

## DECRIMINALIZATION OF *CANNABIS* IN NIGERIA: A MYTH OR REALITY

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### Abstract

This paper focuses on the decriminalization of *Cannabis* in Nigeria, a myth or reality. It becomes necessary considering the recent calls by some eminent political actors and the move by the National Assembly for the decriminalisation of the cultivation and use of the weeds in one hand and considering negative socio-economic factors associated to its abuse. The paper seeks to consider the two divergent positions with a view to juxtaposing same for a better, reasonable, humane and more prudent position for the benefit of the majority if not the generality of Nigerian citizens. In order to achieve the desired objectives, the paper adopted both doctrinal and empirical research methodologies. Having carefully examined the various literary work, legal frameworks dealing with the topical issue, as well as the received data, it is the humble observation of the paper that, at present, the issue of decriminalization of *Cannabis* in Nigeria appears to be a mere myth rather than reality. However, as the matter may likely be subject of reoccurring phenomenon influenced by political actors, it is the humble views and recommendation of the paper that, factors such as, lack of government will power, shortage of manpower of the law enforcement agencies responsible for fight against illicit drugs and psychotropic substances, inadequate funding and systemic corruption need to be considered and addressed, otherwise the idea of decriminalization of *Cannabis* in Nigeria may seem to be a myth rather than reality.

**Keywords:** Decriminalization; *Cannabis*; *Cannabis diol* (CBD); *TetrahydroCannabis* (THC).

### 1. Introduction

This paper focuses on the decriminalization of *Cannabis* in Nigeria whether it is a myth or reality. It becomes necessary considering the recent calls by some eminent political actors and the move by the National Assembly for the decriminalisation of the cultivation and use of the weeds in one hand and bearing in mind the negative socio-economic factors associated to its abuse. The paper seeks to consider the two divergent positions with a view to juxtaposing same for a better, reasonable, humane and more prudent position for the benefit of the majority if not the generality of Nigerian citizens.

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*Cannabis sativa* or Indian hemp as it is commonly known is a recreational drug obtained from dried leaves and flower of the hemp plant which is one of the Hallucinogens drugs under the variety of control drugs in Nigeria. *Cannabis* as a plant contains certain mind-altering substances or properties that induce or produce the feeling of euphoria and sometimes trigger mental problems in people who may be predisposed to it. The socio- economic factors associated with the abuse of such drug create different forms of social security threat to the society and rapid growth of criminal elements, distortion and destroying of lives of the teaming youth in the society thereby destroying the economic development of future generation. Consequently, the United Nations and other nations of the world, Nigeria inclusive decide to place it under the control drugs. Recently however, there are certain calls from some imminent and highly placed politicians for its legalization in Nigeria as some nations of the world have already considered such measures.

Considering the negative socio-economic factors associated to its abuse, coupled with the reasons advanced by the proponents of its legalization, this paper seeks to consider the two divergent positions with a view to juxtaposing same for a better, reasonable, humane and more prudent position for the benefit of the majority if not the generality of Nigerian citizens. In order to achieve the desired objectives, this paper adopted both doctrinal and empirical research methodologies, where the nature, classification and legal framework of illicit drugs were exploited and analysed; while pilot scheme questionnaires were issued to three (3) selected Nigerian border towns in Sokoto, Katsina and Jigawa States respectively. Accordingly, another questionnaire was drafted and transmitted to the Federal Neuro Psychiatric Hospital Kware, Sokoto State, and all the questionnaires were duly retrieved, analysed and reflected in this work. Nonetheless, it appears expedient to consider the nature of *Cannabis*, classification as well as the legal framework of illicit drugs before analysing the data and conclusion in the circumstance.

## **2. Nature of *Cannabis***

Drug usage has been in existence for a very long time, and from almost all parts of the world depending on where the story comes from. Accordingly, men and women of the globe have been using psychotropic substances throughout history for numerous reasons either to attain euphoric

physical states, for pleasure, to escape from pain and suffering or to seek spiritual transcendence and enlightenment through altered states of consciousness.<sup>1</sup>

The plant of *Cannabis* or Indian hemp as commonly known comes from a plant called '*Cannabis Sativa*' that is mainly found in Asia and South America, although significant amounts are grown in North America and Europe, and recently in some African countries. There are mainly three forms of *Cannabis*: herbal, resin and (the least common) hash or hashish oil.<sup>2</sup>

### 2.1 Herbal

The commonest form of *Cannabis* is made from the dried leaves and flowers of the plant. It mostly looks like the kind of coarsely chopped dried herbs used for cooking. It is usually in a greenish-brown colour and has a strong sent like herbal sweet smell when sniped even in wrap.<sup>3</sup> However, recent undocumented report discovered by the law enforcement has it that, the Ghanaian made Indian hemp is odourless due to the manner it is processed, making it easier to beat law enforcement agent at various check points if not properly observed.

