

Legal Assessment of Drug Abuse in Nigeria

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Abstract

The work titled illegality of drug abuse in Nigeria, discussed illegality of drug abuse. Nigeria's laws against drug abuse are primarily governed by the National Drug Law Enforcement Agency Act (NDLEA Act) (Cap N30, Laws of the Federation of Nigeria 2004)¹, which establishes the NDLEA to enforce drug laws, alongside other statutes such as the Dangerous Drugs Act of 1935² and the Indian Hemp Act of 1966³ that specifically prohibit narcotics and cannabis, respectively. This research paper employed the doctrinal and secondary approach to evaluate and analyze the relevance of doctrinal research methodology to contemporary Nigeria society and legal research. This study is instigated by the increasing use and abuse of drug. The aim is to examine the major effect of abuse of drug; to discover the extent abuse of drug has influenced the society. You are recommended to take precaution before any abuse of drug and inform others; this will help the society. It is strongly recommended that the law makers should always consider the effect of abuse of drug when making laws to ensure that they are not abused and keep dead letter laws in abeyance.

Keywords: Drug, Abuse, Crime, Justice System

1. Introduction

The detrimental effects of drug addiction on people and society which frequently include the non-medical use of substances that can result in criminal activity, health issues, and social disruption make it unlawful. To prevent the spread of illegal substances and lessen the harmful effects of their overuse, laws classify drug use, possession, and trafficking as crimes.⁴

- a) **Harm to the Individual:** Drug misuse can result in addiction, long-term personality changes, and problems with one's physical and mental health.⁵
- b) **Harm to Others:** Drug abuse can result in antisocial or criminal behavior, which compromises public safety and burdens society.
- c) **Public Health Concerns:** Drug abuse and abuse put a burden on healthcare systems and aid in the spread of illness.

¹National Drug Law Enforcement Agency Act (NDLEA Act) (Cap N30, Laws of the Federation of Nigeria 2004)

²Dangerous Drugs Act of 1935

³Indian Hemp Act of 1966

⁴https://www.google.com/search?q=illegality+of+DRUG+ABUSE+IN+introduction&sca_esv=fa33a8f143317ce1&sxsrf=AE3TifPPsWZKWolberp> Accessed on 9/13/2025

⁵ Ibid

- d) **Social Disruption:** Substance misuse can cause social disintegration and economic hardship by upsetting families and communities.
 - e) **Legal Framework**
 - f) **Criminal Justice System:** Drug-related offenses, such as the possession, production, or distribution of illicit substances, are punishable by law.
 - g) **Regulation:** Governments establish regulations and penalties to deter drug abuse and promote public health and safety.
 - h) **International Efforts:** In order to fight the global drug trade and advance a drug-free society, many countries take part in international agreements.
- In conclusion, drug misuse is prohibited since it endangers the public's health, safety, and welfare.

2. Laws against drug abuse in Nigeria

Nigeria's laws against drug abuse are primarily governed by the National Drug Law Enforcement Agency Act (NDLEA Act) (Cap N30, Laws of the Federation of Nigeria 2004)⁶, which establishes the NDLEA to enforce drug laws, alongside other statutes such as the Dangerous Drugs Act of 1935⁷ and the Indian Hemp Act of 1966⁸ that expressly forbid cannabis and drugs, respectively. These laws impose severe penalties for drug-related offenses, including as long jail terms and the death penalty in extreme drug trafficking cases.

Laws and Agencies

a) **National Drug Law Enforcement Agency Act (NDLEA Act)⁹:**

The National Drug Law Enforcement Agency (NDLEA) was established by this statute. Fighting drug trafficking, upholding drug laws, and advancing drug education are the goals of the NDLEA.

b) **Dangerous Drugs Act of 1935¹⁰:**

The cultivation, possession, and sale of narcotics, such as opium, are expressly prohibited by this statute.

c) **Indian Hemp Act of 1966¹¹:**

The possession and use of cannabis, sometimes referred to as Indian hemp, are particularly covered by this law.

