



international journal
on human rights

issue **21**

- THE SUR FILE ON DRUGS AND HUMAN RIGHTS -

NGOs and drug policy
Rafael Custódio

Empty slogans, real problems
Carl L. Hart

Drugs policies and public health
Luís Fernando Tófoli

*Brazil: Critical reflections
on a repressive drug policy*
Luciana Boiteux

*The Elephant in the Room:
Drugs and Human Rights in Latin America*
Juan Carlos Garzón, Luciana Pol

*Asia: Advocating for humane
and effective drug policies*
Gloria Lai

*West Africa:
a new frontier for drug policy?*
Adeolu Ogunrombi

Uruguay's advances in drug policy
Milton Romani Gerner

The UN in 2016: A watershed moment
Anand Grover

- ESSAYS -

*State regulatory powers
and global legal pluralism*
Víctor Abramovich

Lies engraved on marble and truths lost forever
Glenda Mezarobba

*Is humanitarian action independent
from political interests?*
Jonathan Whittall

- IMAGES -

Global protests - Through the photographers' lens
Leandro Viana

- EXPERIENCES -

Occupying Hong Kong
Kin-man Chan

- INSTITUTIONAL OUTLOOK -

Family philanthropy in Brazil
Inês Mindlin Lafer

- CONVERSATIONS -

"Every voice matters"
Kasha Jacqueline Nabagesera

"They have to give us back our comrades alive"
Gerardo Torres Pérez, María Luisa Aguilar

- VOICES -

Mass e-mail surveillance: the next battle
Anthony D. Romero

THE SUR FILE ON DRUGS AND HUMAN RIGHTS

WEST AFRICA: A NEW FRONTIER FOR DRUG POLICIES?

Adeolu Ogunrombi

- *West Africa's development as a centre for drug trafficking, production and consumption gives governments the opportunity to embark on more enlightened policy responses.*

ABSTRACT

West Africa is recognised as a trafficking region in the global drug trade. However, increasingly it is also becoming a region of consumption and production. Here the author discusses how the region's governments typically employ repressive policies in response, despite increasing evidence to show that such policies are not only futile but result in gross human rights violations.

KEYWORDS

War on drugs | Human rights | West Africa | West Africa Commission on Drugs | Trafficking Consumption | Production | Policy

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This article explores why West Africa has traditionally been used as a drug trafficking route and how it is increasingly becoming a region for consumption and production. This is despite the continued use by West African governments of the repressive policies perpetuated by the concept of the “war on drugs.” The article attempts to explain the continued reliance on these policies by examining both the international and local context. Finally, the disastrous impact that these policies have on human rights in the region is highlighted by focusing on the situation in Nigeria and Ghana.

The trafficking of illicit drugs through West Africa has continued to grow in volume over the past decades, mainly from the Latin American countries to the thriving European and North American markets.¹ This growing market is estimated to be worth billions of dollars annually² and there seems to be no sign of it abating.

The choice of West Africa by traffickers has been attributed to a number of factors such as its geographic vulnerability in terms of easy access and weak intra and inter-state surveillance systems.³ Other factors include international counter-narcotics measures driving away traffickers from their usual routes such as direct shipment from Latin America to European countries⁴ to a less resistant route such as through West Africa,⁵ coupled with the availability and willingness of local collaborators. This growing challenge has also brought the enormous responsibility of how to address the issue. Many of the governments in the region have adopted the populist ideology of “war on drugs.”

The ease with which this policy is adopted can be explained by various factors. Firstly, there is the prevailing societal perception that drugs are a social evil and governments need to do everything possible to eradicate them. This

is reflected in the mission statement of some of the drug control agencies in the region. A typical example is the Nigeria Drug Law Enforcement Agency (NDLEA) which has a mission statement promising to “deploy all resources at its disposal for the total eradication of illicit trafficking in narcotic drugs and psychotropic substances; suppression of demand for illicit drugs and other substances of abuse...”⁶ During a public ceremonial burning of approximately 86,000 kg of seized cannabis in 2014, the chairman of the NDLEA said “it gladdens my heart that we are gathered here today to destroy what destroys lives and destinies.”⁷

In addition, the European Union (EU) and the US have also played a major role in influencing drug policy direction within the region with a strong focus on interdiction, arrest and the criminal justice system. This influence can be seen by analysing the thematic focus of financial aid given to many African countries for counter-narcotics measures. Axel Klein (2014) in his paper titled “When Agendas Collide: Combating Drugs and Organised Crimes in West Africa” explicitly mentioned, for example, that much of the collaboration between the EU and West Africa in tackling cocaine trafficking is funded as development cooperation but directed at transnational organised crime operating in West Africa and that this approach equally reflects the external security policy of the EU.⁸ After many years pursuing this policy approach it is obvious that it has not yielded the desired result. Rather, the policy’s collateral damage of gross human rights violations such as mass incarceration and torturing of drug users, which are going unreported and unchecked, are of particular concern. It is therefore not an overstatement to say that these foreign-motivated drug policies have empowered the more corrupt and inhumane tendencies of law enforcement officers within the region. Neil Carrier and Gernot Klantshnig (2012) in their book “Africa and The War on Drugs” succinctly put it that the war on drugs in Africa has been counterproductive, just as it is in many other regions because it “sidelines discussions on human rights in drug policy, the provision of drug treatment facilities and a focus on more pressing drug issues for Africans.”⁹ Latin America shares considerable economic and development attributes with West Africa¹⁰ and has experienced devastating consequences of the war on drugs, for example high levels of violence and use of herbicides that are toxic to humans.¹¹ It thus provides a good example for West Africa on how not to approach the drug challenge.¹² West Africa cannot afford to be the “new frontline of the failed war on drugs.”¹³