### 2.2 Resin

It is made by compressing the sap on the leaves and stem into blocks. However, its colour varies from almost black through to a pale golden brown. Some forms of resin are hard and brittle like charcoal, while others are as soft as liquorices. Resin is usually mixed with tobacco in a hand-rolled cigarette but, like herbal, it can be eaten when added to food.<sup>4</sup>

### 2.3 Hash Oil

Hash oil are extract obtained from *Cannabis* which is also known as honey oil of *Cannabis* or *hashish* concentration. *Cannabis* concentration contains many resins and other components such as *tetrahydroCannabis* (THC) and *Cannabis diol* (CBD) and indeed many other *cannabinoids*. *TetrahydroCannabis* (THC) is a chemical component obtained from the principal *Cannabis* through laboratory experimentation. When closely and carefully examined in the laboratory, it contains the principal psychedelic constituent of *Cannabis* and at least other 133 *cannabinoids* in the hemp plant which is considerably harmful and thereby adjudged by the United States of America Federal Law as controlled drug, therefore not acceptable for medical use due to its lack

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<sup>1</sup> H. Fernandez and A. Therissa, 'The History of Heroin: The discovery of Opium and Chinese Trade' (2011), P.3, *The Library of Addiction Drugs*; accessed at, <[https://www.hazelden.org/HAZ\\_MEDIA/7988\\_heroin.pdf](https://www.hazelden.org/HAZ_MEDIA/7988_heroin.pdf)>, visited on 30<sup>th</sup> Sept, 2022.

<sup>2</sup> Drug Enforcement Administration Museum and Visitors Centre (DEAMVC), Pentagon City, Arlington, VA; accessed at, < <https://www.deamuseum.org/ccp/cannabis/history.html>>, visited on 4<sup>th</sup> Oct, 2022.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

of safety to human system.<sup>5</sup> Delta-9-tetrahydrocannabinol ( $\Delta^9$ -THC), better known as THC, is the marijuana plant's primary component for causing psychoactive effects. When smoked, it absorbed into the bloodstream and travels to the brain receptors affecting the parts of the brain responsible for thinking, memory, pleasure, coordination and movement of the body system.<sup>6</sup>

Accordingly, *Cannabis diol* (CBD) is a popular herbal extract that contains dietary supplement widely promoted to have therapeutic characteristic components beneficial to human system. The potential and relative interim studies report on the ability of the CBD to have effect on anxiety, pain and certain psychiatric reliefs' components<sup>7</sup> was the basic predication that the international market value of the CBT component was estimated to hit about Forty Seven Billion Dollars (\$47b) globally by 2028 and it is based on this particular narratives, the proponents of legalizing *Cannabis* in Nigeria and other grower nations of the world relied upon, when the actual situation is that, there is **insufficient high-quality evidence** that *Cannabis diol* is effective on these conditions.<sup>8</sup>

In the context of its preparation, *Cannabis* resin when dissolved in a solvent filtered and allowed to evaporate, leaves thick oil which is called and referred to as hash oil. However, the oil varies in colour from black to green due to the method of its preparation and it smells strongly like rotten vegetables. It is usually smeared on cigarette papers and smoked or mixed with tobacco, wrapped and smoked, depending on the individual desire.

The effect of *Cannabis* depends on how it is smoked, duration and how the individual body naturally reacts to the drug. Most users smoke *Cannabis* on its own or mixed with tobacco in a hand-rolled cigarette, known as a joint. The smoke is usually inhaled more deeply and held down for a longer period by the users than with a normal cigarette, while others inhale it using a pipe, called a '*bhong* or *Shisha*' that cools the smoke before it is inhaled. However, some people add *Cannabis* to foods, such as biscuits and brownies, to make hash-cakes or space-cakes. *Cannabis*

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<sup>5</sup> United States Drug Enforcement Administration. US Drug Enforcement Administration, Department of Justice. 1 December 2018.; Available at <<https://en.wikipedia.org/wiki/Tetrahydrocannabinol>> Accessed on the 29<sup>th</sup> Oct, 2022.