⁶National Drug Law Enforcement Agency Act (NDLEA Act) (Cap N30, Laws of the Federation of Nigeria 2004)

⁷Dangerous Drugs Act of 1935

⁸Indian Hemp Act of 1966

⁹National Drug Law Enforcement Agency Act (NDLEA Act):

¹⁰Dangerous Drugs Act of 1935:

¹¹Indian Hemp Act of 1966

d) Penalties for Drug Offenses

Nigerian laws stipulate severe punishments for drug-related offenses, which may involve lengthy jail terms.

The death sentence may be used for some severe drug trafficking offenses.

e) OTHERS

Statute Referred To

1999 Constitution (as amended)¹²

Evidence Act, 2011,¹³

Federal High Court, Act Cap F12 Laws of the Federation of Nigeria 2004¹⁴

Indian Hemp Act 2004

National Drug Law Enforcement Agency Act Cap N30 Laws of the Federation of Nigeria, 2004

3. The most common illegal drug in Nigeria

Nonetheless, the figures are seen to be high enough to warrant alarm. Cannabis is the most often used illegal substance in Nigeria. Cocaine, heroin, amphetamine-type stimulants, inhalants, and solvents like glue are some of the other illegal substances that are used.¹⁵

Drugs Legal Status In Lagos

- a) Avoid carrying or using illegal substances. Drug offenses are punishable by lengthy jail terms and hefty fines. Murder and armed robbery are examples of serious crimes that carry the death penalty. Nigeria strictly prohibits relationships between people of the same sex¹⁶.
- b) Drug usage has been connected to higher instances of accidents, violence, and crime on a social level. For example, research indicates that drug misuse is a significant contributing factor to domestic violence, armed robberies, and kidnapping in Nigeria (Okeke et al., 2022).¹⁷
- c) National Drug Law Enforcement Agency. The National Drug Law Enforcement Agency (NDLEA) is a federal law enforcement agency in Nigeria under the Federal

¹²1999 Constitution (as amended)

¹³Evidence Act, 2011,

¹⁴Federal High Court, Act Cap F12 Laws of the Federation of Nigeria 2004

¹⁵https://www.google.com/search?q=illegality+of+DRUG+ABUSE+IN+LAGOS&sca_esv=fa33a8f143317ce1&sxsrf=AE3TifNPMgctrpLLjZzXmHjH2rwLOkeXKw%3A1757764954880&ei=W3FaIK9NZuuhbIPtTa4QI&Ae4CLIHazQtMbGh-APCBwc0LTEuMC4xyAd4&scient=gws-wiz-serp Accessed on 9/13/2025

¹⁶ Ibid

¹⁷Okeke et al, domestic violence, armed robberies, and kidnapping in Nigeria (Okeke et al., 2022)

Ministry of Justice charged with eliminating the growing, processing, manufacturing, selling, exporting, and trafficking of hard drugs.¹⁸

- d) Six illegal actions involving illicit drugs include drug trafficking, possession, manufacturing, importation, sale, and use.¹⁹

Illegal drugs

Types of illegal drugs

- a) Cannabis (Marijuana)
- b) Cocaine.
- c) MDMA/Ecstasy.
- d) Hallucinogens.
- e) Heroin.
- f) Methamphetamine.²⁰

Nura Ochala v. Federal Republic of Nigeria

Areas of Law

APPEAL, CONSTITUTIONAL LAW, CRIMINAL LAW, INTERPRETATION OF STATUTE, LAW OF EVIDENCE

Summary of Facts: On September 23, 2011, the appellant was taken into custody at Banni Village, Kaima Local Government Area, Kwara State, in possession of 8.8 kilograms of Indian hemp, or Cannabis sativa. In violation of Section 11(c) of the National Drug Law Enforcement Agency Act act N30 Laws of the Federation of Nigeria, 2004²¹, he was charged with one count of unlawful possession of Indian hemp²². In front of the appellant and his attorney, the prosecution presented exhibits that included the appellant's declaration as the defendant in the lower court, the substance form, the certificate of test analysis, the request for scientific assistance, the drug analysis report, the evidence pouch, and 8.8 kilograms of Cannabis Sativa (Indian hemp) that were found on the accused. and asked the court to find the appellant guilty based on the admitted and presented papers; the appellant's attorney

