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Harmonizing Drug Legislation in West Africa

- A Call for Minimum Standards

WACD Background paper No. 9[1]

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1 Background

In 2008 ECOWAS produced a Political Declaration and Regional Action Plan to address the Growing Problem of Illicit Drug Trafficking, Organized Crime and Drug Abuse. In 2013, the Action Plan was formally extended, and priority was placed on the conduct of an extensive review "of existing Member states' legislation with a view to achieving a common minimum standard to ensure sufficient deterrent against illicit trafficking and enhance the use demand reduction strategies to address problem associated with drug use in line with relevant regional and international conventions."[2] As part of that process, the Heads of ECOWAS Drug Control Committees called on the ECOWAS Commission "to harmonize ECOWAS legal texts into a single and up to date regional protocol on drug control and prevention of organized crime."[3] In addition to the ECOWAS initiative, other efforts are underway in the region to harmonize drug legislation. The latter include:

i. *The Dakar Initiative,* a sub-regional initiative signed by seven countries in February 2010.[4] The Initiative intends to support the implementation of the ECOWAS Regional Action Plan and the Political Declaration. One of the main outcomes of the Dakar Initiative to date is an effort by the Senegalese Ministry of Interior to draft "a document [aimed at] harmoniz[ing] existing national legal instruments at a sub-regional level to fight drug trafficking in a coordinated and more efficient manner."[5] A first draft of the 'harmonization law' was tabled in November 2012.

ii. The West African Network of Central Authorities and Prosecutors (WACAP), a UNODC-backed initiative aimed at improving cooperation in criminal matters in the West African region and serving as a basis for capacity building. The first meeting of the Network was held in May 2013 in Abidjan, Cote d'Ivoire.[6]

[2] ECOWAS Forty Second Ordinary Session of the ECOWAS Authority of Heads of State and Government. Abidjan, Cote d'Ivoire, February 2013.
[3] Ibid.
[4] The seven countries are Cape Verde, the Gambia, Guinea, Guinea-Bissau, Mali, Mauritania and Senegal
[5] UNODC (2013), *Transnational Organized Crime in West Africa: A Threat Assessment*, Introduction.
[6] The aim of this first meeting of the West African Network of Central Authorities and Prosecutors was:
- Present several technical issues (International cooperation legal framework, MLA Writer Tool),
- Exchange views on several issues (difference common law/civil law, challenges faced by the different countries regarding international cooperation),
- Discuss possible measures for the way ahead

A second WACAP meeting took in November 2013, in Cape Verde

In January 2013 the West Africa Commission on Drugs (WACD) was launched with the purpose of *inter alia* mobilizing public awareness, and developing evidence-based policy recommendations around drug trafficking and drug consumption and related impacts. Throughout its country visits and in the background papers commissioned to inform its work, WACD Commissioners were repeatedly informed of the significant challenges that persist with regard to drug related legislation in the sub-region, as well as challenges regarding the effective implementation of the legislation. Beyond a range of technical challenges cited, and the lack of the necessary expertise on the part of law enforcement and the judiciary for implementing drug-related legislation, the Commissioners were also informed on repeated occasions that people who use drugs and low-level drug dealers tend to be the ones who feel the brunt of the law, while high-level actors in the drug market tend to benefit most from legal inconsistencies or loopholes, corruption or political interference in due process. In addition, despite the human right protections directly or indirectly provided for in national legislation, these are rarely respected when it comes to providing treatment for people who have come into conflict with the law for drug-related offences. In this regard, and cognizant of the fact that different initiatives are already underway in West Africa, the WACD commissioned an empirically informed paper on a sampling of national drug laws and related legislation in four (4) countries in West Africa. As a means to better understand how legislation is being applied in practice, the paper was also informed by interviews with law enforcement and prison officials as well as a sampling of people in pre-trial detention or serving sentences for drug offences in the same four countries. The four countries selected for the case studies are Ghana, Nigeria, Mali and Guinea (the questionnaires for the prison sampling dimension of the case studies can be found in Annex B and C).

The findings of the four case studies were presented to the WACD at its third meeting held in Accra, Ghana in October 2013. Subsequently, a small expert group drew from the case study findings, analysis of legislation in other countries (particularly Senegal, Sierra Leone and Liberia), and the findings from other background papers commissioned by the WACD to develop this synthesis report which puts forward a series of **recommendations for minimum standards for drug related legislation in the region**. It is hoped that the findings and recommendations of this synthesis report will fuel further discussion and serve as constructive input to ECOWAS and national policy makers as they move toward reviewing and harmonizing national drug legislation in West Africa.

2 Findings of the Case Studies[7]

As is evident in the case studies, the drug legislation in the four countries that formed the basis of this synthesis report reveal important challenges. Some of these challenges reflect different legal cultures, others reflect the importance afforded to certain drug-related issues in a given country, while all reflect an over-enthusiasm for criminalization of all drug-related activities regardless of their significance. All of them

[7] A summary of the findings can be found in the accompanying table (Annex A).

reflect the absence of an over-arching policy to respond to drug use, and particularly problematic drug use (i.e. drug addiction and drug injecting).

2.1 General provisions

Specifically, each study addressed the key question: **What is the regime of drug laws in the country?** Each set out comprehensively the governing substantive and procedural laws on drug trafficking and related crimes. Each study also addressed, with some specificity, **the nature and scope of the proscriptive conduct constituting the crime** for example, trafficking, sale, and possession, and related sanctions.

Nigeria has enacted one major drug law - the National Drug Law Enforcement Agency (NDLEA) Act, CapN30, Law of the Federation of Nigeria of 2004 in response to illicit drugs.[8] The law, which is elaborate and exhaustive in nature, is almost a word-by-word template of the 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances covering almost every conceivable proscriptive aspect of drug trafficking and kindred offenses (Section 11). Its provisions are substantive, procedural, administrative, and regulatory. The provisions are set out with a reasonable degree of clarity and precision. The NDLEA Act criminalizes every kind of activity connected with the production, processing, distribution, sale, use and concealment of illicit drugs. The law does not include a categorisation of drugs but rather refers to illicit drugs as "the drugs popularly known as cocaine, LSD, heroin or other similar drugs" (Section 11).

Sanctions for drug-related offences (Sections 20 and 22-23) are amongst the highest in the four countries studied, ranging from 15 years to life imprisonment (see Sections 11-20 of the NDLEA Act). Conversely, according to the Nigeria case study, an important number of the convicted offenders interviewed (in Lagos) had received sentences of less than two years, confirming the findings of an earlier study that sentences imposed on drug offenders were generally lower than the minimum sanctions prescribed by law.[9] However, the offenders were generally detained prior to conviction for a relatively long time – 40 percent for more than one year. The latter is held to place a significant burden on the state, particularly the police, the courts and the prison services. Only slightly more than half of those interviewed had access to legal counsel and

[8] Before 2004, marijuana was outlawed in the Indian Hemp decrees of 1966 and 1975. Prior to this, Tamuno (1991) reported cases of arrests for importation of cannabis in 1933 and for offences relating to barbiturates and other drugs in the country in 1948. Klantsching (2013) provided evidence of drug seizures in the country by the police in the period covering the 1920s to the 1950s. In the 1970s Nigerians were reported to have been 'exporting' drugs to the Holy land during pilgrimage season (Attah 1990). Statistics related to the trafficking in cocaine, heroin, and psychotropical substances are reported from the early 1980s (Attah 1990; Lyamabo 1990; Alemika 1990, 2013). Responding in part to external pressures, in 1984 General Buhari's military regime established the Special Tribunal (Miscellaneous Offences) Decree (No.20) which among provisions for several crimes, prohibited the production, possession, use and trafficking of cocaine, LSD, heroin, cannabis. Anyone convicted for violating the law was liable to death by firing squad. The law was in effect applied retroactively and three young Nigerians who committed the offences prior to the enactment of the law were shot by firing squad in 1985.

[9] Alemika (1998)

11.8 percent of those interviewed reported being a victim of abuse or extortion by law enforcement officials and lawyers.[10] The only alternative to imprisonment provided for in the law is in reference to minors.[11] Although it is worth noting the absence of specialized services to render this provision applicable.

The 2004 law established the NDLEA as the body responsible for enforcing laws against "the cultivation, processing, sale, trafficking and use of hard drugs" and empowered it to "investigate persons suspected of having dealings in drugs and other related matters." The Federal High Court holds exclusive jurisdiction over the trial and sentencing of drug cases and other related matters (Section 26).

In terms of cooperation with other countries, Nigeria has signed several MoUs and Mutual Legal Assistance (MLA) and extradition agreements, for example:

- Treaty between the Federal Republic of Nigeria and the United States of America on Mutual legal assistance in Criminal matters.
- Agreement between the Government of the Federal Republic of Nigeria and the Government of the United Kingdom, of Great Britain, and Northern Ireland, Concerning the Investigation and Prosecution of Crime And Confiscation of the Proceeds of Crime.
- Mutual Assistance in Criminal Matters within the Commonwealth.
- Extradition Treaty between Republic of Benin, Republic of Ghana, Republic of Togo and Republic of Nigeria (1984)
- Memorandum of Understanding between the Federal Military Government of Nigeria and the United States of America (Osinbajo 1990: 228).

It has also established relationships with many countries in the following areas:

- Working relationship between the National Drug Law Enforcement Agency (NDLEA) and the United States Drug Enforcement Agency (USDEA) in the areas of joint operations, intelligence sharing, training and technical assistance;
- Intelligence sharing between Nigeria and France and training assistance to Nigeria by France;
- Training assistance from Switzerland

[10] Alemika (2013)

[11] See Section 20 (4)), whereby the Federal High Court before which a minor is being convicted, may, in an appropriate case, make an order as the circumstance may determine: a) either as an alternative to conviction or punishment; or b) for treatment, education, aftercare, rehabilitation, social integration of the offender."

- Under bilateral agreement, the NDLEA undertakes visa application clearance for applicants intending to travel to drug source countries: Brazil, Indonesia, India, Malaysia, Pakistan, Russia, Singapore and Thailand (NDLEA 2011: Annual Report and National Drug Control Master Plan).

Despite these efforts, Nigerian involvement in transnational, regional and national level drug trafficking (and increasingly production of methamphetamines) remains an important challenge, as does the growing level of consumption of hard drugs.[12]

In **Ghana**, the Provisional National Defence Council (PNDC) Law 236 established the Narcotics Control Board (NACOB) in Section 55 (under the Ministry of the Interior) and the Narcotic Drugs Control and Enforcement Law of 1990. The law reflects a reasonable degree of clarity and provision although like Nigeria, it too demonstrates a strong penchant for criminalization, with the onus generally placed on people who use drugs and low-level drug dealers. The Criminal Offences (Amended) Act of 2012 (Act 849) strengthened penalties for narcotic crimes, making offences punishable by life imprisonment as a maximum penalty. Similar to Nigeria, sentences for transnational trafficking offences range between 15 years and life imprisonment. The statutory 10 years mandated by PNDC Law 236 is applied to all other offences, without distinction regarding type, category or quantity of drug.[13] The latter offences include import, export, possession, manufacturing, distribution and the cultivation of plants for narcotic use, use (incl. sniffing, consumption, injection, supply). Based on interviews conducted in the Kumasi prison for the case study, an important number of convicted offenders spent up to one (1) year in pre-trial detention before being sentenced. Detainees generally do have access to lawyers and no abusive practices on the part of the authorities were reported. No alternative to incarceration is provided for in the Law.