<sup>6</sup> What is THC, '-herbies,herbiesheadshop.com.' Available at <<https://en.wikipedia.org/wiki/Tetrahydrocannabinol>> Accessed on the 29<sup>th</sup> Oct, 2022.

<sup>7</sup> Campos AC, and others, 'Philosophical Transactions of the Royal Society of London. Series B, Biological Sciences (Review).(2012), **367** (1607): 3364–3378. Reported by Wikipedia, Available at <<https://en.wikipedia.org/wiki/Cannabidiol>,> accessed on the 29<sup>th</sup> Oct, 2022.

<sup>8</sup> Novella S, 'Where are we with CBD?' (2021) Science Based Medicine, Archive; available <https://en.wikipedia.org/wiki/Cannabidiol>, accessed on the 29<sup>th</sup> Oct, 2022.

can stay in man's system longer than alcohol; it may take up to about two months within the human body system.<sup>9</sup>

However, the side effect of *Cannabis* is that, it can trigger mental problems in people who may be predisposed to them, such as psychiatric problem, drug dependency, brain damage and impaired motivation. It increases risk for people with breathing problems, such as bronchitis, cough and asthma. It can also lower man's sperm count, and the sperm produced could be abnormal and sometimes leading to infertility.<sup>10</sup> Socially, it has psychoactive effects which sometimes are responsible for hazardous incidences such as auto crash, assault, violence, murder, suicide, spousal abuse, rape and other deviant behaviour.<sup>11</sup>

However, it is worthy to acknowledge that, recently some parts of the United States<sup>12</sup> and some other countries in the world<sup>13</sup> legalized or decriminalised the use of marijuana either in totality or partial application. Nonetheless, in the United Kingdom and many other nations of the world, use of marijuana is still illegal, while researchers are still looking at the possible prospect of the weeds based on sound evidence.<sup>14</sup>

### 3. Classification of Drugs

It is imperative to note that, not all classes of drug are prohibited or are classified as control drugs in Nigeria. Accordingly, some drugs are considered as control or otherwise based on national consideration on certain peculiar factors. Such drug considered to be legal by most nations of the world include, tobacco, coffee, hypnotics, sedatives, inhalants, etc; and control drug such as opiates *Cannabis*, cocaine, synthetic drug, hallucinogens<sup>15</sup> among other.

<sup>9</sup> M. Tieu, 'Understanding the Nature of Drug Addiction' (2010), *Bioethics Research notes* 22 (1): p.7, vol. 22-issue-1; accessed at, <<https://philpapers.org/rec/TIEVI-5>>, visited on 23<sup>rd</sup> Sept, 2022.

<sup>10</sup> Ibid; accessed at, <<https://www.deamuseum.org/ccp/cannabis/effects.htm>>, visited on 30<sup>th</sup> Sept, 2022.

<sup>11</sup> S. O. Ogege, 'Drug Prohibition and the Problem of Conformity in Nigeria' (2010), P. 94, *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<sup>th</sup>Sept, 2022.

<sup>12</sup> S. Atkins, 'Boxing Legend Mike Tyson Opened A 40-Acre *Cannabis* Ranch After California Legalized Weed' 25/01/ 2020,; accessed at <<https://www.thesun.co.uk/topic/cannabis-legalisation/>>, visited on 28<sup>th</sup> Sept, 2022.

<sup>13</sup> Legalization and Decriminalization of Marijuana; accessed at <<https://www.thrillist.com/vice/30-places-where-weed-is-legal-cities-and-countries-with-decriminalized-marijuana>>, visited on 28<sup>th</sup> Sept, 2022.

<sup>14</sup> C. Edwards, 'New Cannabis Compound 30 Times More Potent Than The Found In One Marijuana Variety' *The Sun News, UK Edition*, 13 Jan 2020, 10:29; ; accessed at <<https://www.thesun.co.uk/topic/cannabis-legalisation/>>, visited on 28<sup>th</sup> Sept, 2022.

<sup>15</sup> World Health Organization (WHO) Definition, quoted by, J. P. Espada and D. L. Irlles, in their Report titled, 'Basic Concept in Drug Addiction' (2009), *European Network on Exchange Early Detection Drug-Consumption Annual Report*, P. 2; accessed at, <<http://www.emcdda.europa.eu/publications/annual-report/ 2009>>, visited on 29<sup>th</sup> Sept, 2022.

