 16,718 of Wednesday, 15/03/ 2017, P. 10.

⁹⁴ E. N. Stephen, 'Drug Trafficking and Threat to Nigeria's National Security', (2016), P.8; *Canadian Social Science*, vol. 12, No. 12; accessed at <<http://www.cscanada.net/index.php/css/article/view/8974>>, visited on 16/04/2016.

⁹⁵ Ibid.

above therefore, drug trafficking and high-level corruptions culminating to laundering of such proceeds have become two sides of the same coin. For example, in 2005, Alh. Bello Lafiaji, the then head of the NDLEA was dismissed by the then President Olusegun Obasanjo, along with one of his closest aides on account of allegations of corruption and abuse of office.⁹⁶ Also in Nigeria, some NDLEA officials were reportedly alleged to have facilitated the release of 197 drug convicts from prison between 2005 to 2006.⁹⁷ All these are the results of official corruption which is evidently everywhere in the country and except if reasonable measures are taken to address the issue, the fight against narcotic drugs, drug trafficking as well as the proceeds arising there from will continue to suffer certain setbacks from time to time. However, allegations of such corrupt practices against the EFCC operatives for now has not been documented and established

6.2 Inadequate Funding

Considering the facts that West Africa is graduating from a mere drug route to production/processing hub as evidently reflected above, Government of the West African States, Nigeria inclusive, should consider immediate and adequate funding of the anti-narcotic crusade not only in terms of the salary and wages, but also other logistical service such as covert intelligence funding which is very vital at this stage. The fight against the cartels can only withstand the test of time if covert operation is effectively utilized and funded like what is obtainable in other developed countries such as the United States of America and indeed United Kingdom among others. If such measures are adequately and relentlessly pursued it would not only deliver some marginal returns in the short and long term but also assist the nation in fighting banditry and other social vices as most of such offences are committed under the influence of drugs. It is therefore suggested that the present and indeed the future leaders must change the current situation by providing reasonable budgetary allocation to the relevant law enforcement officials EFCC inclusive, that are directly charged

⁹⁶ Ibid.

⁹⁷ Ibid.

with enforcement of these laws with a view to having better law enforcement service delivery.⁹⁸

6.3 Lack of Technological Equipment

In this era of globalization, where latest technological advancement and devices are applicable in every sector and changing almost every day, logistic touches on every aspect of the organization's operational specialty are urgently required to meet up with the new trends.⁹⁹ Though EFCC could to some extent be viewed to have a better touch with the modern working equipment, NDLEA could therefore be viewed to the contrary when considering the global settings in line with their onerous responsibilities. It is therefore suggested that, the government of the day as a matter of urgency, provide standard laboratory offices with relevant human and substances testing equipment across all states of the Federation; provide vehicular and body scanning machines to all land, sea and air entry points into the country not only Seme land border and Murtala Mohammed International Airport, Lagos; provide mobile scanners for the use of the patrol operatives; as well as the necessary safety kits and devices for the officers and men while on duty. It is only by so doing can a successful law enforcement business and the safety of any nation can be guaranteed globally. Accordingly, it means that, an ideal and purposeful government is expected to ensure the procurement of those components necessary for effective and efficient service delivery, not merely by changing the heads of the Agency with virtually nothing to work with.¹⁰⁰

6.4 Poverty/ Un-Employment

One of the biggest problems in anti-drugs campaign in West Africa and Nigeria in particular is the issue of poverty and unemployment across the county. This is because most of the countries in the region lack

⁹⁸ P. L. McGuire, 'Narcotic Trafficking in West Africa: A Governance Challenge' (2010), P.27. *The Pardee Papers* /No. 9, *Boston University Creative Services*; accessed at, <http://www.bu.edu/pardee/files/2010/03/Pardee_Paper-9-Narcotics-Trafficking.pdf>, visited on 15/04/2017.

⁹⁹ A. R. Udama, 'The Risk Factor of West Africa Illicit Drug Trade' (2014), P.7, *International Journal of Science and Research Publications*, Vol. 4, Issue 11; accessed at <http://www.academia.edu/9498894/The_Risk_Factors_of_West_Africa_Illicit_Drug_Trade>, visited on 16/04/2017.

¹⁰⁰ Ibid.

sufficient resources to ameliorate poverty; provide employment to the deserving citizens and advance national development.¹⁰¹ This factor makes it very easy for the drug lords to recruit street couriers and other agents that provide necessary services such as overseeing the movement of the law enforcement officials around the processing factories and whenever delivery is made.

Similarly, with the prevalence of street children mostly in Northern Nigeria in the name of Almajiris, mostly the children of less privilege in the society make recruitment of drug courier and political thugs very easy.¹⁰² The states therefore must be ready to address these problems if positive progress is desirous in the circumstance.¹⁰³ Nonetheless, this factor is not applicable to money laundering activities, as most of the suspects associated with laundering activities are mostly rich men.