Regarding jurisdiction, in Ghana, the Narcotics Control Board (NACOB) is the key governmental agency responsible for dealing with narcotics (Section 55 of PNDCL 236). The Ministry of the Interior supervises the agency. Coordination between the different drug law enforcement agencies remains a challenge, as is the perennial problem of corruption, with an important number of law enforcement officials implicated in drug trafficking cases over the past decade. The establishment of a vetted unit within NACOB (supported by the US Drug Enforcement Administration) is however, reported to be having an impact.[14] The ordinary courts in Ghana exercise territorial jurisdiction in all cases relative to criminal offences, including the aforementioned drug offences. It is the only country out of the four studied that has universal jurisdiction with regard to criminal (including drug) offences. Indeed, as per section 56 of the Courts Act 1993 (Act 459), jurisdiction to prosecute offences

[12] Involvement of Nigerians in illicit drugs within the country and internationally has been reported (Alemika 1998; Atta 1990; Iyamabo 1990; Green 1991, 1998; Green, Mills and Read 1994; Hedges and Tarzi 1990).
[13] According to the NACOB, discussions are underway to introduce categorization of drugs into the existing drug law. Prison sentences would be adjusted accordingly.
[14] Interviews with DEA and NACOB officials, Accra, Ghana, April 2013

can be exercised where the offences are committed within the territory of Ghana including its territorial waters and air space and in respect of offences committed on any ship or aircraft registered or licensed in Ghana. Where an act which if committed is considered a criminal offence both within and outside of the jurisdiction of the Ghanaian courts goes to trial, every person who within or outside the jurisdiction supported any part of the act may be tried and punished as if the act had been committed wholly within the jurisdiction. Notwithstanding, challenges regarding the prosecution of drug-related offences remain, particularly with regard to forensics and other forms of specialized expertise required.

Cooperation with other countries on criminal offences is included in the Mutual Assistance Legal Act (sections 5 (scope), 8 (content) and 17 (dual criminality). Specific mention of cooperation and mutual assistance, including the transfer of witnesses, with regard to drug offences is included in Sections 42 and 52 of the 1990 Narcotics Drug Law. The country also has extradition agreements with the United Kingdom, the US, Egypt, Greece and Canada.

The **Mali** legislative framework (comprehending a long list of acts and decrees dating from 1926 to 2013) and its drug law in particular - Law No. 01-078 of 18 July 2001 on the Control of Drugs and drug precursors - reflects a reasonable degree of clarity. The latest decree (Decree No. 2013-012 of 02 Sept. 2013 amending law No. 01-078 of 18 July on control of drugs and precursors) was adopted as a means to manage some of the coordination and coherence challenges related to anti-narcotics efforts, placing full responsibility for Mali's anti-drug measures in the hands of the Office Central des Stupefiants (OCS). The repression of illicit drug activities is provided for in Section 9 of Law No. 01-78 of 18/07/2001 on the control of drugs and drug precursors in Mali. The law includes the following offences: possession, use, sale, transnational and domestic trafficking and production. Sanctions are provided for in Article 13 (section 91 to section 103 of the Act). They are based on the types of offenses and the following classification of drugs (Art. 3):

- Group 1 includes all plants and high-risk substances that are not used medically.
- Group 2 covers plants and high-risk substances used in medicine.
- Group 3 includes plants and hazardous substances used in medicine.

High risk drug offenses include activities related to the cultivation, production, manufacture, and processing of high risk drugs and are punishable in accordance with section 94 of the Act with five to ten years imprisonment and a fine ranging from 200,000 to 2 million CFA. Offenses related to the international traffic of this class of drugs (Article 95), carry a penalty of five to ten years imprisonment with a fine of 5,000,000 to 50 million CFA. Domestic trafficking of *high-risk drugs* is liable to the same penalty as provided for in Article 94. Facilitating the use, supply, or transfer for personal consumption is subject to a sentence of six months to three years and a fine ranging from 20 000 to 200 000 CFA. Offenses related to *risk drugs* **(**Article 99 of the Act) include the production, cultivation, supply, distribution, sale, delivery, shipping, transportation, purchase, possession or use of risk drugs and are punishable with two to five years imprisonment and a fine of between 250 000

and 2.5 million CFA. Offenses related to *drug precursors* **(**Article 100) include the illegal production, manufacture, import, export, sale, transport, distribution, delivery, shipment, purchase, or storage of drug precursors and are punishable with a two to five-year sentence and a fine of 500,000 to 5 million CFA. The same penalty applies to anyone found with equipment used to conduct such prohibited activities. The latter also extends to acts of incitement or attempts to commit these offenses, as well as all manners of associations, collusion and financial activities surrounding them. Furthermore, Article 128 of the Act of 18th July 2001 prohibits residency for foreigners once their sentence has been served. This measure entails the full right to deport the persons concerned. As discussed below, the law does provide for alternatives to incarceration for people who use drugs (Articles 131 and 132 of Law No. 01-078 of 18 July 2001 on the Control of Drugs and Drug Precursors). However, no formal, specialized facilities exist to enforce the provision.

In Mali, the *Office Central des Stupéfiants* (OCS) is the body responsible for drug law enforcement (Decree 10-2012/P-RM of 13 April 2010). Other agencies with drug enforcement mandates include the gendarmerie, the police, border control and customs. Despite the creation of the OCS, under which each of the other agencies is supposed to cooperate and collaborate, each of these bodies has been operating largely independently in terms of investigations, making arrests and gathering statistics.[15] In light of this situation, the adoption of Decree No.2013-012 in September 2013 reconfirmed the lead role of the OCS in the fight against drugs yet it is unclear whether it will be provided with the political support and resources required to fulfil its mandate. The ordinary courts exercise jurisdiction over all criminal offences in Mali, including drug-related offences. With the support of the French government, a specialized court [for drug and terrorism-related offences] that will operate temporarily under the jurisdiction of Bamako's High Court is in the process of being established.

Contrastingly, **Guinea** does not have a specific drug law. Rather drug-related offences are embodied in the *Code Pénal,* which is not a comprehensive piece of legislation. Provisions for drug-related offences are laid out in articles 377-413 of the penal code. Art. 377 of the Penal Code covers offences punishable of criminal sentences: illicit production and manufacturing, international trafficking, aiding and facilitating usage, supply or transfer for personal consumption, fabrication and distribution of precursors, raw materials and equipment, organization, financing, drug money laundering, aiding and abetting of NLEA officers, facilitation or incitement through the exchange of data. Sanctions/ penalties for drug-related offences are also provided for in Articles 383, 392, 400 and 402 of the Penal Code relative to the "supply and transfer for personal consumption," "driving under the influence of drugs," and "supply of poisonous chemical inhalants to minors." Optional penalties (particularly regarding foreigners and asset forfeiture) are included in Articles 382, 399 and 400. No typology or categorization of drugs is provided for in the Code. The Penal Code also includes provisions on Aggravating circumstances (Art. 403 of Penal Code) which include use of

[15] In 2012 for example, competition and friction between the OCS and the police anti-drug squad came to a head. Both agencies had received intelligence on the arrival of an alleged Nigeria drug trafficker and were waiting for him at the airport in Bamako. Officers from both agencies came face to face on the issue and a heated exchange ensued. The dispute was eventually settled through the intervention of their superiors.

shipment, cargo, container or a vehicle usually assigned to humanitarian work for the transport of illicit drugs, similar substances or their precursors; illegal supply of drugs during the treatment of drug-addicts with substitution substances authorized by a competent authority; and if the offender has used someone without his/her knowledge to commit the crime.

Notwithstanding, the case study suggests that the law is obsolete, legally imprecise, and obscure in some significant respects, for example, in the Code's enumeration of offenses punishable by criminal sanctions and those deserving of fines. In analyzing punishment for criminal and misdemeanor [drug-related] offences as established by the law, the case study authors noted that preferential treatment is inadvertently afforded to higher level targets (e.g. transnational drug traffickers) due to the fact that the courts have the prerogative of deciding whether to hand down a combined sentence of imprisonment and fines on the one hand; or to hand down either of the two sentences (i.e. prison sentence or a fine) on the other. This allows drug traffickers to avoid prison sentence by paying a fine, and also fuels corruption within the judiciary as it favors a situation where the latter option of fines is frequently applied regardless of the gravity of the case. Such a practice also means that people who use drugs and low-level drug dealers, for whom the law prescribes the same legal punishment, are the ones who usually incur prison sentences since they are unable to pay the fine.

In terms of *jurisdiction*, in Guinea, in 1994 a General Secretariat was created (via (Decree D/2011/121/PRG/SSG/94) in the Presidency with responsibility for the special services involved in the fight against drugs and organized crime: the Central Anti-Narcotics Office (OCAD); the Inter-Ministerial Committee for the fight against drugs; and the Economic and Financial Crimes Bureau. The Central Anti-Narcotics Office is the central agency for implementing the government's anti-narcotics policy (Decree No.066/PRG/SSG/94). This body is responsible for centralizing all information relating to drugs, creating data relating to seizures of drugs and deferred persons; and all issues related to the suppression and prevention of drug-related matters. It works with a range of institutions including the National Police, the Republican Guard, the Armed Forces, the Navy and others. All courts in Guinea - circuit courts, county courts/ courts of first instance, Magistrate Court/Court of Appeal, Supreme Court - exercise jurisdiction over drug-related offences.

Meanwhile, a quick review of **Liberia**'s proposed drug law suggests that instead of moving legislation forward in a progressive direction and building on some of the public health protocols upon which it acted in the absence of a drug law, Liberia intends to adopt rather draconian measures with regard to all kinds of drug-related offences, including those involving minors. Simple drug consumption is criminalized as a third-degree felony for the second offense in the case of a schedule 1 drug (those judged to be the most dangerous to society) which itself is the same penalty as the penalty for first-degree murder. For virtually all offenses there is no distinction between the amounts of drugs involved.

Although general protections are provided for in each country's constitution and in other relevant legislation, the protection of human rights is not specifically mentioned in any of the drug laws reviewed.

2.2 Data and Statistics

The absence of a distinction between the types and amounts of drugs involved in drug-related offences proscribed by law is common throughout the studies. In addition, due to a glaring lack of detailed **statistics** gathered and maintained by the police, courts and prison services, none of the studies could directly address the issue of the classification or differentiation between "street- level subsistence" sellers and "high-target traffickers"; and between "small- scale consumers" and "those possessing drugs for purposes other than individual use". In most cases (the exception as noted above is Mali), the class of drug is not stated. In Ghana for example, no government agency collects baseline data on drug use. Judicial and police statistics on drug-related offences do not appear to be a priority. Statistics on the number of people in pre-trial detention or serving sentences for drug-related offences do not exist. Statistics regarding numbers of arrests for drug-related offences exist yet there is no standardization of statistics across regions. Out of the 31 potential categories of crimes as listed by the crimes statistics bureau of the Ghana Police Service, those related to drugs occupy two categories. While in the Ashanti and Central regions (where the case study did its initial sampling) arrest statistics refer to: "possession of dangerous drugs" and "possession of Indian hemp," in the Greater Accra region, all drugs – heroin, cocaine, and Indian hemp - are listed together. No mention is made of methamphetamines or other synthetic drugs despite increasing reports over the past years of their circulation and consumption.

2.3 Drug Treatment in Pre-Trial Detention and Prison

The case studies also addressed the issue of the **existence of protocols regarding the provision of treatment for people who use drugs sentenced to prison or other forms of state custody** confirming the findings and recommendations put forward in another WACD paper on Treatment Policy for Substance Dependence in West Africa.[16] For example, the Nigerian NDLEA Act, stipulates (Art. 7 (3)) that the NDLEA's

[16] The Obot and Asare study shed important light on the major gaps in drug dependency treatment policy in the sub-region, noting in particular the urgency of:

- Ensuring the availability of reliable data on drug consumption and addiction prevalence, as well as mechanisms that can sustain regular data collection and monitoring of trends.
- Assessing the cost-benefit ratio of drug-related health programmes.
- Ensuring well-trained and incentivized human resources.
- Ensuring the availability of a treatment system with stand-alone and dedicated facilities and the establishment of out-patient services in primary health care and social service facilities.
- Removing drug dependence treatment from under the psychiatric umbrella in order to remove the stigma often associated with treatment in psychiatric hospitals.
- Providing for community-based treatment and prevention, and ensuring built-in measures to address human rights concerns, human resources development, and avenues for collaboration with sister countries within and beyond the sub-region.
- Ensuring that drug treatment services, and drug treatment and other health and social support are provided as an alternative to criminal sanction. This will involve close collaboration between the criminal justice system and the ministry of health and other relevant agencies.

counselling unit shall, in collaboration with the Federal Ministry of Health have responsibility, inter alia for (…) b) After care rehabilitation, social reintegration and education of addicts; and c) the promotion of welfare of convicts. It is unclear how this is dealt with in practice in Nigeria. According to the case study, the majority of those interviewed in prison noted they had received treatment or counselling while in prison custody. The high response may however be in part due to the fact that offenders tried to present a positive image of the facilities. But more significantly, an examination of what the offenders described as treatment or counselling do not so qualify. Among the forms of treatment and counselling reported were general counselling, moral counselling, social counselling, treatment in the clinic, treatment for malaria, church activity, prayers, and symbolically significant, 'brutality' was mentioned as a form of treatment. Regarding drug withdrawal treatment, only 15.7 percent reported receiving such (not all those interviewed were drug dependent); 2/5 reported receiving assistance from NGOs; nearly 3/5 said they would require reintegration assistance after release from prison. There is a general absence of rehabilitation services in Nigeria.