Similarly, in another method of classification which is based on the effect of the drug produced in the Central Nervous System (CNS), drugs are classified into three groups, they are:<sup>16</sup>

1. Central Nervous System Depressants

- a) Alcohol
- b) Hypnotics: Barbiturates and non-Barbiturates
- c) Anxiolytics: Diazepam
- d) Narcotic Analgesics:
  - i. Opium and Derivatives: Heroin, Morphine, Codeine, etc.
  - ii. Synthetic Narcotics: Methadone, etc.
- e) Antipsychotics (major tranquilizers)

2. Central Nervous System Stimulants

- a) Alertness Stimulants.
  - i. Major: Amphetamines, Cocaine
  - ii. Minor: Nicotine, Xanthenes (coffee, tea, cocoa, etc.) (Legal in Nigeria)
- b) Mood Boosters: Antidepressants

3. Central Nervous System Perturbants (Psychedelic)

- a) Hallucinogens: Mescaline, LSD, etc.
- b) Derivatives of Cannabis: Marijuana, Hashish
- c) Volatile Solvents: Glue,<sup>17</sup> etc.

These types of classified drug were captured within the ambit of the Nigerian legal framework as provided by the National Drug Law Enforcement Agency (NDLEA) (Establishment) Act<sup>18</sup> which classified and criminalized variety of drug. It is worthy to note however that, all the aforementioned enumerated classified drugs with the exception of coffee, tea and cocoa are all considered as illicit drugs in Nigeria, while consumption of alcohol is prohibited in some parts of Northern Nigeria.

#### 4. Legal Regime on Narcotic Drugs

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 illicit drug menace,

<sup>16</sup> Ibid, p. 3.

<sup>17</sup> Ibid.

<sup>18</sup> NDLEA Act, Cap. N 30, LFN, (2004), Ss.15, 11, 19, 20, and 22, (as amended).

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 the 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 and proceeds of drug problems, held in Vienna, from 11-12 March, 2009. Nonetheless, while considering the legal framework of illicit drugs, this paper first considers and appreciates the effort made by the League of Nations by looking into various control measures provided before the eventual creation of the United Nations.

Prior to the creation of the United Nations, the League of Nations and other organs in 1920 established an Advisory Committee on Traffics in Opium and other Dangerous Drugs; to study the situation with a view to advising the Council on the subject.<sup>19</sup> 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 25<sup>th</sup> 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 authorisation for the international trade of the illicit narcotic drugs.<sup>20</sup>

In 1931, another Convention was convened which came into force on 9<sup>th</sup> 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 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.<sup>21</sup>

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

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<sup>19</sup> 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<sup>th</sup> Sept, 2022.

<sup>20</sup> Ibid.

<sup>21</sup> Ibid, pp. 54-55.

transferred to the United Nations Commission on Narcotic Drugs, by the 1946 Protocol which came in to force on 10<sup>th</sup> Oct, 1947.

In 1948, another Protocol was signed which came into force on Dec, 1<sup>st</sup>, 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.<sup>22</sup>

In 1961, a Single Convention on narcotic drugs was held which appeared to be one of the most important Conventions, 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 Dec, 13<sup>th</sup>, 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),<sup>23</sup> 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.<sup>24</sup>

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.<sup>25</sup>

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

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<sup>22</sup> Ibid, p. 55.

<sup>23</sup> Ibid, Pp 55-56.

<sup>24</sup> Single Convention of 1961, Art. 2.

<sup>25</sup> O.O. Jacob, P. 56, Op cit. p.7.

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.<sup>26</sup>

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 traffickers.<sup>27</sup> 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.<sup>28</sup>

Accordingly, the Convention in Article 14 provided that:<sup>29</sup>

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 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 Convention<sup>30</sup> 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

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<sup>26</sup> Ibid, p. 58.

<sup>27</sup> Ibid, p. 58.

<sup>28</sup> United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988; Art. 5.

<sup>29</sup> Art. 14, Ibid.

<sup>30</sup> Art. 12, Ibid.

control measures over such substances and assessing chemical substances for possible international control whenever necessary.<sup>31</sup>

On the 23<sup>rd</sup> February, 1990, the United Nations General Assembly further agreed on a thirty point political declaration and a One Hundred points to fight international war on drug abuse and to protect mankind from the scourge of drug abuse and illicit trafficking in drugs.<sup>32</sup> 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 setting.<sup>33</sup>

39. Commit ourselves to implementing effectively the present Political Declaration and its Plan of Action through resolute international cooperation, in collaboration with 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...<sup>34</sup>

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. It is at this premise that the provisions of section 52 of the NDLEA Act<sup>35</sup> directly made reference to the

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<sup>31</sup> O.O. Jacob, Pp.58-9, Op cit. p.7.