¹⁸https://en.wikipedia.org/wiki/National_Drug_Law_Enforcement_Agency#:~:text=The%20National%20Drug%20Law%20Enforcement,and%20trafficking%20of%20hard%20drugs.> Accessed on 9/13/2025

¹⁹ Ibid

²⁰https://www.google.com/search?q=ILEGAL+DRUG+DECIDED+CASES&sca_esv=fa33a8f143317ce1&sxsf=AE3TifNOEvj7NXZgrFw-c7NrO8vfw5zBmg%3A1757766130736&ei=8mHFaIbbLO2ohbIPu-P1-Qs&ved=0ahUKEwiGnMiO3dWPAXVtVEEAHbtXpB8Q4dUDCBA&uact=5&oq=ILEGAL+DRUG+DECIDEerp> Accessed on 9/13/2025

²¹ Section 11(c) of the National Drug Law Enforcement Agency Act act N30 Laws of the Federation of Nigeria, 2004

²² Ibid

raised no objections to this. The appellant was sentenced to 18 months in jail by the Federal High Court²³. In front of the appellant and his attorney, the prosecution presented exhibits that included the appellant's declaration as the defendant in the lower court, the substance form, the certificate of test analysis, the request for scientific assistance, the drug analysis report, the evidence pouch, and 8.8 kilograms of Cannabis Sativa (Indian hemp) that were found on the accused. and asked the court to find the appellant guilty based on the admitted and presented papers; the appellant's attorney raised no objections to this. The appellant was sentenced to 18 months in jail by the Federal High Court.²⁴

See Ugwanyi V. FRN (2013) All FWLR (Pt. 662) 1655 @ p. 1664²⁵. See also Odeh V. FRN (2008) All FWLR (Pt. 424) 1615²⁶.

Ugochukwu v Federal Republic of Nigeria (CA/YL/133C/2015) [2016] NGCA 13 (26 June 2016).²⁷

FHC/YL/113C/2013: Federal Republic of Nigeria V. ChinweduUgochukwu²⁸

G. Kano State V. AG. Federation (2007) All FWLR (Pt. 364) 238 @ p. 258²⁹; International Tobacco Company Ltd .V. National Agency for Food and Dru Administration and Control (20070 All FWLR (Pt. 382) 1981 @ p. 2001³⁰

Prove

Regarding the question of lawful power, we contend that the burden of proof rests with the defendant. Furthermore, the defendant did not prove that he had the legal right to possess the medications³¹. Following a lead, as suggested by the Respondent's submission, the court below omitted the second element of "without lawful authority" from its analysis of the elements of the offenses charged and instead moved the burden of proof to the Appellant, holding, among other things: According to the Evidence Act of 2011, Section 135(3)³² mandates that. The defendant presented his identification card from the Association of Patent Medicine Dealers, to which he belonged, and testified in his defense. He claimed that as a patent medicine dealer, he is permitted to possess the medications and provide them to the

²³Ibid

²⁴ <https://legalpediaonline.com/nura-ochala-v-federal-republic-of-nigeria/> Accessed on 9/13/2025

²⁵Ugwanyi V. FRN (2013) All FWLR (Pt. 662) 1655 @ p. 1664

²⁶Odeh V. FRN (2008) All FWLR (Pt. 424) 1615

²⁷Ugochukwu v Federal Republic of Nigeria (CA/YL/133C/2015) [2016] NGCA 13 (26 June 2016)

²⁸FHC/YL/113C/2013: Federal Republic of Nigeria V. ChinweduUgochukwu

²⁹G. Kano State V. AG. Federation (2007) All FWLR (Pt. 364) 238 @ p. 258

³⁰International Tobacco Company Ltd .V. National Agency for Food and Dru Administration and Control (20070 All FWLR (Pt. 382) 1981 @ p. 2001

³¹See pages 26 – 27 of the record.