In **Ghana,** the Narcotics Drugs (Control Enforcement and Sanctions) Law of 1990 (PNDCL 236) includes provisions for inter alia, the "rehabilitation of offenders". According to the law, the key functions of NACOB include "advising the government on suitable methods for reducing drug abuse and on provision of treatment and rehabilitation of persons addicted to drugs;" and "[d]issemination of information to the public on the evils of narcotic drug use, its impacts and offences for dealing in narcotics". According to the findings of a WACD country mission to Accra in April 2013, only one public hospital – the Patang psychiatric hospital - in Ghana provides specialized treatment service to people who use drugs. A dedicated unit was opened at the Patang hospital in 2009, providing treatment for cannabis, cocaine and heroin use. The hospital uses a 'therapeutic community approach' which includes engagement with families of drugs, but does not offer substitution therapy such as methadone programmes. Establishing rehabilitation centres based in communities (rather than in-patient care) is planned for the future although the absence of funding remains a challenge. Medical professionals, principally those working in psychiatry or faith-based centres, are part of a NACOB-led working group on drug use but again, resources are limited.

No oversight mechanisms to oversee the nature of treatment provided exist. The prisons service has a very limited budget and therefore cannot initiate such programmes on its own. While it was acknowledged in interviews with officials in the prison service that drug dependence amongst those in pre-trial detention or serving a sentence was a problem, no special programmes are envisaged to deal effectively with the problem.

In **Mali**, detoxification treatment is provided for in Articles 131 and 132 of Law No. 01-078 of 18 July 2001 on the Control of Drugs and Drug Precursors. According to Art. 131'[a]ny person accused, indicted or charged with the use or attempted use of illegal psychotropic substances or

- Establishing a centre (or agency) responsible for drug demand reduction matters, while also decentralizing its efforts and ensuring an emphasis on drug use as a public health issue and integrating responses into national development plans. This can also help ensure that external technical and financial assistance is more balanced in its support of drug policy, rather than the current trend of front-loading support to bolstering law enforcement capacities.

precursors after medical examination may be compelled by reasoned decision of the investigative court or upon judgment to undergo treatment.' In such cases, the trial court where the matter is being heard cannot pronounce a judgment. Meanwhile, Art. 132 notes '[d]etoxification treatment (cure) should be provided in a dedicated facility or under medical supervision. The judicial authority shall be informed of its progress and results by the responsible physician in charge.' Based on the research conducted for the Mali study, no such dedicated facility exists. People who use drugs and who are in conflict with the law are generally referred to the psychiatric clinic at the *Hopital Point G* in Bamako where staff and resources are limited, if not inexistent, and where medical professionals have warned that spending time in such a facility might aggravate conditions of drug dependency, not least because of the stigma attached to mental health, and concerns regarding lax controls in the hospital allowing easy access to illicit drugs.

Meanwhile, in **Guinea** no protocol for the provision of treatment is provided for, and according to the case study authors, there is no specialized service/ qualified health professionals who can provide treatment to people who use drugs in Guinea. There are four (4) psychiatrists in Guinea to whom referrals are made for treatment services.

2.4 Inter-Agency Cooperation and Coordination

With regard to **inter-ministerial cooperation** on drug related issues, both **Mali** and **Guinea** have provisions for the establishment of Inter-Ministerial Committees in the office of the Presidency. Neither of these committees is operational in practice. In **Ghana** and **Nigeria**, inter-agency coordination is led by the national drug enforcement agency. In both these countries, rather than the relevant health officials, the drug enforcement agency is also responsible for advising government on health matters such as drug dependency.

2.5 Oversight of Drug Legislation

In response to the question of **oversight of drug legislation**, only one country – **Mali** – has a dedicated special committee in the legislature charged with providing oversight. Specifically, the Committee is mandated to monitor national policies in the fight against drugs and propose legislation. However, this Committee has not taken any concrete action since it was established in 2001 due in part to the political crisis that has affected the country, and in larger part to Mali's penchant for adopting laws and establishing mechanisms without providing resources to ensure their effective implementation. Many have interpreted this latter situation as a continuing absence of political will to tackle problems that might affect elite interests.[17]

[17] Interviews conducted in Bamako, Mali, September - October 2013.

2.6 Additional Challenges

These and other challenges – lack of baseline data, lack of specialized expertise, lack of oversight (governmental or other), corruption within the law enforcement and the judiciary, political interference in certain high-target cases, the non-existence of a coherent policy to provide treatment and respond to drug dependency, including for problematic use (i.e. drug dependence and/or drug injecting) amongst people in conflict with the law, and limited resources - appear across all the case studies. Across each of the countries, important challenges regarding asset forfeiture exist, and particularly the identification of property (moveable and immovable) gained from the drug trade. In most cases, property is registered in the name of someone else (family member, community member or other); and while significant progress has been made in developing and strengthening the capacity of specialized economic and financial crime units, [still] weak banking systems coupled with the region's cash-based economy pose significant impediments to seizing financial assets. Moreover, out of the countries that served as the basis of this background paper, very few cases involving high-level targets have been prosecuted for transnational drug trafficking offences, despite the significant efforts that have been invested in law enforcement efforts over the past decade.[18] When high-level targets are detained, this is generally due to support from foreign intelligence and specialized agencies. Following extradition, such cases are then generally tried outside West African jurisdictions. As has been stated elsewhere and as evidenced in the fieldwork conducted for the case studies, most cases tried in national courts involve (national and foreign) low- and mid-level dealers, traders and consumers, many of whom engage in the trade due to precarious socio-economic conditions, spending more than 12 months in pre-trial detention in questionable conditions, and often without access to a lawyer before facing trial.[19]

Indeed, based on the expert group's analysis of the governing laws – both substantive and procedural - of the aforementioned countries, there appears to be a significant measure of jurisprudential asymmetry and disparity reflected in both the proscriptive and penal aspects of the various governing laws.

From a regional juristic standpoint, the case for harmonization of the national laws regulating the crime of drug trafficking and other transnational crimes is irrefutable. So too is the case for ensuring that this process considers the appropriate balance between the protection of basic human rights and socio-economic realities in the region on the one hand, and the existing preference for criminalizing all manner of drug-related activities on the other. To this end, and bearing in mind the openness in the region to move towards harmonizing drug-related legislation, the expert group recommends that future efforts to develop, reform and/or harmonize drug related legislation should be developed

[18] Interview with specialized agency officials, WACD Country Mission, Accra. Ghana, April 2013.
[19] Evidence from prison sampling in Ghana, Guinea Mali and Nigeria and interviews with law enforcement and prison authorities in countries across the region throughout the year.

on the basis of existing and emerging standards in which the protection of citizens is the central goal. The following section lays out what these minimum standards might look like.

3 Minimum Standards for Drafting and Harmonization of Drug Legislation in West Africa

3.1 Criminal law provisions

All the case studies suggest an interpretation of the UN drug conventions that criminalizes every aspect of drug activity, including possession for personal use. The standards laid out below assume ratification of the UN drug conventions, but with due regard to Article 3 of the 1988 Convention, which at the same time as it recommends criminalization in domestic law of a wide range of drug offenses, also notes that notwithstanding this recommendation, "in appropriate cases of a minor nature, the [State] Parties may provide, as alternatives to conviction or punishment, measures such as education, rehabilitation or social reintegration, as well as…treatment and aftercare. The Parties may provide, either as an alternative to conviction or punishment, or in addition to conviction or punishment of an offence established in…this article, measures for the treatment, education, aftercare, rehabilitation or social reintegration of the offender."[20]

Recommended minimum standards:

1. Simple use or consumption of any illicit drug by an individual should not be considered a crime and should not be punishable under criminal law.

2. Possession and acquisition of amounts of a drug that are associated with individual use and not intended for sale should not be considered criminal acts. The law in a number of countries defines specific quantities for commonly consumed scheduled drugs below which possession and acquisition (and sometimes use) offenses are either not charged or charged as administrative (non-criminal offenses) – e.g. the Czech Republic. In other countries, there is no definition of individual-level possession and acquisition as the matter is left to judicial discretion. The law must balance these competing positions depending on the local situation, but in general, if specific thresholds are defined, they should be defined liberally enough so that decriminalization of individual-level offenses is meaningful, but definitions preferably should be indicative or have some level of flexibility so that judicial discretion can be applied where circumstances warrant it.

[20] UN Convention Against Illicit Trafficking of Narcotic Drugs and Psychotropic Substances (1988), Article 3

3. Decriminalization (or broader depenalization) of use or individual-level possession or acquisition may institute drug treatment or education as an alternative to a criminal (or administrative) sanction. In this case, the law should specify that treatment decisions – including whether there is dependence and any treatment is clinically indicated - should be made by qualified health professionals, in accordance with international standards informed by the best available evidence and in conformity with human rights norms. (In a number of jurisdictions, treatment as an alternative to incarceration has been offered to people who have no clinical need of treatment; other alternatives should be available in such cases.) In addition, 'failing' court-mandated treatment should not be punishable under criminal law. Relapse is a normal part of the course of drug dependence and not a criminal offense. Decriminalization or depenalization may also be instituted without a particular alternative to criminal prosecution, though ideally people who use drugs should be offered health services and social support if needed.

4. Criminal penalties for drug trafficking should reflect the principle of proportionality in several ways: 1) Small-volume trafficking not tied to organized criminal networks, for example, should be distinguished in the law from major trafficking by organized criminal networks with distinct and appropriate penalties depending on the degree of social harm associated with the act. 2) Drug trafficking should generally not be significantly more severely punished than murder or rape (as is unfortunately the case in many countries).

5. The death penalty should not be imposed for any drug-related offense.

6. The law should not penalize or in any way punish the possession of clean injection equipment as such a provision would undermine public health, or penalize the possession of injection equipment containing trace amounts of illicit substances. (So-called paraphernalia laws in many countries lead people who inject drugs to share or hide their equipment in unsafe ways.)

7. Recognizing the vulnerability of people who use illicit drugs to excessively aggressive policing that has been documented in many countries, drug law should embody protections from abusive drug policing, including protection from illicit stop and search, protection from extortion, protection from violations of due process and protection from interrogation of people when they are in a state of drug withdrawal or the denial of health care (including medication-assisted treatment) to people while in detention. Many of these provisions may already be in the constitution or other legislation governing police procedures, but it is useful for drug law to recognize that these practices are particularly likely and particularly harmful with respect to people who use drugs. The law should also create a functioning mechanism for police oversight and for people suffering from abusive police practices to make complaints and seek redress if such mechanisms do not already exist.

8. Drug law should recognize the vulnerability of drug police to corruption and should embody specific measures to prevent and address corruption in drug policing.

9. Drug law or policing regulations should discourage the practice of basing compensation or performance evaluation of the police on the number of drug arrests made because this practice is likely to result in the arrest of the "lowest-hanging fruit" – those associated with minor offenses – since they will be the easiest to reach.