<sup>32</sup> Ibid, P. 59.

<sup>33</sup> 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.

<sup>34</sup> Ibid.

<sup>35</sup> NDLEA Act, 2004.

provisions of the Single Convention of 1961 as amended by the 1971 Protocol directly. The aforementioned legal frameworks are some of the international conventions and treaties dealing with the control and regulation of illicit drugs *cannabis* inclusive and indeed drug trafficking in the world applicable to Nigeria as one of the signatory.<sup>36</sup>

However, as this paper is primarily directed on the issue of *Cannabis* as one of the narcotic and control drugs in Nigeria; section 52 of the National Drugs Law Enforcement Agency (NDLEA) Act,<sup>37</sup> defined narcotic drug to mean:

any of the substances, natural or synthetic in the First Schedule of the single Convention of Narcotic Drugs of 1961 as amended by the 1972 Protocol amending the single Convention on Narcotic Drugs, as amended in the Second Schedule to this Act, including the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1989.

The provisions of the cited section clearly could mean that, all the items considered as narcotics in the aforesaid Conventions are prohibited and therefore classified as illegal or control drugs in Nigeria. The list of those items are provided in sections 3 (p) (iii), 11 (1) (e) and (f) of the 2<sup>nd</sup> Schedule of the Act.<sup>38</sup> While Sections 11, 19, 20, and 22 of the Act<sup>39</sup> clearly criminalises and provides variety of punishments with respect to cocaine, heroin, Lysergic Acid Diethylamide (LSD), *Cannabis* and other similar drugs.

### **5. A call for Decriminalization of *Cannabis* in Nigeria**

Decriminalization is the action or process of ceasing to treat something as illegal or as a criminal offence; it means to remove or reduce the criminal classification or status; to repeal a strict ban on something; to eliminate criminal penalties for or remove legal restrictions against something; e.g to decriminalize marijuana.<sup>40</sup> Considering the fact that *cannabis* as a plant grows easily most especially in the tropical climate condition of Nigeria, and coupled with the fact that, recently some parts of the United States<sup>41</sup> and some other countries in the world<sup>42</sup> legalised or

<sup>36</sup> S. O. Ogege, P. 92, Op cit. p.4.

<sup>37</sup> NDLEA (Establishment) Act, Cap. N 30, LFN, (2004), (As amended).

<sup>38</sup> Ibid; it includes, ephedrine, ergometrine, ergotamine, lysergic acid, phenylacetic acid, acetic anhydride, acetone, antranilic acid, ethyl ether and Piperidine, etc

<sup>39</sup> Ibid.

<sup>40</sup> Merriam Webster online Dictionary, Accessed at <<https://www.merriam-webster.com/dictionary/decriminalize>>, visited on 5<sup>th</sup> December, 2022.

<sup>41</sup> S. Atkins, Op cit. p. 5

<sup>42</sup> Legalization and Decriminalization of Marijuana; accessed at <<https://www.thrillist.com/vice/30-places-where-weed-is-legal-cities-and-countries-with-decriminalized-marijuana>> visited on 28<sup>th</sup> August, 2022.

decriminalize the use of marijuana either in totality or partial application, some highly respected Nigerian politicians are of the view that *cannabis* be decriminalised to enable the country benefit from the potential revenue expected from its cultivation and exportation to other countries.

Accordingly, the proponent of such views maintained that, ‘the planet earth has a constant period of darkness and light every 24 hours which we call night and day, in like manner, just like every other crop or plant, *Cannabis Sativa* has both CBD and THC content which we can put it to good and bad use’.<sup>43</sup>

After a careful evaluation of the aforementioned statement, it is evident that the leading proponent of decriminalisation of *Cannabis* in Nigeria admitted the two sides of the coin and it is now left to a good and prudent society to decide which side of the coin to utilize and at what point in time of their developmental stage. The possible question here is that, is Nigeria at this point in time ready for this type of law legalizing the use of *Cannabis*?