³² Section 135(3), Evidence Act of 2011

pharmacist. However, Section 136(1) of the Evidence Act of 2011³³ states that the burden of proof is with the one making the assertion.”³⁴

Interestingly, but with all due respect, the Respondent, who had been successful in deceiving the court below about the elements of the offenses charged and omitting the essential element of "without lawful authority," had once again presented that argument to us in this appeal as the correct legal position when it stated, among other things, in the Respondent's brief:

Evidence Act of 2011 Section 136(1)³⁵:

Any individual who knowingly possesses drugs such as cocaine, LSD, heroin, or any similar substance without legal authorization is guilty of an offense under this Act and faces a minimum sentence of 15 years and a maximum sentence of 25 years in prison upon conviction. (I underline for more attention and emphasis.)

According to the above-mentioned explicit and unequivocal terms of Section 19 of the NDLEA Act 2004³⁶, the Respondent, in my opinion, had the burden of proving that the Appellant had the psychotropic substances "without lawful authority." It is, in my opinion, the most important of the three components of the offense that the Respondent charged the Appellant with under Section 19 of the NDLEA Act 2004³⁷. The heavy burden of demonstrating that the Appellant had unlawfully obtained the psychotropic substances was on the Respondent. Therefore, it was evidently an inversion of the onus of proof to shift this important burden, onus, or obligation of demonstrating "without lawful permission" to the appellant, as the court below did in response to the Respondent's leading and prodding to prove "lawful authority."

It didn't make sense. In addition to being unfair, it was unjust. The burden of establishing lawful authority as a defense would only shift to the appellant if the court below had taken into account the second essential component of "without lawful authority" and determined that the evidence presented by the respondent was sufficient, at least on a prima facie basis. Thus, in a judgment in a trial on a charged laid under Section 19 of the NDLEA Act 2004³⁸, such as the one of the court below on appeal to this court and now under consideration, where the ingredient “without lawful authority” was not even considered as part of the ingredients of the offence created under Section 19 of the NDLEA Act 2004³⁹

³³ Section 136(1) of the Evidence Act of 2011

³⁴ See pages 89 – 90 of the record.

³⁵ Section 136(1), Evidence Act of 2011

³⁶ Section 19 of the NDLEA Act 2004

³⁷ Section 19 of the NDLEA Act 2004

³⁸ Section 19 of the NDLEA Act 2004

³⁹ Section 19 of the NDLEA Act 2004

to be proved by the Prosecution, the Respondent, the lower court's requirement that the appellant bear the burden of demonstrating "lawful authority" when the respondent had not done so and the lower court had not taken into account "without lawful authority" as one of the elements of the offense established under Section 19 of the NDLEA Act⁴⁰, with which the appellant was charged, was obviously a grave mistake.

Therefore, in my opinion, the court's decision to require the appellant to prove lawful authority in the absence of any evidence of lack of lawful authority was extremely perverse and incorrect because none of the PW1, PW2, PW3, PW4, and PW5 had any evidence of lack of lawful authority. Instead, they were all preoccupied with the fact that the appellant was in possession of the suspected substances, which, after laboratory analysis, were scientifically confirmed to be psychotropic substances similar to cocaine, heroin, and LSD.

Similarly, the court below did not include the element of lack of lawful authority in its ruling as one of the elements of the offenses the Respondent had accused the Appellant of committing. Instead, it required the Appellant to demonstrate that he had lawful authority, which was, with the utmost respect, equivalent to asking the Appellant to prove his innocence. Therefore, it is evident that the court below misplaced or misunderstood the burden and onus of proof in a criminal prosecution.

The determination that the Appellant had not proven his innocence when the Respondent had failed to prove all three essential elements of the offense created under Section 19 of the NDLEA Act⁴¹ was completely perverse. This is a serious misdirection that puts the burden of proof on an accused person, such as the Appellant, and requires him to prove both his innocence and an essential element of the offenses with which he is charged. Therefore, in any situation where a trial court incorrectly assigns the burden of proof and then proceeds to decide the case against the party who was wrongly assigned the burden of proof, it would, in my opinion, constitute a grave misdirection that could potentially render the trial court's entire decision incorrect and subject to reversal. Therefore, in the legal system, a serious misrepresentation of the burden of proof might have disastrous effects on the court's decision that was appealed, and an appellate court would be quick to step in and overturn such a decision. See *PHMB V. Ejitagha* (2000) 11 NWLR (Pt. 677) 154; *Adedeji V. Oloso* (2007) 5 NWLR (Pt. 1026) 133;