10. In view of the many instances in the history of drug law enforcement in which laws were applied in a discriminatory way or so as to 'crack down' on a disfavoured group, drug law should incorporate mandatory monitoring and evaluation mechanisms to detect and address discriminatory practices in drug law enforcement.

11. The law or public health regulations (see below) should provide clear exemptions to criminal or administrative prosecution for medical use of otherwise prohibited substances (notably methadone, buprenorphine, naloxone, naltrexone) used for treatment of drug dependence or prevention/treatment of consequences of overdose, and to distribution of sterile injection equipment (or other equipment used to ingest prohibited substances through means other than injection). The law should discourage the targeting by police of specialist services for people who use drugs (such as drug treatment facilities, and needle and syringe programmes) for the purpose of achieving arrest quotas or otherwise asserting an aggressive police presence.

3.2 Public health regulations and oversight

The stated purpose of the UN drug conventions and of national drug law in most countries is to protect the health of the public. The conventions, ratified by all but a few countries in the world, enjoin states to provide 'early identification, treatment, education, after-care, rehabilitation and social reintegration' of people who use drugs, as provided in Article 38 of the 1961 Convention and echoed in the two later conventions (1971 and 1988). It is preferable to ensure legal grounding for these services and comprehensive HIV prevention and harm reduction services in public health regulations rather than in the penal code if possible. (As noted in point 11 above, in some places it may be necessary to specify criminal penalties against interference with these services.)

Treatment of drug dependence

With respect to the particular matter of treating drug dependence, we propose the following minimum standards, which correspond roughly to standards laid out by WHO and UNODC as well as standards articulated by human rights experts such as the UN's Special Rapporteur on Torture (see bibliography).

T1) Treatment should be scientifically sound and not punitive. Physical restraints, beating, forced labour, unnecessary isolation or involuntary detention, and humiliation are not scientifically sound practices and have no proven effect for treatment drug dependence. There should be national guidelines for quality of care in this area, and there should be an oversight mechanism to ensure that guidelines are followed.

T2) Treatment should be affordable and accessible to all who need it. The state should especially seek to eliminate long waiting lists for affordable care because treatment availability at the moment when a patient is ready to seek care is crucial ("treatment delayed is treatment denied").

T3) It should be recognized, as WHO notes, that drug dependence is a "chronic, relapsing condition," meaning that some patients may require more than one episode of treatment to reduce, change or eliminate their drug use.

T4) Treatment should be culturally appropriate and gender-sensitive. There should be adequate services appropriate to the needs of pregnant women and women with children.

T5) Treatment options should be varied; it is well documented that some people need to try more than one type of treatment before they find one that is effective for them.

T6) Treatment should be voluntary and should not require compulsory detention. If health authorities, the family of a patient or others wish to assert that a patient lacks mental capacity to seek necessary treatment, such a decision should be made only after a hearing by an impartial tribunal in which the person whose capacity is at issue should be represented by counsel and has the right to appeal the decision to a higher authority. (See UN General Assembly resolution 46/119, 'The protection of persons with mental illness,' 17 December 1991.)

T7) Treatment services should not be denied to anyone on the grounds of having a criminal record, being homeless, or any other discriminatory criteria.

T8) In accordance with basic human rights principles and as good health policy, drug treatment (and other health services) should be available to persons in the custody of the state at a level equivalent to services in the community. All health care and treatment decisions should be made

by qualified health professionals, preferably affiliated with the Ministry of Health, even in court-mandated treatment or in prisons and detention facilities.

T9) In addition to being protected from criminal prosecution, use of methadone, buprenorphine and other controlled opiates for the purpose of treating opiate dependence should be in accordance with scientifically established principles, as summarized in the WHO/UNODC/UNAIDS Position Paper of 2004 (see bibliography). This includes continuing treatment for as long as clinically indicated and not cutting it off after some arbitrary period, using doses that are clinically indicated, and not reducing doses for punitive purposes.

T10) There should be a functioning complaint mechanism through which people mistreated in the course of treatment for drug dependence can report abuses and seek redress.

Other health services

A. Needle and syringe programmes and other harm reduction and drug treatment services should be clearly protected from prosecution or harassment under paraphernalia laws or other laws (e.g., laws that treat possession of an item containing a trace amount of a prohibited substance the same as possession of that substance). This protection should extend to the staff and users of these services as well.

B. All health services should be voluntary, not compulsory. Drug testing should be conducted with informed consent to the greatest degree possible.

4 Concluding Remarks

As noted, West Africa is at a critical juncture with regard to strengthening drug legislation. National and regional actors have repeatedly highlighted challenges in existing legislation and the corresponding implementing mechanisms. Significant external support is being provided to national and regional bodies to reform and harmonize efforts as a means to bolster the capacity of law enforcement and judicial authorities to respond to drug trafficking. However, in doing so, these efforts seem to have lost sight of the centrality of citizens to these efforts. The findings of this background paper (and several others commissioned by the WACD) point to the fact that while emphasis on law enforcement and the judiciary in existing legislation is needed, over-criminalization of the response to drugs, particularly with regard to personal consumption and petty dealing is not an effective approach. Rather, it places additional pressures on already over-burdened systems, and more often than not, places citizens at risk. We therefore argue that a more balanced approach is required, one that ensures that core minimum standards, already approved by the UN and its specialized agencies, are given appropriate weight in regional efforts to draft and harmonize drug-related legislation.

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Annex A

	NIGERIA	GHANA	MALI	GUINEA
INTERNATIONAL COMMITTMENTS	*Dr. Etenabi Alemika*	*Dr. Kwesi Aning*	*Dr. Augustin Cisse*	*Me Foromo Frédéric LOUA*
	- 1961 Single Convention on Narcotic Drugs (a) - 1971 Convention on Psychotropic Substances (a) - 1972 Protocol Amending the 1961 Single Convention - 1988 Convention against Illicit Trafficking of Narcotic Drugs and Psychotropic Substances - 2003 UN Convention on TOC and its Protocols (a) - 2005 UN Convention Against Corruption	- 1961 Single Convention on Narcotic Drugs - 1971 Convention on Psychotropic Substances - 1972 Protocol Amending the 1961 Single Convention - 1988 Convention against Illicit Trafficking of Narcotic Drugs and Psychotropic Substances - 2003 UN Convention on TOC and its Protocols (a) - 2005 UN Convention Against Corruption	- 1961 Single Convention on Narcotic Drugs (signed but not ratified) - 1971 Convention on Psychotropic Substances (a) - 1972 Protocol Amending the 1961 Single Convention - 1988 Convention against Illicit Trafficking of Narcotic Drugs and Psychotropic Substances (a) - 2003 UN Convention on TOC and its Protocols (a) - 2005 UN Convention Against Corruption	- 1961 Single Convention on Narcotic Drugs (a) - 1971 Convention on Psychotropic Substances (a) - 1972 Protocol Amending the 1961 Single Convention -1988 Convention against Illicit Trafficking of Narcotic Drugs and Psychotropic Substances (a) - 2003 UN Convention on TOC and its Protocols (a) - 2005 UN Convention Against Corruption
LEGAL REGIME Drug law regime in the country	Special Tribunal (Miscellaneous Offences) Decree No.20, 1984 National Law Drug Law Enforcement Act - Decree 48, 1989 Prisons Act and	Provisional National Defence Council Law (PNDCL) 236 – establishes NACOB in Section 55 (falls under MoI) and the Narcotic Drugs (Control and Enforcement Sanctions) Law of 1990	Law of 26 Jan. 1926, as amended by decrees of 08/10/1948 and 17/12/1949 and 31/05/1952 regulating the trade, possession and use of poisonous substances. Order No. 173 of 13 June 1972, establishing a spec.	No specific drug law. Provision is made for drug related offences/ crimes in the Penal Code (LOI N ° 98/036 du 31 Décembre 1998) - in articles 377-413. Decree

	Regulations (CAP 366 Laws of the Federation of Nigeria 1990)	Supplementary laws - Criminal Offences Act, 1960 (Act 29) - Criminal Offences (Amended) Act, 2012 (Act 849) - strengthened penalty x narcotic crimes making offence punishable by life imprisonment as max. penalty (…) - EOCO Act, 2010 (Act 804) - AML Act 2008 (Act 749) - MLA Act 2010 (Act 807) - The Courts Act 1993 (Act 459)	procedure for drug-related criminal acts and robbery and a decree of MoFT re. prohibition of goods being imported. Law 83/14 AN-RM of 31 May 1983 for Suppression of Offences relation to poisonous substances and drugs – use, traffic, and illegal ops related to drugs. Act No. 94-043 of 12 June 1995 ratifying convention on Psychotropic Substances of 1971 Law No. 95-044 of 12 June 1995 ratifying UN Single Convention on Narcotic Drugs of 1961 Law 95-045 of 12 June 1995 ratifying the Single Convention on Illicit Trafficking and Psychotropic Substances of 1988 Law No. 01-078 of 18 July 2001 on the Control of Drugs and drug precursors Decree No. 9-652 ORM of 4 Dec. 2009 establishing the Inter-Ministerial Committee for the fight against drugs	D/2011/016/PRG/SSG Creating the General Secretariat in the Presidency chargé des Services Speciaux, de la lutte contre la Drogue et le crime organisé. Decree No. 066/PRG/SSG/ 94 on the creation, powers and functions of the Central Anti-Narcotics Office. Decree No. 067/PRG/SGG (1994) on the Creation and Functions of the Inter-Ministerial Committee responsible for the fight against drugs.

			Decree 10-2012/P-RM of 13 April 2010 creating the OCS Inter-Ministerial Order establishing the Airport anti-Drug unit of the Branch Office of the OCS Decree No. 2013-012 of 02 Sept. 2013 amending law No. 01-078 of 18 July on control of drugs and precursors. Special Court (?)		
PROTECTION OF HUMAN RIGHTS in NATIONAL DRUG LEGISLATION **Are human rights instruments or international standards regarding treatment of drug dependence referenced in national policy?**	Unclear	Upon arrest for drug-related offences (and all other offences), protection of human rights is guaranteed under the laws of Ghana [Ref. to Ghana's constitution which guarantees protection of fundamental rights (Ch.5)].	Yes	Not mentioned	
JURISDICTION **When the national or domestic courts**	Prosecution: The NDLEA Act grants prosecutorial powers to some agencies responsible for the enforcement of law	Universal jurisdiction through treaties etc. (p.18) but in practice national courts. The courts in Ghana	Ordinary courts Special Court currently being established (will be temporarily under the jurisdiction of the High	Circuit court County court/ courts of first instance Magistrates Court, Court of Appeal,	

exercise jurisdiction to prosecute, try and punish drug trafficking and related offences, under which jurisdiction do they act? Is it (a) territorial or (b) any of these forms of extraterritorial: active personality, passive personality, protective or (c) universal? **Is there a separate body of procedural law governing the trial of transnational crimes such as drug trafficking? If not, what is the existing procedural framework for the trial of drug-related cases? Are there any procedural obstacles to the effective and efficient administration of**	against specific crimes such as drug-related crimes, corruption, human trafficking and other. However, it is generally understood that such powers are subject to the constitutional powers of the Attorney General. (Sections 150, 195, 174 and 211 of the Constitution of the Federal Republic of Nigeria). Courts: Federal courts (Supreme Court, Court of Appeal and Federal High Court); State Courts; Sharia Court of Appeal and the Customary Court of Appeal. Some Sharia courts in the north now have criminal jurisdiction)	exercise territorial jurisdiction in all cases relative to criminal offences. However, as per section 56 of the Courts Act (Act 459), jurisdiction to prosecute offences can be exercised where the offences are committed within the territory of Ghana including its territorial waters and air space, and in respect of offences committed on any ship or aircraft registered or licences in Ghana. The way the courts have handled narcotics cases indicates that whereas many of the agreements to which the country is signatory seem to support universal jurisdiction in instance of narcotics-related crimes, the courts have tended to rely on jurisdictional powers to prosecute offenders for crimes. See case Alan Hodgson vs the Republic of Ghana, Alan Hodgson'	Court in Bamako)	Supreme Court