In order to rationalise their standpoint, the proponents of its legalisation in Nigeria re-echoed and further frazzled that:<sup>44</sup>

We must find a way to legalize the cultivation of *Cannabis* for medicinal purposes. There is nothing wrong about it. We are only shooting ourselves in the foot. It is a foreign exchange earner for people outside the country. People want this. We ourselves, even our pharmacies want to develop.

Interestingly, the Chairman, House of Representatives Committee on Diaspora, Tolu Akande-Sadipe, who was also a panellist at the roundtable, expressed optimism that the passage of the Dangerous Drugs Act [Amendment] Bill 2020, which was at the second reading, then, would usher in a new era on medicinal *Cannabis* production and distribution in Nigeria.<sup>45</sup>

In a democratic society where the people are ruled by the law not by the people’s will, coupled with the clear provisions of section 4 (2) of the Constitution<sup>46</sup> which provides that, ‘the National Assembly shall have power to make laws for the peace, order and good government of the Federation...’ one expects the National Assembly to use this provision as the guiding principle in making or enacting any law in the Country most especially of this nature for the safety, security

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<sup>43</sup> The Editor, The Guardian Nigerian News Paper, ‘Again, Akeredolu makes case for legalisation of *Cannabis* in Nigeria’; 9<sup>th</sup> June, 2021; accessed at <<https://guardian.ng/news/again-akeredolu-makes-case-for-legalisation-of-cannabis-in-nigeria/>> visited on the 25<sup>th</sup> Sept, 2022.

<sup>44</sup> Ibid

<sup>45</sup> Ibid

<sup>46</sup> CFRN (1999) as amended.

and good governance of this Country and not otherwise. It further reinforces that, one expects the members of the House or National Assembly to at least call for representations from respected stakeholders across the Country or subject the matter to a national discuss or debate with a view to having general or majority views of the citizens, but chose to limit their deliberation within the confines of the National Assembly without having recourse to the wider consultation from the various stakeholders and indeed the Nigerian public. At least, that is what was expected if indeed it was meant for ‘order and good governance’ of this Country.

Similarly, the author of this paper expects the National Assembly to also be guided by the provisions of section 11(1) of the Constitution<sup>47</sup> which provides that: ‘The National Assembly may make laws for the Federation or any part therefore with respect to the maintenance and securing of public safety and public order...’. Accordingly, the provisions of section 14 (2) (a) and (b) of the same Constitution<sup>48</sup> creates mandatory criteria which provide that:

It is hereby, accordingly, declared that sovereignty belongs to the people of Nigeria from whom government through this Constitution derives all its powers and authority; the security and welfare of the people shall be the primary purpose of government.

It is therefore very doubtful at this point in time to consider this type of move by the National Assembly to have passed the test of the foregoing provisions, most especially when almost all the heinous crimes committed in this Country are linked and associated to the use and misuse of illicit drugs, even among the boko haram, bandits and banditry, *Yan’kalare*, area boys and *Yan’daba* activities<sup>49</sup> that have remain a clog to the wheel of safety, security and progress of this nation.

In every situation, event, scenario and indeed ideology, be it of whatever nature, convergence and divergence of interest is always likely to be the occurring phenomenon. Nonetheless, considering the combine provisions of sections 4 (2), 11 (1) and 14 (2) (a) and (b) of the Constitution of the Federal Republic of Nigeria (1999) as amended, coupled with the present security challenges in the Country, it would be doubtful for any idealistic, holistic, realistic, and

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<sup>47</sup> Ibid

<sup>48</sup> Ibid.

<sup>49</sup> 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<sup>th</sup> Aug, 2022.

nationalistic view to consider the decision of the National Assembly in making a move towards decriminalization of *Cannabis* in Nigeria at this point in time to be for peace, order, safety, security, public order and good governance of this nation.

It could be contemplated that, the proponents are advocating for a controlled legalization of *Cannabis* purely for pharmaceutical or medicinal purposes. This would be a valid and reasonable point in an enlightened and patriotic law abiding society. In Nigeria however, it is the candid view of this paper that, we need to be guided by the realistic social environment in which we found ourselves for now. In that, despite the current prohibition and desperate effort of the international community as well as the internal law enforcement agencies towards the suppression of the illicit drugs for the common good of all, the cultivation, procession, transportation, trafficking and use of the drug is still not abated even in Nigeria. As it was only of recent when a 32 year old Thaddeus Joseph, a resident of Kado Estate Area of the FCT, Abuja was arrested on the 7<sup>th</sup> Sept, 2022, by the FCT Police Officers for being in possession of a commercial amount of leaves suspected to be *Cannabis sativa* on a piece of land at Godab Estate in the life camp area of the FCT, to cite a single example out of many. This is the situation in a prohibition regime, what more of the so call proposed control cultivation.