⁴⁰ Section 19 of the NDLEA Act

⁴¹ Section 19 of the NDLEA Act

In *Onobruhere V. Esegine* (1986) 2 SC 385⁴²; the erudite Oputa, JSC., (God bless His soul) had poignantly put it thus:

I believe it will be reasonable to presume that there will likely be a miscarriage of justice once it is determined that there was a miscommunication over the burden of proof and that the wrong party was placed under it.

Again in *Hon. Zubairu & Anor. V. Lliyasu Mohammed & Ors.* (2009) LPELR 5124⁴³ (CA,) this Court per Augie, JCA, had put this issue succinctly in its proper context thus: *Misdirection about the burden of proof is a grave mistake, and to state that the Lower Tribunal made a mistake in this case is to put it simply. This is a regrettable and well-documented case of a miscarriage of justice.*

Therefore, I firmly believe that the issue of the appellant's defense does not come up for consideration by the court below until the Respondent, acting as the prosecution, *prima facie* proves by convincing and credible all the essential elements or ingredients of the offences charged under Section 19 of the NDLEA Act 2004⁴⁴ against the appellant. The trial court, which is neither on an inquisition mission nor on a persecution mission, must, therefore, discharge the accused at the end of a criminal trial if one or more or some of the ingredients of the offence(s) charged have not been proven at least *prima facie*. This is because doing so would clearly amount to requiring the accused to prove his innocence, which would be against the constitutional presumption of his innocence until the contrary is proven. Refer to p. 505 of *Adeyemi & Ors v. The State*⁴⁵ (above).

According to Section 135(5) of the Evidence Act of 2011⁴⁶, the burden of proof will only shift to the appellant as the accused person to establish the existence of reasonable doubt if the prosecution has proven the offense beyond a reasonable doubt or at least *prima facie*. Therefore, if the prosecution has not proven the claimed offense beyond a reasonable doubt, the accused person cannot be required to prove the existence of any reasonable doubt.

Here, with all due respect, the lower court made a grave error by misinterpreting the burden of proof, reorienting itself as to who has the burden of showing without legal authority, and holding perversely that the appellant bears this duty. The burden of proof would only shift to the accused if the second most important ingredient was proven to exist, at least *prima facie*. If the other two ingredients were proven to exist, the accused would be found guilty of the

⁴²*Onobruhere V. Esegine* (1986) 2 SC 385

⁴³*Zubairu & Anor. V. Lliyasu Mohammed & Ors.* (2009) LPELR 5124

⁴⁴ Section 19 of the NDLEA Act 2004

⁴⁵*Adeyemi & Ors v. The State*

⁴⁶ Section 135(5) of the Evidence Act of 2011

offense established by Section 19 of the NDLEA Act⁴⁷. In general, the rule has always been that the burden of proof rests with the one making the claim. See *Ayinde V. Abiodun & Ors.* (1999) 8 NWLR (Pt. 616) 587. See also *Ewo & Ors. V. Ani & Ors.* (2004) 3 NWLR (Pt. 861) 610 @ p.630; *Trade Bank Plc. V. Chami* (2003) 13 NWLR (Pt. 836) 158 @ p. 204; *Osawura V. Ezeiruka* (1978) 6 – 7 SC 135 @ p. 145; *Umeojiako V. Ezenamuo* (1990) 1 NWLR (Pt. 126) 225; *Ugbo V. Aburime* (1993) 2 NWLR (Pt. 273) 101. It is important for me to note right away that possession of regulated or forbidden substances is not a crime for which there is strict liability.

4. Conclusion

Finally, Drug addiction is illegal because of its negative impacts on individuals and society, which often involve non-medical substance use that can lead to criminal activity, health problems, and social disruption. Drug usage, possession, and trafficking are all considered crimes by law in order to stop the spread of illegal substances and reduce the negative effects of excessive use.

⁴⁷ Section 19 of the NDLEA Act