justice in trying such cases, for example, strict rules of admissibility of evidence or the burden and standard of proof?		Flamingo Foods vs. Republic of Ghana; and MV Benjamin Case			
OFFENCES AND SANCTIONS **Does the law encompass trafficking, sale, use, possession, and supply of drugs? If so, which specific acts are criminalized or prohibited?** **What are the specific statutory provisions for the offences created by the law? Is there any**	The NDLEA Act criminalizes several activities connected with the production, processing, distribution, sale, use and concealment of illicit drugs. According to the case study, nearly 3/5ths of the convicted offenders interviewed were sentenced to less than 2 years confirming an earlier study that sentences imposed on drug offenders were generally lower than the min. sanctions prescribed by law (Alemika: 1998). The offenders were generally detained prior to conviction for a relatively long term though - nearly 40% detained for more than one year. Nearly 2/5 of the offenders were	Criminal Offences (Amended) Act, 2012 (Act 849) - strengthened penalty x narcotic crimes making offence punishable by life imprisonment as max. penalty (…) Offences include import, export, possession, manufacturing, distribution, cultivation of plants for narcotic use, use (inc. sniffing, consumption, injection, supply). Info. missing re. the re-categorization of drug related offences	Section 9 Law No.01-78 of 18 July 2001 on control of drugs and precursors. Sanctions = Art. 13 (91-103) – based on types of offences and classification of drugs (3) in Mali: 1. All plants and high risk substances that are not for medical use 5 – 10 years = cultivation, production, manufacture and processing + fine of between 200,000 and 2 Mio CFA Transnational traffic of this drug = 5-10 years + fine of 5- 50 Mio CFA; Use, supply or transfer x personal consumption – 6 months – 3 years + fine from 20,000 – 200,000 CFA 2. Plants and risk substances for medical use 5-10 years = production, cultivation, supply,	Art. 377 of the Penal Code covers offences punishable of criminal sentences: illicit production and manufacturing, international trafficking, aiding and facilitating usage, supply or transfer for personal consumption, fabrication and distribution of precursors, raw materials and equipment, organization, financing, drug money laundering, aiding and abetting of NLEA officers, facilitation or incitement through the exchange of data. Sanctions/ penalties for drug-related offences are also provided for in	

differentiation in the law (and in penal provisions) between street-level "subsistence" sellers and high-target traffickers or between small-scale consumers and those possessing drugs for purposes other than individual use? If the answer to is in the affirmative, please state the provisions.	granted bail pending trial while 56.9% were denied pre-trial bail. Slightly more than half of those interviewed had access to legal counsel and 11.8% reported being a victim of abuse or extortion by law enforcement officials and lawyers (see case study findings, p. 25). Section 11 Any person who, without lawful authority (a) Imports, manufactures, produces, processes, plants or grows the drugs popularly known as cocaine, LSD, heroin or any other similar drugs shall be guilty of an offence and liable on conviction to be sentenced to imprisonment for life; or (b) Exports, transports or otherwise traffics in the drugs popularly known as cocaine, LSD, heroin or any other similar drugs shall be guilty of an offence and		distribution, sale, delivery, shipping, transportation, purchase, possession or use = 2 – 5 years + fine of 200,00 – 2 Mio CFA; 3. Plants and hazardous substances (precursors) Production, manufacture, import, export, sale, transport, distribution, delivery, shipping, purchase or storage = 2-5year sentence + fine of 500,000 – 5 Mio CFA Residency for foreigners prohibited once a sentence has been served x drug-related offences.	Articles 383, 392, 400 and 402 of the Penal Code relative to the "supply and transfer for personal consumption," driving under the influence of drugs," and "supply of poisonous chemical inhalants to minors." Optional penalties (particularly regarding foreigners and asset forfeiture) are included in Art. 382, 399 and 400. The Penal Code also includes provisions on Aggravating circumstances (Art. 403 of Penal Code) which include use of shipment, cargo, container or a vehicle usually assigned to humanitarian work for the transport of illicit drugs, similar substances or their precursors; illegal supply of drugs during the treatment if drug-addicts with substitution substances authorized by a competent authority; and if the	

	liable on conviction to be sentenced to imprisonment for life; or (c) Sells, buys, exposes or offers for sale or otherwise deals in or with the drugs popularly known as cocaine, LSD, heroin or any other similar drugs shall be guilty of an offence and liable on conviction to be sentenced to imprisonment for life; or (d) Knowingly possesses or uses the drugs popularly known as cocaine, LSD, heroin or any other similar drugs by smoking, inhaling, or injecting the said drugs shall be guilty of an offence and liable on conviction to be sentenced to imprisonment for a term not less than fifteen years but not exceeding 25 years. Section 12 Any person, who being the occupier or is concerned with the			offender has used someone without his/her knowledge to commit the crime. In analysing punishment for criminal and misdemeanour offences as established by the law, the case study authors noted that there appears to be preferential treatment towards higher level targets due to the fact that the courts have the prerogative of deciding whether to hand down a combined sentence of imprisonment and fines on the one hand; or to hand down either of the two sentences (i.e. prison sentence or a fine) on the other. This provides a means for drug traffickers to avoid prison sentence by paying a fine, and also fuels corruption within the judiciary as it favours a situation	

	management of any premises, unlawfully permits or causes the premises to be used for the purposes of storing, concealing, processing, dealing in any drug popularly known as cocaine, LSD, heroin or any other similar drug shall be guilty of an offence under this Act and liable on conviction to be sentenced to imprisonment for a term not exceeding 25 years. Section 13 of the law provided that: Any person who is unlawfully concerned in the storage, custody, movement, carriage, or concealment of the drug popularly known as cocaine, LSD, heroin, or any other similar drug and who, while so concerned, is armed with any offensive weapon or is disguised in any way, shall be guilty of an offence under this Act and liable on conviction to be sentenced to			where the latter option of fines is frequently applied regardless of the gravity of the case. Such a practice also means that small peddlers for whom the law prescribes the same legal punishment are the ones who usually incur prison sentences since they are unable to pay the fine.	

	imprisonment for life. Sections 14-18 provide for the following additional offences and punishment, which may also involve the staff of the Agency: a. Conspiracy (incites, promises, or induces, conspires with, aids, abets, counsels, attempts to commit or an accessory to any act or offence in the Act): 15-25 years imprisonment; b. Impersonation of the officers of the agency: imprisonment for a term not exceeding ten years; c. Tampering with drugs seized by the Agency (removes, conceals, destroys or any way tampers): imprisonment term not exceeding 25 years; d. Escapes or aids escapes: a prison term not exceeding seven years; e. Preventing a duly summoned witness from appearing before the				

	Federal High Court. Other offences and associated punishments created in Section 20 of the Act were: a. Production, manufacture, extraction, preparation, offering, for sale, distribution, delivery, brokerage, dispatch, transportation, importation, exportation of any narcotic drug or an y psychotropic substance contrary to the provisions of the 1961 Convention and its Protocols, as well as the Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1989; b. Cultivation of opium, opium, coca bush or cannabis plant for the purpose of the production of narcotic drugs contrary to the 1961 Convention; c. Possession and purchases of any narcotic drug or psychotropic substances;				

	d. Acquisition, possession, use, conversion and transfer of property derived from any offences in the Act; e. Manufacture, transportation or distribution of equipment to be used in or for the illicit cultivation, production, or manufacture of narcotic drugs and psychotropic substances; f. Management, organization and financing of any of the offences listed in a-e above, and g. Concealment, or disguise of the true nature, source, location, disposition, movements, rights with respect to or ownership of property knowing that such property is derived from any offence under section 20. h. Punishments for offences under section 20 are as follows: a. Life imprisonment for				

	offences of (i) production, manufacture, extraction, preparation, offering, for sale, distribution, delivery, brokerage, dispatch, transportation, importation, exportation; (ii) cultivation of opium, opium, coca bush or cannabis plant for the purpose of the production of narcotic drugs; (iii) acquisition, possession, use, conversion and transfer of property derived from any offences in the Act; (iv) manufacture, transportation or distribution of equipment to be used in or for the illicit cultivation, production, or manufacture of narcotic drugs and psychotropic substances; b. Imprisonment for 15-25 years (i) purchase and possession of narcotic drugs and psychotropic substances; (ii) management,				

	organization and financing of any of the offences listed in a-e above, and (iii) concealment, or disguise of the true nature, source, location, disposition, movements, rights with respect to or ownership of property knowing that such property is derived from any offence c. In addition, the law provided that the Federal High Court may in addition "make an order requiring an offender to undergo measures such as treatment, education, aftercare, rehabilitation or social integration. The law also provided for: a. Punishment of Nigerians convicted abroad for drug trafficking on their return to Nigeria (sections 22-23). They are liable to five years imprisonment without option of fine and forfeiture of assets and				

	property; b. Corporate offenders (through instigation, connivance or neglect of an official) – officials concerned liable for the offence and the Court may order that the company be wound up and all its assets and properties forfeited (section 24); c. Commercial carriers: the law requires carriers to take certain precautions against the use of their facilities and services for offences under the Act. Violators may on conviction be liable to a fine of 100,000 Naira. Treatment of minors. Section 20(4) provides that the Federal High Court before whom a minor is being convicted, may, in an appropriate case, may make an order, as the circumstance may determine: (a) Either as an alternative to conviction or punishment; or				

	(b) For treatment, education, aftercare, rehabilitation, social integration of the offender.				
KEY INSTITUTION (S) RESPONSIBLE X IMPLEMENTING DRUG LEGISLATION Is there a specialized body responsible for implementation of the law? For example, a National Drugs Control Board or specialized units within law enforcement agencies? Does the law specify law enforcement or prosecutorial responsibilities for the national drug control authority?	Nigerian Drug Law Enforcement Agency - NDLEA. (See Art. 3 of NDLEA Act of 1989 for key functions); Other agencies have residual or complementary roles in drug law enforcement. These include the Nigerian Police Force, Nigeria Customs Service, the National Agency for Food and Drug Administration and Control; and the Financial Crimes Commission. (see case study for specific laws and provisions).	Narcotics Control Board - NACOB. (See Art. X of NACOB Act of 1989 for key functions). Other agencies have residual or complementary roles in drug law enforcement. These include: FIC, EOCO, GPS + range of others (inc. Health Service) - Imp. coordination challenges w. other law enforcement agencies	Office Central des Stupéfiants-OCS. (Core functions outlined in Decree 10-2012/P-RM of 13 April 2010 creating the OCS and Decree No. 2013-012 of 02 Sept. 2013) - Imp. coordination challenges with other law enforcement agencies, particularly the anti-narcotics Brigade in the National Police, as well as Customs and Border Control		
DRUG SEIZURES **Does the law include provisions on storing and destruction of drug seizures and**	NDLEA Act. Art. 3 i)	NACOB	Office Central des Stupéfiants		

who is responsible?					
INTERNATIONAL COOPERATION X DRUG LAW ENFORCEMENT **Has the country entered into extradition agreements or other forms of mutual legal assistance with third countries with respect to drug offenses? If so, which?**	- MLA between Nig and US in criminal matters - Agreement between Nig and UK, re. investigation and prosecution of crime and confiscation of the Proceeds of Crime - MLA in Criminal Matters w. the Commonwealth - Extradition treaty with Benin, Ghana, Togo - MoU with US (Obasanjo 1990) - Operational level relations with US DEA x joint ops, intel sharing, training and capacity building - TA from Switzerland - Bi-lat agreements for visa application clearance for drug source countries: Brazil, Indonesia, India, Malaysia, Pak, Ru, Singapore, Thailand	Extradition agreements with UK, Egypt, Greece, US and Canada NACOB collaborates with a no. of other partners: - Operation Westbridge involving UK customs and Revenue Agency - Bi-lateral Cooperation with the EU, US, Germany, France and Spain. - Cooperation with the INCB, - Cooperation with the WCO - Cooperation with UNODC and WCO on the Global Container Control Programme Cooperation via INTERPOL MLA Agreements?	Unclear	Sanctions/ penalties for drug-related offences are also provided for in Articles 383, 392, 400 and 402 of the Penal Code	
"HEALTH/ TREATMENT PROVISIONS FOR DRUG OFFENDERS	NDLEA Act, Art. 7 (3) stipulates that the NDLEA's counselling unit shall, in collaboration with the Federal Ministry of Health have responsibility, inter alia	Narcotics Drugs (Control Enforcement and Sanctions) Law of 1990 (PNDCL 236) – 63 provisions governing a no. of issues including importation,	Detoxification treatment is provided for in Articles 131 and 132 of Law No. 01-078 of 18 July 2001 on the Control of Drugs and Drug Precursors.	NO. According to the case study, there is no specialized service/ qualified health professionals who can provide treatment to	