Nonetheless, the sum of Forty Seven Billion Dollars (\$47b) that amazingly influence the decision and arguments of the proponents may sound huge sum of money, but it is by far more than that. First of all, it is a mere projection between now to 2028 and not a reality. Secondly, even if it is a reality, it is not for Nigeria or African nations alone, but for the entire nations of the world, comprising the commercially large scale, medium and small scale grower nations. Thirdly, the safety projection was based on an interim report not on sound and high level probable evidence which if relied upon could ultimately lead to catastrophic consequences.

However, considering the political atmosphere of the nation and possible future reoccurring phenomenon of this issue, such control cultivation may only be ripe if and only if there is the government will power towards enhancing the manpower, inadequate funding, systemic corruption and other welfare requirements of the law enforcement agents responsible for the fight against the illicit drugs in the Country. This is against the backdrop that, available data discovered by this paper revealed that, as at 2019, the National Drug Law Enforcement Agency (NDLEA) numerical manpower stood at barely as only Four Thousand, Seven Hundred (4,700)

personnel saddled with this type of onerous responsibility in a Country of about two hundred million people.<sup>50</sup>

## 6. Data Collection, Analysis and Interpretation

As a dual analytical research methodology aimed at having empirical balance data and considering the fact that in every democratic society, power belongs to the people, this paper desires to have a first hand and possible divergent views from the Nigerian public, as such three hundred copies of pilot scheme questionnaires were drafted and distributed to the members of the three (3) Nigerian border towns of Illela in Illela Local Government Area of Sokoto State; Kongolom/Maimujiya in Mai'Adua Local Government Area of Katsina State (Maimujiya is a no-man's land between Nigeria and Niger Republic); and Maigatari, Maigatari Local Government Area of Jigawa State (one hundred copies to each border town).

The choices of the border town is borne out of the simple reason that *Cannabis* are commonly transported, sold, used and abused with less eagle eyes as compared to the cities within the interior part of the Country. For instance, Maimujiya which is considered as a no man's land is separated with Kongolom town with only pieces of a gate barrier where rarely the security agents of either Nigeria or Niger Republic carryout any form of patrol; therefore, the use of *Cannabis* and other forms of illicit drugs is free for all with less security disturbance, [reflecting the sense and comfort of freedom]. Thus, such area is considered as a similitude of a nation where use of *Cannabis* is decriminalize, hence, the best possible avenue considered by this paper to obtain free, independent and better data in relation to this topical issue.

In order to have a better understanding and appreciation of the data obtained from the three border towns, it would be better if the likes questions are reproduced for better understanding of even a first time reader of the paper. Apart from the provisions for the names, address, age and educational status of the respondents, which are optional; the main body of the questions starts by asking if a respondent knows what is called *Cannabis* or Indian hemp; if he ever come into contact with it; if he is or was a user; if it is or was sold in his locality or area; if he is or was a dealer or petty trader in the weeds; if he knows or thinks its usage is responsible for social vices in the society; if he knows or thinks it is responsible for any negative mental health; if he knows or thinks it has any health benefit; if he thinks the nation is ripe for the legalisation of its

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<sup>50</sup> 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<sup>rd</sup> August, 2022.

cultivation and use; if he thinks the present position of the law is sufficient or not; if he cares for the National Assembly on its own to make law for its controlled cultivation; if he cares seeing his children using or smoking the weeds; and lastly a provision for further comment(s). Accordingly, **ninety two percent** (92%) of the questionnaires were received, where it was carefully separated, classified, analysed and discovered that, **sixty percent** (60%) of the respondents decided not to disclose their details but chose to answer the basic questions in the circumstance. It was also discovered that all of respondents know what is called Indian hemp; **four percent** (4%) of the respondents admitted to be users of the weeds; only **two persons** (less than one percent) admitted to be dealing/selling the weeds; **nine percent** (9%) admitted it is being sold in their area; all the respondents agreed that it is one of the causes of social vices in the society; all of the respondents appear not to have any knowledge of its health benefits; all the respondents with the exception of **three persons** (1%) admitted that the present state of the law (criminalizing same) is correct and the best option for the Country; none of the respondents wishes to see his children using or dealing in it; all the respondents with the exception of **three persons** (1%) do not wish the National Assembly to make a move for its legalization; while, **fifteen percent** (15%) of the respondents were able to make additional comments. In their respected comments, all of them stressed that, legalising it in Nigeria is capable of destroying the lives of the majority of the Nigerian youth and increasing the volume of crime and criminality in the Country.