6.5 Political Factor

From a political point of view, drugs barons and those in money laundering activities have hijacked most of the political processes of governments and states in West Africa including Nigeria, and institutionalized criminality in the conduct of public affairs which plays itself out in terms of the way in which the well-financed cartels and highly organized special interest groups takeover policy-making either directly or through their proxies; and sponsor political advocates and protectors whose day-to-day dealings effectively put criminal interests ahead and above all other interests. The most evident is as express in the type and high caliber of persons arrested and prosecuted by the EFCC in this country in connection with corrupt practices, embezzlement and money laundering activities, while at the same time able to employ the services of highly and respected legal practitioners to be at their services at any time so desired including using some of such lawyers or their Chambers' account for laundering proceeds of crime.¹⁰⁴

¹⁰¹ Ibid, p. 8.

¹⁰² A. O. Salaam 'Street Life Involvement and Substance Use Among 'Yandaba' In Kano, Nigeria', (2011), P.120, *African Journal of Drug & Alcohol Studies*, CRISA Publications, Vol.10 (2); accessed at <https://www.google.com/search?client=firefox-b-d&q=drugs+use+by+the+Almajiri> visited on 30/08/2020.

¹⁰³ A. R. Udama, P.8; Op cit p.22.

¹⁰⁴ Ibid.

6.6 Judicial Factor

It is unfortunate that most of the West African Countries Nigeria inclusive, with all the available legal magnet and resources could not provide specific Court for trying drug and money laundering related cases, like the National Industrial Court, considering the fact that, Federal High Court has other numerous schedules other than attending to drugs and financial crimes related cases. Similarly, adequate funding for effectively and diligent investigation and prosecution of such cases are equally required from the government for the achievement of desired objectives.¹⁰⁵

6.7 Shortage of Manpower

Considering the nature of anti- narcotic campaign, coupled with the expansive and extensive nature of the West Africa as well as the porous Nigerian borders, the present manpower strength of the NDLEA is grossly inadequate if we need to effectively handle the enforcement in a country with about 200 million people. The agency was said to report that, it has barely only four thousand seven hundred (4,700) personnel to carry out its functions throughout the country.¹⁰⁶ Therefore, the government of the day needs to immediately take step in addressing the situation if only we need to have the desired result in the circumstance.¹⁰⁷ Although EFCC is not publically complaining about manpower shortage for now, nonetheless, needs to be considered in the circumstance.

6.8 Training and Re-Training Officers and Men

Successful and result oriented service is one with well trained officers, thus, platoons of untrained or poorly trained officers with mix and uneven level of skills, knowledge, perceptions, motivations and interests cannot achieve the desired objectives. Thus, confronting local street drug traffickers, who in daily basis employ new methods and skills in their operations, needs well train officers to engage them headway. Therefore, the entire institutional wellbeing of our law enforcement organizations continues to be of extremely low due to lack of effective and efficient training which sometimes we tend to attribute

¹⁰⁵ Ibid.

¹⁰⁶ C. Eze, 'Addressing NDLEA Workers Grievances' *Thisdaylive* (2019); accessed at <<https://www.thisdaylive.com/index.php/2019/10/11/addressing-ndlea-workers-grievances/>> Visited on 23/08/2020.

¹⁰⁷ A. R. Udama, p. 8; Op cit p.22.

our individual or collective failure to either lack of adequate and relevant laws or shifting blames on saboteurs; it is time for the government to priorities the spirit of training of staff in line with new trends and evolving technological devices for better service delivery.¹⁰⁸

7. Conclusion

Drugs and money laundering menace are the two current global social economic vices that are devastating the socio-economic fabric of the nations. While drug is an intertwine element, one side of it provides relief, prevention and cure as a medicine, while at the other side of it lies a dark horse where international drug peddlers carry out their nefarious activities of drug trafficking making billion of dollars annually trying in their utmost best to recycle such illicit funds into legitimate income mostly through the instrumentality of laundering process of such illicit proceed of crime.

Despite the facts that there seems to be adequate national and international legal framework dealing with the menace, the most common problems are the institutional above enumerated problems; the lack of government will power towards adequate implementation process; lack of inclusiveness of the observer and civil society group recovered assets recovery process, custody and management; lack of effective supervision from the relevant government agencies to mention but a few.

Additionally, for effective and purposeful implementation of such laws, there must be demonstrated government will power in providing better welfare package, provision of adequate technological facilities, adequate manpower, training and re-training of officers and men, effective supervision on the part of the officers, as well as the poverty alleviation and economic empowerment of the citizenry with a view to having effective enforcement mechanisms towards achieving the desired objectives.

¹⁰⁸ Ibid, p. 7.