Does the law include protocols regarding the provision of treatment for users sentenced to prison or other forms of state custody?"	for b) After care rehabilitation, social reintegration and education of addicts; and c) the promotion of welfare of convicts. It is unclear how this is dealt with in practice. According to the case study, more than 3/5 of those interviewed in prison noted they had received treatment or counselling while in prison custody. The high response may be in part due to the fact that offenders tried to present a positive image of the facilities. But more significantly, an examination of what the offenders described as treatment or counselling do not so qualify. Among the forms of treatment and counselling reported were general counselling, moral counselling, social counselling, treatment in the clinic, treatment for malaria, church activity, prayers, and symbolically significant, brutality was mentioned	cultivation, prosecution and rehabilitation of offenders. Acc. to the law, the key functions include advising the government on suitable methods for reducing drug abuse and on provision of treatment and rehabilitation of persons addicted to drugs - Dissemination of information to the public on the evils of narcotic drug use, its impacts and offences for dealing in narcotics. According to the case study, in relation to prisoners who have become drug dependent (such as cocaine or heroin users), there is no special programme or treatment for such incarcerated offenders. The prisons	Art. 131 “Any person accused, indicted or charged with the use or attempted use of illegal psychotropic substances or precursors after medical examination may be compelled by reasoned decision of the investigative court or upon judgement to undergo treatment. In this case, the trial court where the matter is being heard cannot pronounce a judgement. Art. 132 Detoxification treatment (cure) should be provided in a dedicated facility or under medical supervision. The judicial authority shall be informed of its progress and results by the responsible physician in charge.”	problematic drug users in Guinea. There are a total of four (4) psychiatrists in Guinea who generally provide treatment services.	

	as a form of treatment. Regarding drug-withdrawal treatment, only 15.7% reported receiving such (not all are dependent drug users); 2/5 reported receiving assistance from NGOs; nearly 3/5 said they would require reintegration assistance after release from prison. There is a general absence of rehabilitation services in Nigeria.	service has a very limited budget and cannot therefore initiate such programmes on their own. While it was acknowledged in interviews with a former senior official of the service that drug dependence in the prisons was a problem, no special programmes have been established to deal effectively with it. Outside the prison environment, only one public hospital in Ghana- the Patang psychiatric hospital - provides drug related treatment services. A dedicated unit was opened at the hospital in 2009, providing treatment to drug users including users of cannabis, cocaine and heroin and for alcoholism. The hospital uses a "therapeutic community approach" which includes			

		engagement with families of drug users but does not offer substitution therapy such as methadone programmes for problematic drug use.			
OTHER HEALTH RELATED PROVISIONS IN NATIONAL DRUG (OR OTHER) LEGISLATION	NDLEA Act Art. 2.2.2 Composition of the Board (g) A representative of each of the Ministries of Foreign Affairs and Health, not below the rank of Director Art. 2.2.3 Functions of the Agency (r) Strengthening cooperation with (…) welfare officials, health officials (…)	Prisons Services Act 1972 (NRCD 46), Section 1 – provides that 1) the prisons service 'will ensure the safe custody and welfare of prisons and whenever practicable to undertake the reformation and rehabilitation of prisoners.	Unclear	No.	
TREATMENT FACILITIES/ SERVICES **Do they exist?**	NDLEA established drug treatment and counselling centres in some states – inadequately staffed and limited resources. No other dedicated treatment facilities for drug dependent persons in conflict with the law. Treatment offered in limited no. of psychiatric hospitals,	No specialized service; referrals made to the psychiatric clinics/ services. Others seek treatment support in private, faith-based centres. Not clear what the practices are with regard to convicted problematic drug users or those in pre-trial detention.	No specialized service; referrals made to the psychiatric service at public hospital in Bamako (Point G) and Nat. Mental Health Centre. Toxicology lab at the National Institute x Research in Public Health – not used due to lack of skilled resources	No specialized service exists. In Guinea, four (4) psychiatrists provide services dealing with drug dependency.	

	psychiatric wards of teaching hospitals, and other secondary and tertiary health care institutions. Private, faith-based and trad. health care facilities.				
STATS ON DRUG OFFENDERS (ARRESTED, IN PRE-TRIAL DETENTION/ CONVICTED)? **Does the police gather statistics on the number of people it has arrested and placed on remand for drug-related offences? Do the police have arrest quotas to fill for drug-related offences?** **Do the courts maintain statistics on the number of people serving sentences for drug-**	Statistics in the prisons were not adequately disaggregated to determine the number of detainees held for drug-related offences. It is unclear what other statistics are gathered by the police, courts, health services etc.	Statistics concerning drugs and drug related offences are not detailed and statistics are not uniform across regions. For example, statistics gathered by the police services (GPS) in Ashanti and Central regions only lists 2 categories of drugs - Possession of Dangerous Drugs; Possession of Indian Hemp. The Greater Accra Region breaks the categorization down to Heroin, Cocaine and Indian Hemp. Narcotic offences range from importation and exportation, possession, manufacturing and distribution cultivation of plants for narcotic	No – records in police services, prisons and courts generally manual. Hard to track down.	Partial	

related offences? If so, please provide detail.		purposes, use of narcotic drugs (including sniffing, consumption, injection) and supply. While the court system would normally have the information on the offence and sentence the offending person appropriately, the categorisation is not clearly defined in the statistics developed by the prisons service.			
OVERSIGHT (DEDICATED PARLIAMENTARY COMMITTEE OR OTHER) **Does the Legislature have any committee with oversight or supervisory responsibility for drug related issues in the country? If so, please summarize its mandate.**	No – case study states that parliamentary oversight in Nigeria in general = v. weak or ineffective due to several factors, including the lack of necessary skills/ knowledge to oversee the technical aspects of the NDLEA's functions. Corruption has also been an impediment against effective oversight. At the same time, Art. 10 of the NDLEA Act subjects the Agency to the direction and guidance of the Attorney-General of the Federation (Art. 10 i, ii,	No although the case study states that three existing committees could play an oversight role: Parliamentary Select Committee on Defence & Interior; Public Accounts Committee; Finance Committee.	Special Committee in legislature to monitor national policies in fight against drugs. Provide oversight and can propose legislation x drug control. Has not taken any concrete action to date (now 3rd Parliament)	No	

	iii)				
ROLE of the EXECUTIVE **Does the Executive have a special unit (for example, in the President's office) dedicated to drug-related issues? If so, what is its mandate?**	No	No	Inter-Ministerial Committee (Exec.)	The General Secretariat in the Presidency (OCAD) Inter-Ministerial Committee (Exec.)	
INTEGRATION WITH OTHER HEALTH PROGRAMMES **Does the national strategy on HIV/AIDS include any commitments to provision of harm reduction services? Are the police trained on these provisions or related issues?"**	Not clear	According to the case study, the Ghana Aids Commission (GAC) works closely with the prisons service to provide anti retroviral drugs for prisoners who need it. The prisons service has also collaborated with the International Labour Organisation (ILO) in HIV related training. The GAC support led to the establishment of a Prison Aids Control Programme (PACP) where prison officers were trained in HIV Testing and Counselling and prevention of mother-to-child transmissions	Not Clear	Not clear	

		(PMTCT). It also incorporated HIV education training into all training programmes of the service and the sensitisation of all prison commanders on care and support for persons living with HIV (PLWHIV).			
PRISON SURVEY CONDUCTED?	Yes – some 51 persons held for drug-related offences were interviewed in three prisons in Lagos.	Yes - some 61 prisoners were interviewed in KUMASI region.	Yes – 12 persons held for drug-related offences were interviewed in the Prison centrale de Bamako and the Centre Spécialisé de Détention et de Réinsertion des Femmes de Bollé/Bamako	Yes - some 35 people held on drug-related offences were interviewed in the Conakry, Kankan, N'Zerekore penitentiaries and in the Siguiri, and Coyah civil prisons. The total prison population in Guinea at the time of the interviews was 1,717.	
INTERVIEW DETAILS	- Interviews were conducted in three prisons in Lagos. In Kirikiri female prison, 11 women were in custody for drug offences; three declined interview. At the Kirikiri maximum prison, 8 inmates had been interned for drug related offences two of which declined interview. Some 58 inmates were being held at the Ikoyi prisons, a large and overcrowded facility in Lagos. Only 37 were interviewed as several declined and some	All interviewees were male. The majority (75.4%) had only primary level (or less) education. Over 50% of those interviewed were unemployed. Most detainees were in the age groups 20-29 years (49.18%) and 30-39 years (42.62%).	Interviews were conducted with 13 detainees of five nationalities: Malian (3), Nigerian (3), Filipino (5), Guinean (1), and South African (1) aged between 26 and 53 years. The average age of those interviewed was 35 years. Three of the interviewees were women and nine were men. 8 have a secondary school education and four had studied to obtain a university degree and a professional qualification. Only 1 was limited to primary education. None of the African detainees have	Interviews were conducted with 35 detainees; seven (7) of whom were women. Interviewees were mostly Guinean; one foreign national was interviewed (country of origin not specified); Seven (7) of the interviewees were unemployed; the majority of the other interviewees were involved in a small commercial business; in an apprenticeship; or were students. Ages of	

	could not be interviewed because they were taken to court on the days of the interview. The drug offenders were primarily male; 39 years old or younger; unemployed and attained secondary or lower educational levels		higher-level studies. Three (3) of the four (4) Filipinos are university graduates. Regarding the employment situation of detainees prior to their incarceration, all 13 people interviewed say they were engaged in some form of business: the Malians, Nigerians and the Guinean were engaged in small commercial activity; the Filipinos and the South African were engaged in catering, health, and agricultural activities.	interviewees ranged between 15 and 42 years; the average age of interviewees was 30. Some 16 interviewees had received some form of primary school education; 10 have a secondary school education (although not all completed it); 5 had or were in the process of obtaining third level education; and 5 had no schooling at all.	
Criminal record of offenders and reason for arrest	A quarter (25.5%) of the offenders had prior criminal record. Out of the thirteen (13) offenders who had prior conviction record, three (3) were convicted for theft or stealing, nine (9) were convicted for drug-related offences and one (1) convicted for fraud. All the offenders were previously convicted for property offences. Slightly more than a quarter of the offenders had been previously arrested for drug-related offences. Nearly three-quarters of the offenders were awaiting trial. Prisons statistics in Nigeria indicated that about two-thirds of inmates were awaiting trial. The high proportion of inmates awaiting trial in the country's prisons has been attributed to delay in trial due to several factors including inadequate judges, frivolous applications by defence lawyers; inadequate investigation and prosecution personnel and	Refers to records of both convicts and those being held on remand. In all the 61 cases, none of the convicts nor those on remand had any prior conviction. Out of the 61 detainees interviewed, 49% were on remand awaiting trail and onward distribution to other prisons while 51% had been convicted and Kumasi prison had become their 'home'. Several reasons accounted for delays in bringing those on remand to trial, inc.heavy workload of judges. Problems of investigation and prosecutorial services also contributed to the delays. Interviewees were arrested for the following drug-related offences – transnational trafficking (3), domestic distribution (25), production (5), sales (7), possession (7) and use (14). The types of drugs involved were cocaine and an adulterated version called	Apart from one Malian who is serving a second prison term for drug-related offences (possession and consumption of marijuana), no other detainee had ever been arrested for drug-related offenses or for any other criminal offense. His imprisonment lasted one month. The interviewees were arrested for the following offences: Malian - Possession and consumption of 15 marijuana cigarettes Malian - Transport and Trade of 3 cartons of various banned products Guinean - Transnational Trafficking of 1 kg of cocaine Nigerian - Transnational Trafficking of 1.35 kilograms of cocaine in 72 balls ingested Philippine - Transnational Trafficking of 4 kg of methamphetamine South African - Transnational Trafficking of 3.200 kg of methamphetamine Malian - Transnational Trafficking of 2 boxes of 12 kg cannabis Nigerian - Transnational Trafficking of cocaine (amount not provided)	Out of the 35 cases, only six (6) had a prior conviction (1 x money laundering + sale of cocaine; 1 x assault and battery; 2 x drug-related offences; 1 x fraud; 1 x not stipulated). Eight (8) of the interviewees were arrested for sale and possession of cocaine; 1 for transnational trafficking of cocaine; the rest were arrested for transnational trafficking, possession, sale or use of marijuana.	