Similarly, a five (5) questions questionnaire sent to the Federal Neuro Psychiatric Hospital Kware, Sokoto State was received and analyzed. The first question was to graciously furnish this paper with the total number of in/out patients recorded from January to December, 2021, with *Cannabis* related complications; secondly, the age bracket of the patients; thirdly, total number of inpatients with such related complications (admitted and given bed within the Hospital); fourthly, the duration required for treatment of such type of complications; and lastly, the cost of treatment within such period of time. The received data appeared self-explanatory. That, between January to December, 2021, a total number of nine thousand, five hundred and eighty three (9,583) both inpatients and outpatient were recorded, most of them having used *Cannabis* for about 70-90%. That, the average age bracket of the patients ranges between 21 to 46 years. Accordingly, it was revealed that about two thousand (2,000) were admitted as inpatient and need at least three months adequate treatment with the possibility of follow up; while the cost of

treatment is forty five thousand (#45,000) Naira for just two weeks per patient (including the fee for bedding as subsidies by the Federal Government). This report simply means that, each inpatient requires ninety thousands (#90,000) Naira per month for his treatment at the Hospital. It equally means that, each inpatient requires the sum of two hundred and seventy thousand (#270,000) Naira for his three months treatment without the cost of possible follow up treatment. Then, when you multiply the sum of two hundred and seventy thousand (#270,000) Naira by two thousand (2,000) inpatient, it will give you the sum of five hundred and forty thousand (540,000) Naira in a Federal Government hospital subsidised treatment. Then, the next question is what is the cost of treatment for the remaining seven thousand, five hundred and eighty three (7,583) outpatients. The subsequent inquiry with regards to the treatment of the outpatient was unable to provide the desired and accurate answer, as it was reported that, each outpatient has his own different peculiarities, hence, the cost of medication of such patients may differ from one outpatient to another. Based on that revelation therefore, this paper decided not to reflect such undecided/inaccurate data to avoid misleading the public in the circumstance. Nonetheless, it is now for our cognitive reasoning to evaluate the possible cost of such treatments coupled with the wasted useful period of such patients to the national growth and development.

Additionally, this is only a pilot scheme research from three towns of three States in the North-western part of the Country, while the recorded patient is from only one Hospital from only one State of the Federation. It is therefore a possibility to having a Hospital of this nature in each of the 36 States of the Federation run by the State, Local Government or Federal Government as the case may be with a similar data or even more. Then when you multiply such numbers you may be able to obtain a very appreciable number of people negatively affected by this illicit drug. It is only by obtaining this type of data from each state of the Federation and possible cost implication of the attended treatment as well as the wasted youthful period and lives of those people, **that one can appreciate the quantum value of the 'expected' revenue to be generated from its cultivation, procession and sale in the country or otherwise.**

## 7. Conclusion

Considering the combine provision of sections 4 (2) and 11 (1) and 14 (2) (a) and (b) of the Constitution of the Federal Republic of Nigeria 1999 (as amended), which ought to be the guiding principles to the National Assembly in making laws for the Country, coupled with the overwhelming views expressed by the people as reflected in the pilot scheme analysis in which

the security and safety of our teeming youth as well as the possibility of eroding the fragile and elusive economic situation of the Country are to be accorded priority, it is the humble view of this paper that, Nigeria and indeed Nigerians are not yet ready for the decriminalization of *Cannabis* at this point in time. However, as this matter might be a subject of reoccurring phenomenon in the future, most especially reignited by the political actors, it is humbly advised that, the issue of safety measure of *Cannabis* use based on high level evidence be established, the social security and economic factors, the cost implication for the treatment of potential (youth) victims *vis a vis* the wasted period of their lives, as well as the adequate awareness creation on the subject matter be accorded the priority it deserves. Accordingly, other factors such as lack of government will power, shortage of manpower of the law enforcement agencies responsible for fight against illicit drugs and psychotropic substances, inadequate funding and systemic corruption need to be considered and addressed, otherwise the idea of decriminalization of *Cannabis* in Nigeria seems to be a myth rather than reality.