Confronting the realities: from transit to consumption

With the growing threats of drug trafficking and consumption in West Africa, Kofi Annan, the Chair of the Kofi Annan Foundation and Former Secretary-General of the United Nations, convened the West Africa Commission on Drugs in January 2013. The commission is chaired by the former president of Nigeria Olusegun Obasanjo, and consists of other West Africans drawn from civil society, the judiciary, the health and security sector and politics. The principal objectives of the commission are to “mobilise public awareness and political commitment around the challenges posed by drug trafficking; develop evidence-based policy recommendations; and promote regional and local capacity and ownership to manage these challenges.”¹⁴ In June 2014, the Commission launched its maiden report “Not Just in Transit: Drugs, the State and Society in West Africa” which highlighted some pertinent realities of the illicit drug trade that are often missing in the usual narratives about narco-trafficking within the region. The report highlighted that the region is no longer just a transit route, as commonly referred, but also a region of consumption.¹⁵ It is also becoming clearer that beyond the cultivation of cannabis in the region, synthetic drugs such as methamphetamine are being produced, not just for trafficking but also for local consumption. This is evident, for example, with the discovery of about six clandestine methamphetamine laboratories in Nigeria within a space of two years between 2011 and 2013.¹⁶ In terms of consumption, the 2012 World Drug Report (WDR) published by United Nations Office on Drugs and Crime estimated that there are about 1.6 million cocaine users in West and Central Africa.¹⁷ The 2013 report highlighted that the estimate of opiate users is at par with the global estimate and higher than that of the West and Central Europe.¹⁸ In the same light, the 2015 WDR showed that cannabis users in West and Central Africa is three times higher than that of the global estimate.¹⁹

These realities, instead of providing a compelling justification towards public health and human rights-centred drug policies, have become a rallying cry for policy makers, both within the region and outside, advocating the war on drugs to respond with more policing and militarisation.²⁰ With a growing number of opiate users, only one

country (Senegal) out of sixteen West African countries has an explicit reference to harm reduction strategies in a national policy document.²¹ Consequently, injecting drug users are driven underground where they are at risk of HIV transmission and other blood borne diseases which can be transmitted through sharing of needles and syringes. Furthermore, those who are opiate-dependent and should benefit from potentially life-saving therapy, such as methadone treatment, are denied access by not making such service available. This denial on its own constitutes a violation of the fundamental right to health which most West African countries' constitutions claim they respect. The pervasiveness of the situation and the harm on drug users is well captured in the words of a 55 year old heroin user in Lagos, Nigeria:

*I have been hooked on heroin for many years and in my struggle to be free I have been to many rehabilitation centres which do not work for me. Because of this I have lost my family, could not keep a steady job. How I wish treatment such as methadone is available I know I will be giving a different story today.*²²

Undocumented violations and increasingly repressive drug policies

Globally there is growing evidence to show the failure of the war on drugs and its inability to protect human rights.²³ Instead, it has increased violence and human right abuses. The major casualties of this failed approach are people who use drugs. They suffer indiscriminate arrest, torture, denial of access to justice, health and social services, among many other issues. In Africa, there is sparse documented evidence of drug-related human rights abuses caused by policies motivated by the war on drug. In fact, this is confirmed by the available reports which have shown that many human rights violations in Africa go unreported and are rarely documented.²⁴ However, this gap in documented evidence does not in any way indicate that there are few human rights violations against drug users in the region.

It is important to note that the concept of human rights in West Africa and Africa as a whole is yet to fully develop in terms of societal consciousness and available systems for enforcement of rights. Human rights are often considered a western ideology especially when being applied to issues that are considered not to be in tandem with cultural norms and values. Thus, the practice and implementation of human rights within the African context is largely influenced by the African human values which according to Rukooko are considered "incompatible with the Western conception of human rights on account of the Western individualistic basis."²⁵ That is, human rights are viewed from a communal perspective rather than what an individual should lay claim on. The implication of this is that the community frames what is acceptable and what is not. For an issue such as drug use which is still within the "moral debate,"²⁶ the promotion of human rights of drug users in Africa is indeed a huge task. This further explains why the ideology of the war on drugs is considered acceptable and easily implemented in many parts of the region. For example, the Ghana Narcotics Control Commission Bill (2014) is presently being reviewed by parliament. Section 26(2) of the draft bill stipulates that a person who, without lawful excuse, purchases a narcotic drug for personal use commits an offence and is liable on summary conviction to a term of imprisonment not less than five years and not more than ten years.²⁷ The existing law stipulates an imprisonment term of not less than five years.²⁸ It is disappointing that such a radical approach is taken despite increasing evidence of the failure of punitive drug policies. Another example is a country like the Gambia, where the minimum sentence of 10 years imprisonment for drug trafficking was amended in 2010 to the death penalty for any person found in possession of more than 250 grams of cocaine or heroin in the country. This was later changed to life imprisonment in 2011.²⁹ This reality confirms the manner in which many African governments are continuing to deal with their drug problems.