	capability as well as corruption by officials and defence attorneys. The offenders were arrested for the following drug-related offences – transnational trafficking (25.5%), domestic distribution (17.6%), production (3.9%), sales (19.6%), possession (23.5%) and use (7.8%). The types of drug involved were cocaine, heroin, psychotropic substances and marijuana. Nearly a half (49.0%) of the offenders was arrested for offences connected with production, distribution and sale of marijuana	'boosters,' and marijuana. 85 % of those interviewed were arrested for offences connected with production, distribution and sale of marijuana.	Nigerian - Associating with traffickers of cocaine (amount not provided) Filipino - Transnational Trafficking of Methamphetamine (amount not provided) Filipino - Transnational Trafficking of Methamphetamine (amount not provided) Filipino - Associating with traffickers Filipino - Associating with traffickers It appears that the main drugs that are being trafficked are cocaine and methamphetamines. According to interviews, the cocaine comes from South America and the methamphetamines are suspected to have originated in Nigeria. Demand for that product is said to be very high in Asia, especially in Thailand.		
Trial status	Nearly three-fifths of the convicted offenders were sentenced to less than two years. This confirms an earlier study that sentences imposed on drug offenders in the country were generally lower than the minimum sanctions prescribed in the law (Alemika 1998). The offenders were generally detained prior to conviction for a relatively long term, with nearly 40% detained for more than one year. Nearly two-fifths of the offenders were granted bail pending trial while 56.9% of them were denied pre-trial bail. Slightly more than a half had access to legal counsel	Out of the 31 convicted prisoners, one person engaged in transnational trafficking was sentenced to 20 years imprisonment while two others arrested on the same charges were given 15 years each. The remaining 28 convicts received the statutory 10-year sentence mandated by PNDC law 236. All these convicted prisoners were detained and remanded in custody for considerable periods with 35% of them spending up to a year in prison. Since under the law, such crimes are not subject to bail, none of those eventually convicted	All of the detainees were in preventive detention. They have all appeared before the court once or more times, but no sentence has been pronounced yet. "Most of them did not know that they have right to legal counsel (a lawyer) and they were unaware of the possibility of seeking bail before trial. The concern of Anglophone detainees, even with legal assistance, is the unreliability of the interpreting services from French to English and vice versa. "	Out of the 35, 11 of the detainees have been convicted for sentences ranging from 6 months to 3 years (data unreliable). The remainder of interviewees were being held in preventive detention for periods ranging from a few days to more than18 months (data unreliable). The option to pay a fine in order to be released was raised frequently by prisoners in pre-trial detention - most of them could not afford the fine and were therefore most likely to be sentenced. Bail is not permitted for drug-	

	and 11.8% of the offenders reported being a victim of abuse or extortion by law enforcement officials and lawyers	had access to bail. All the 31 convicted prisoners had access to lawyers. None of the prisoners stated either during or after the interviews when given the chance to comment that they had been abused or maltreated by law enforcement officers or been victims of extortion of any kind.		related offences. There appears to be little difference in sentencing and quantity of fines regarding type of drug (cocaine vs. marijuana). Some of the interviewees had access to legal aid provided by the Guinean NGO MDT and ICRC. Others were unaware of their rights.	
Actors in Drug Trafficking	A high proportion of the inmates identified the unemployed and poor persons, top politicians, senior government officials, law enforcement officials, top businessmen and women, popular artists and musicians, and foreigners as major actors in drug trafficking. While this information reflected opinions of drug offenders that may not be accurate, the responses indicate two things. First, it reflects the way that leaders are perceived, even by offenders, as lawbreakers. Second, it reflects a subtle rationalization by the offenders, in the sense that they consider themselves justified for breaking the law for the purpose of acquiring wealth, if important and popular personalities in society do the same.	All three prisoners convicted for transnational smuggling at KIA thought their actions were 'justifiable' since they were taking the drugs outside Ghana and would repatriate the profits home. Those who were arrested for 'sale' of drugs argued that they wanted the profits to be used to support their families. There was total reluctance to discuss other categories of actors though there was a clear indication that: (a) societal expectations around success and wealth might drive people into drug trafficking; and (b) lack of economic opportunities also play a role.	The unemployed and the poor, businessmen and women, senior politicians, and senior government officials were perceived to be the most involved in transnational trafficking. The category of carriers (by road) not listed on the interview schedule was also cited as a group heavily involved in the trafficking business	The main actors perceived to be involved in the drug trade include unemployed youth, business people, police, the government, traders, foreigners	
Treatment policy	One third of the offenders reported receiving treatment or counselling while in NDLEA custody. More than three-fifths said they received treatment or counselling while in prison custody. The high response in respect of	Both prisoners and prison officials noted that there is no treatment regime in Kumasi for those incarcerated for narcotics-related offences. Furthermore, questioned as to whether they had been	All the inmates interviewed say they have never been abused while in prison. They received practical advice about living in a prison environment, which has helped them deal with everyday situations.	No drug treatment facilities are available in Guinean prisons. A large number of interviewees signaled other ailments they have suffered while in prison including malaria, beri-beri, dizziness, skin problems	

	treatment in prisons may be due in part to the fact that offenders tried to present a positive image of the facilities. But more significantly, an examination of what the offenders described as treatment or counselling do not so qualify. Among the forms of treatment and counselling reported were general counselling, moral counselling, social counselling, treatment in the clinic, treatment for malaria, church activity, prayers, and symbolically significant, brutality was mentioned as treatment. When specifically asked about drug withdrawal treatment, only 15.7% reported receiving such. Not all drug offenders are drug dependent and the figure may not mean much because there was no information about how many of them used drugs. About two-fifth of the offenders reported receiving assistance from NGOs, and nearly three-fifths said they would require assistance towards re-integration after release from prisons (table 5). There is a general absence of rehabilitation services in Nigeria.	given any form of counselling, the majority of the interviewees responded in the negative. Religion was offered to almost all while on remand, presented as a form of 'healing.' Indeed, prayers seemed to be a significant part of their social activity. All the interviewees also had been visited by NGOs. Questioned specifically about the provision of drug withdrawal treatment, none of the interviewees seemed to be aware of what this was. The majority of all interviewed used marijuana, and were of the view that they were dependent on the drug. All interviewees were of the view that upon release they would find it difficult to fit into society as a result of their long absence, and expressed concern about the availability of rehabilitation support.	All experienced passing illnesses such as malaria, fever, indigestion and minor cuts and bruises. Apart from a case at Bollé, nobody received treatment services in prison. Prisoners are treated by their parents and friends. In terms of drug-related, treatment apart from a Malian who was dependent on marijuana, the remaining 12 inmates said they did not require treatment since they did not use any substance. In the same vein, they stated that they did not need support services after their stay in prison. The Malian who mentioned that he was dependent on cannabis expressed a strong need for rehabilitation upon his release from prison but does not know of the existence of any specialized service. None of the inmates received any support from any NGO or humanitarian organization whether national or foreign while in prison.	resulting in scabs, TB, cephalitis and anxiety problems. Sometimes prison clinics provide minimum support but it is mainly NGOs such as ICRC, MDT and Soeurs de la Charité that provide health assistance to detainees.	
Causes of DT	Offenders were asked about the most important cause of drug trafficking. Widespread poverty and inequality was identified by a quarter of the respondents as the most important cause of drug trafficking. It is followed by greed and emphasis on wealth	Offenders were asked about the most important cause of drug trafficking. Greed and emphasis on wealth in society (54.2%) and widespread poverty and inequality (19.67%) were identified as the most important causes of drug	On the causes of drug trafficking, interviewees highlighted greed and the search for easy and quick financial gains; weak economies; widespread poverty and especially high levels of unemployment, which drives young people into the illicit drug trade. A desire for luxury goods as well as low levels	Socio-economic problems, including unemployment, were raised by most interviewees as part of the main causes of the drug trade. Other reasons included lack of access to services, lack of religious faith, limited family	

	in society and lack of economic and employment opportunities (table 8).	trafficking. This was followed by lack of economic and employment opportunities (24.59%) and poor political leadership (8.1%).	of education in families were added to these determinant factors.	education, high-level political corruption	
Most effective measures against DT	A quarter of interviewees identified improved economic and employment opportunities as the most effective means to deal with DT, which corresponds to the identified most important cause of drug trafficking – widespread poverty and inequality. This was followed by stricter and more effective law enforcement, and better political leadership	Since the mid-1990s, successive governments have responded to the challenges posed by narcotics trafficking. Several laws have been enacted in which PNDC Law 236 is the most comprehensive. In undertaking this survey, inmates were asked to rank what they identified to be the most effective measures against drug trafficking. More than a quarter of interviewees (29.50%) identified stricter law enforcement as a useful strategy; with 24.59% identified improved economic and employment opportunities as key. Family values (16.39%); better political leadership (13.11%); enhanced democratic practices (8.19%); and access to essential social/ welfare services (8.19%) were also raised.	According to the interviewees, a more effective approach to dealing with drug trafficking and related challenges should first include increasing economic opportunities and employment. It should also focus on stricter enforcement of laws, education within the family and civic and moral education. Access to basic social services was also touched upon.	A more effective approach would focus on improving economic opportunities; stricter law enforcement; better education within the family, job creation	

Annex B

PRISON SURVEY ON DRUG-RELATED OFFENCES

1.	**Name of Prison**		
2.	**Sex**		
		1. Male	
		2. Female	
3.	**Age**		
		1. 19 years and younger	
		2. 20-29 years	
		3. 30-39 years	
		4. 40 years and older	
4.	**Education**		
		1. Primary or less	
		2. Secondary	
		3. Tertiary	
5.	**Employment status (prior to detention)**		
		1. Employed – if yes, please specify	
		2. Unemployed – if yes, please specify for how long	
6.	**Have you ever been convicted of any crime?**		
		1. Yes	
		2. No	
7.	**If answer to Q6 is yes, for what offence were you convicted?**		
		1. Traffic offence	
		2. Robbery/attempted robbery	
		3. Theft and stealing	
		4. Drug offences	

		5. Fraud	
		6. Murder/attempted murder	
		7. Rape and other sex offences	
		8. Money laundering	
		9. Other	
8.	**If the answer is other than d. above, was the offence in any way drug related?**		
		1. Yes – if so, please specify	
		2. No	
9.	**If you have been detained for a drug-related offence, have you been convicted?**		
		1. Yes	
		2. No	
10.	**For what drug offence are you currently detained:**		
		1. Transnational trafficking	
		2. National trafficking	
		3. Production	
		4. Sale	
		5. Possession	
		6. Use	
		7. Other (specify)	
11.	**Which type of drug was involved?**		
		1. Cocaine	
		2. Heroin	
		3. Psychotropic substances – if yes, specify which	
		4. Marijuana	
		5. Other – if yes, specify which –	
12.	**What was the quantity of drugs involved in your case**		
13.	**Can you provide additional details about how/ why you got involved in this particular drug activity?**		

14.	**If you have been convicted for a drug-related offence, what is the duration of your sentence?**		
		1. Less than 2 years	
		2. 2-4 years	
		3. 5-9 years	
		4. 10-14 years	
		5. 15 years or longer	
15.	**Have you been you arrested on previous occasions for drug-related offences?**		
		1. Never	
		2. Once	
		3. Twice	
		4. Thrice or more	
16.	**If answer is yes to Q. 15 above, please stipulate which drug offence(s) you have been arrested for in the past**		
17.	**If you have not been convicted but were detained for a drug-related offence, for how long have you been in pre-trial detention/ awaiting trial:**		
		1. Less than 6 months	
		2. 6months – 1 year	
		3. 1 - 2 years	
		4. 2 – 5 years	
		5. 5 years or longer	
18.	**Have you been brought before a magistrate yet?**		
	1. Yes 2. No	*If yes, how long after your detention?*	
19.	**Were you given the option to be released upon payment of bail?**		
	1. Yes 2. No	*If yes, how for how much?*	

20.	**Did you have access to legal counsel?**		
	1. Yes 2. No	*If yes, did you have to pay for it?*	
21.	**Do you believe you have been victim of abuse or extortion of any kind?**		
	1. Yes 2. No	*If yes, please provide detail.*	
22.	**Did you receive any drug treatment or counselling while in NDLEA custody?**		
	1. Yes 2. No	*If yes, what did the treatment or counselling consist of?*	
23.	**Did you receive any drug treatment or counselling while in Prison?**		
	1. Yes 2. No	*If yes, what did the treatment or counselling consist of?*	
24.	**Did you undergo drug withdrawal while in state custody?**		
	1. Yes 2. No	*If yes, did you receive medical assistance (or other) through that period?*	
		Were you required to sign anything or be questioned during that period?	
25.	**Have you received any type of assistance an NGO or charity?**		
	1. Yes 2. No	*If yes, which NGO or charity?*	
		What kind of assistance did you receive?	
26.	**Do you think you will need drug treatment services or other forms of support when your leave prison?**		
	1. Yes 2. No	*If yes, are these services available?*	

27.	Do you agree or disagree with the view that the following groups of people are involved in transnational drug trafficking?

Groups of people	Extent of agreement/disagreement				
	Strongly agree 4	Agree 3	Disagree 2	Strongly disagree 1	Don't know 9
Unemployed and poor persons					
Top politicians					
Senior government officials					
Law enforcement officials					
Religious leaders					
Top businessmen and women					
Traditional rulers					
Well-known artists and musicians					
West Africans living in foreign countries (please specify which nationalities)					
Professionals such as lawyers, doctors, teachers, lecturers, accountants etc					
Young person					
Foreigners					
Others (specify)					

28.	In your opinion, to what extent do you think that drug trafficking impacts on the following conditions?

Condition	Extent of impact				
	Very seriously 4	Seriously 3	Somewhat seriously 2	Not serious at all 1	Don't Know 9
Control of violence and crime					
Economic development and opportunities					
Health					
Law enforcement					
Free and fair election					
Educational achievement of young persons					
Control of corruption					
Value of hard work and integrity					

29.	**Which of the following factors do you think is/are the most important cause(s) of drug trafficking in the country?**		
		1. Greed and emphasis on wealth in society	
		2. Poor political leadership	
		3. Widespread poverty and inequality	
		4. Corruption by top politicians	
		5. Corruption by law enforcement agencies	
		6. Lack of economic and employment opportunities	
		7. Lack of access to important social services, especially education, health care and housing	
		8. Lack of fear of God	
		9. Poor family upbringing	
30.	**In your opinion, which of the following measures do you think could serve as the most effective measure(s) against drug trafficking in the country?**		
		1. Stricter and more effectively enforced laws	
		2. Improved economic and employment opportunities.	
		3. Access to good social welfare services such as education, health care and housing	
		4. Enhanced democratic practice, including free and fair elections	
		5. Better political leadership	
		6. Proper upbringing in families in which values of honesty and integrity are instilled	

Annex C

ENQUETE SUR LES INFRACTIONS LIEES A LA DROGUE DANS LES PRISONS

1.	**Nom de la prison**		
2.	**Sexe**		
		3. Masculin	
		4. Féminin	
3.	**Age**		
		5. 19 ans et moins	
		6. 20-29 ans	
		7. 30-39 ans	
		8. 40 ans et pus	
4.	**Education**		
		4. Primaire ou moins	
		5. Secondaire	
		6. Tertiaire	
5.	**Situation d'emploi (avant la détention)**		
		1. Employé – si oui, veuillez spécifier	
		2. Sans emploi – si oui, veuillez spécifier la durée	
6.	**Avez-vous déjà été reconnu coupable d'un crime?**		
		3. Oui	
		4. Non	
7.	**Si la réponse est oui pour Q6, pour quel crime avez-vous été reconnu coupable?**		
		10. Infraction à la circulation	
		11. Vol /Tentative de vol	
		12. Vol	
		13. Infraction liée à la drogue	

		14. Fraude	
		15. Meurtre / tentative de meurtre	
		16. Viols et autres infractions sexuelles	
		17. Blanchiment d'argent	
		18. Autres	
8.	**Si la réponse est autre que ce qui précède, l'infraction était-elle liée à la drogue ?**		
		3. Oui – si oui, veuillez spécifier	
		4. Non	
9.	**Avez-vous été détenu pour infraction liée à la drogue, avez-vous été reconnu coupable?**		
		3. Oui	
		4. Non	
10.	**Pour quelle infraction relative à la drogue êtes-vous présentement détenu?**		
		8. Trafic transnational	
		9. Trafic national	
		10. Production	
		11. Vente	
		12. Possession	
		13. Utilisation	
		14. Autres (spécifiez)	
11.	**Quel type de drogue était impliqué?**		
		15. Cocaïne	
		6. Héroïne	
		7. Substances psychotropes – si oui, spécifiez laquelle	
		8. Marijuana	
		9. Autres - si oui, spécifiez lesquelles	
12.	**Quelle était la quantité de drogue impliquée dans votre cas?**		
13.	**Pouvez-vous fournir des détails supplémentaires sur comment / pourquoi vous vous êtes impliqué dans cette activité de drogue en particulier?**		

14.	**Si vous avez été condamné pour une infraction liée à la drogue, quelle est la durée de votre peine?**		
		6. Moins de 2 ans	
		7. 2 à 4 ans	
		8. 5 à 9 ans	
		9. 10 à 14 ans	
		10. 15 ans et plus	
15.	**Avez-vous été arrêté auparavant pour des infractions liées à la drogue?**		
		5. Jamais	
		6. Une fois	
		7. Deux fois	
		8. Trois fois ou plus	
16.	**Si la réponse à Q. 15 ci-dessus est oui, veuillez spécifier les infractions pour lesquelles vous avez été arrêté dans le passé**		
17.	**Si vous n'avez pas été condamné, mais arrêté pour une infraction liée à la drogue, pour combien de temps avez-vous été en détention préventive / en attente de procès:**		
		6. Moins de 6 mois	
		7. 6 mois à 1 an	
		8. 1 à 2 ans	
		9. 2 à 5 ans	
		10. 5 ans ou plus	
18.	**Avez-vous déjà été amené devant un magistrat?**		
	3. Oui 4. Non	*Si oui, combien de temps après votre détention?*	
19.	**Avez-vous eu la possibilité d'être libéré après paiement d'une caution?**		
	3. Oui 4. Non	*Si oui, pour combien?*	

20.	**Avez-vous eu accès à un avocat?**		
	3. Oui 4. Non	*Si oui, avez-vous eu à payer pour cela?*	
21.	**Croyez-vous que vous avez été victime de mauvais traitements ou d'extorsion de tout genre?**		
	3. Oui 4. Non	*Si oui, veuillez fournir des détails*	
22.	**Avez-vous reçu un traitement médicamenteux ou des conseils pendant que vous étiez en garde à NDLEA?**		
	3. Oui 4. Non	*Si oui, de quoi consistait le traitement ou le conseil?*	
23.	**Avez-vous reçu un traitement médicamenteux ou des conseils en prison?**		
	3. Oui 4. Non	*Si oui, de quoi consistait le traitement ou le conseil?*	
24.	**Avez-vous subi le retrait du médicament lorsque vous étiez en détention?**		
	3. Oui 4. Non	*Si oui, avez-vous reçu une assistance médicale (ou autre) pendant cette période?*	
		Avez-vous été obligé de signer quoi que ce soit ou soumis à des interrogations au cours de cette période?	
25.	**Avez-vous reçu une quelconque assistance d'une ONG ou d'un organisme de bienfaisance?**		
	3. Oui 4. Non	*Si oui, quelle ONG ou organisme de bienfaisance?*	
		Quel type d'aide avez vous reçu?	
26.	**Pensez-vous que vous aurez besoin des services de traitement de la toxicomanie ou d'autres formes de soutien lorsque vous quittez la prison?**		
	3. Oui 4. Non	*Si oui, ces services sont-ils disponibles?*	
27.	**Êtes vous d'accord ou en désaccord avec l'idée que les groupes de personnes suivants sont impliqués dans le trafic transnational de drogue?**		

Groups de personnes	Degré d'accord/désaccord				
	Fortement d'accord 4	D'accord 3	Pas d'accord 2	Fortement en désaccord 1	Ne sais pas 9
Les chômeurs et les pauvres					
Politiciens de haut niveau					
Hauts fonctionnaires du gouvernement					
Fonctionnaires de la police,					
Les chefs religieux					
Influents hommes et femmes d'affaires					
Les chefs traditionnels					
Artistes et musiciens bien connus					
Ouest-Africains vivant dans les pays étrangers (veuillez préciser quelles nationalités)					
Les professionnels comme les avocats, médecins, enseignants, conférenciers, experts-comptables, etc.					
Les jeunes					
Les étrangers					
Autres (spécifiez)					

28.	**À votre avis, dans quelle mesure pensez-vous que le trafic de drogue a-t-il des impacts sur les conditions suivantes?**

Condition	Importance de l'impact				
	Très au sérieux 4	Sérieux 3	Assez sérieux 2	Pas du tout sérieux 1	Ne sais pas 9
Contrôle de la violence et de la criminalité					
Le développement économique et les opportunités					
Santé					
Application de la loi					
Election libre et équitable					
La réussite scolaire des jeunes					
Lutte contre la corruption					
Valeur du Travail acharné et de l'intégrité					

29.	**Lequel des facteurs suivants pensez-vous est / sont la cause la plus importante (s) du trafic**

	de drogue dans le pays?		
		10. La cupidité et l'accent sur la richesse dans la société	
		11. Manque de leadership politique	
		12. La pauvreté généralisée et les inégalités	
		13. Corruption par les politiciens de haut niveau	
		14. Corruption par les organismes d'application de la loi	
		15. Le manque d'opportunités économiques et d'emploi	
		16. Le manque d'accès à d'importants services sociaux, notamment l'éducation, les soins de santé et le logement	
		17. Manque de crainte de Dieu	
		18. Mauvaise éducation familiale	
30.	**A votre avis, lesquelles des mesures suivantes pensez-vous pourraient servir de mesure la plus efficace (s) contre le trafic de drogue dans le pays?**		
		7. Des lois plus sévères et plus efficacement appliquées	
		8. Amélioration des perspectives économiques et de l'emploi	
		9. Accès à des services sociaux tels que l'éducation, la santé et le logement	
		10. Pratique démocratique renforcée, y compris des élections libres et équitables	
		11. Un meilleur leadership politique	
		12. Bonne éducation dans les familles où les valeurs d'honnêteté et d'intégrité sont inculquées	