Lessons from Nigeria and Ghana: a series of violations regarding drug policy

This section will offer examples of how the human rights of drug users are violated, focussing on two major countries in the region, Nigeria and Ghana. The choice of these two countries is because both, especially Nigeria, have considerable hegemonic influence on policy direction within the region.³⁰

Firstly, the use of excessive force and guns by the police and military to arrest drug users is endemic. This action is often taken with the view of ensuring a drug free society. For example, on 17 October 2013, the Modern Ghana – an online media publication – reported how a police officer shot to death a young man who was accused of smoking cannabis with his friend in his neighbourhood.³¹ Earlier in the same year in May 2013, another mainstream newspaper in Ghana reported how three police officers killed another young man in an attempt to arrest him for smoking cannabis.³² Situations such as these are not peculiar to Ghana. On the 13 October 2014, the military raided a community known as Dagba in Abuja, Nigeria in an operation aimed at flushing out drug dealers in the community. This led to the killing of two people and injuring many others.³³ More broadly, the 2015 report by YouthRISE Nigeria “We Are People: The Unintended Consequences of the Nigeria Drug Policy on the Human Rights of Young People Who Use Drugs”³⁴ chronicles the experiences of young people who use drugs and who come into contact with drug law enforcement agents.

Secondly, the police and drug enforcement agents often use the strength of the law against drugs to intimidate individuals. The 2010 human rights report on Ghana by the US Department of State reported the case of two police officers and three soldiers who were arrested for extorting money from two men whom they falsely accused of drug offences.³⁵ In Nigeria, there are reports suggesting police officers often go out to arrest female drug users in order to have sex with them or require them to perform sexual favours to negotiate their release. In a documented case, a young woman gave an account of how a police officer continuously sexually molested her and some of her friends after they were caught using narcotics. In her narrative, the policeman often threatened her with arrest if she refused to satisfy his sexual desires:

*The man [policeman] often comes after me and my friends. He knows where I am staying and where we hangout. He will threaten me with arrest, collect money from me and still sleep with me...*³⁶

Thirdly, other cases of human rights abuse include the inhumane conditions that drug users are subjected to in treatment and rehabilitation centres. Some rehabilitation centres in the region operate based on the ideology that the more severe the punishment the faster the person recovers.³⁷ They are therefore synonymous to a “house of torture” and are rarely monitored for human rights violations. Currently there are sparse reports on the experience of drug users within closed-settings in the region but the few available reports suggest a need for a deeper investigation into what drug users experience in treatment, and rehabilitation facilities and in detention and police custody. Human rights abuses against drug users have somewhat been normalised in the society and drug users are regarded as not deserving of any empathy, compassion, support or dignity.³⁸ To avoid stigma and discrimination, those whose rights are violated rarely make any attempt to report or seek justice. In many cases, the drug users themselves are ignorant of their rights as individuals.

The challenges presented above are not due to lack of human right instruments which exist both at the national and regional level. Nigeria, for instance, has a constitution which includes specific provisions protecting human rights and fundamental freedoms.³⁹ In particular, the Bill of Rights contained in Chapter IV of the Constitution (Articles 33-46) provides for the right to life; the prohibition of torture and other cruel, inhuman and degrading treatment; and, the right to an effective remedy and redress in instances where these rights have been violated. The country is also a signatory to various human rights instruments which include the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the African Charter on Human and Peoples’ Rights.⁴⁰ In 1995, Nigeria established the National Human Rights Commission for the promotion and protection of Human Rights.⁴¹ A similar institution, the Commission on Human Rights and Administrative Justice, also exists in Ghana and was established in 1993.⁴² These institutions provide a platform to engage with the government to ensure holistic and inclusive actions that promote and protect the human rights of drug users.

Conclusion

The war on drugs in West Africa and Africa as a whole has indeed undermined human rights with so many violations going unreported and unchecked. This challenge is huge but surmountable. Africa in the 21st century must advance the human rights concept and consider it central in developing appropriate policy responses to the drug challenge facing the region. Some critical steps that need to be taken include a general public enlightenment or education on what human rights are and the need for them to be protected irrespective of who is involved. Specifically, drug users need to be well educated on their rights and how to protect them. However, it will also be necessary for countries in the region to establish and strengthen human rights institutions that are independent and empowered to carry out their functions. The ideology of the war on drugs has been counterproductive and West Africa has a lot to learn from Latin American countries such as Mexico including how repressive policies have not only failed to reduce the scale of the drug market but rather created insecurity in communities and a public health crisis. West Africa need not to go in this direction.

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Received in June 2015.

Original in English.

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