LEGAL FRAMEWORK FOR CURBING TRANSNATIONAL ORGANISED CRIME IN NIGERIA*

Abstract
Transnational organised crime has significantly impeded the growth and development of many countries striving for globalisation. Thus, international cooperation is a crucial tool in combating transnational organized crime. This cooperation involved due process and forms including extradition and mutual legal assistance to effectively address transnational criminal activities. This article adopts doctrinal method in interrogating the legal and institutional frameworks for international cooperation on the fight against transnational organized crime in Nigeria. It examines the challenges posed by transitional organised crimes, identified forms of transnational organized crimes across nations and explored strategies to assist states in capacity building towards combating. It found that the subsisting legal frameworks for transnational organised crime in Nigeria is inadequate and has therefore hindered cross-border law enforcement efforts. It therefore recommends overhauling of the legal and regulatory frameworks for extradition, mutual legal assistance, and prisoner transfers, increasing awareness and effective utilization of the concept of international cooperation in combating transnational organized crime in Nigeria. Furthermore, Nigeria should formulate a clear policy to enhance existing domestic legislation, treaties, and policy frameworks related to joint investigations, transfer of criminal proceedings, letters rogatory, and the recognition and enforcement of foreign criminal judgments.

Keywords: Extradition, Transnational organised crimes, Nigeria, International, Cooperation

1. Introduction

The legal framework for fighting transnational organized crime (TOC) involves a combination of international, regional, and national laws, as well as cooperative efforts between countries. Some of the key components are International Framework, which includes; Firstly, United Nations Convention against Transnational Organized Crime (UNTOC) (2000): Also known as the Palermo Convention, this treaty sets out a global framework for combating TOC. Secondly, United Nations Office on Drugs and Crime (UNTOC) Protocols which has three protocols. There are regional frameworks that are required in fighting Transnational Organized Crime includes; European Union (EU) Framework Decision on Organized Crime (2008), Organization of American States (OAS) Convention against Transnational Organized Crime (2005), Association of Southeast Asian Nations (ASEAN) Convention on Counter-Terrorism (2007) and African Union Convention on Preventing and Combating Corruption (2003).

2. Definition of Terms

For the sake of clarity in comprehension, certain terms used in this paper needs definition. These terms include.

Crime

Defining 'crime' is a complex endeavor, as it encompasses a broad spectrum of actions and societal implications. At its core, a crime is an act deemed punishable under the law. To understand what constitutes a crime, one must first comprehend the law itself. A crime may be viewed as an act of defiance against a law that either prohibits or mandates it[1]. However, the concept of crime extends beyond mere legal disobedience. Various schools of thought and authors have offered differing interpretations of crime, yet no singular definition has been universally accepted. Crime is recognized as a legal transgression that incurs punishment by the state. Sir Williams[2] initially described crime as an act committed or omitted in violation of a public law. He later refined his definition to describe crime as an infringement of the public rights and duties owed to the community at large. In England, a crime is a legal wrong that leads to criminal proceedings and potential punishment. It represents human behavior that the state aims to deter through the threat of penal consequences, leading to criminal proceedings and sanctions.[3] The concept of crime is also perceived as a societal norm, a natural outcome of collective living and social evolution. For example, Cross and Jones view crime as a legal wrong punished by the state[4], while Russell sees it as an act or omission that breaches a duty punishable by indictment in the public interest. Gledhill[5] defines crime as conduct that the state seeks to prevent through punishment and specialized legal proceedings. Durkheim[6] posits that the collective conscience of a society determines what is considered a crime, suggesting that moral consensus shapes legal boundaries. Some perspectives argue that legal definitions of crime are too narrow and

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[1] R.C. Nigam, *Law of Crimes in India.*
[2] S. W. Blackstone, *Commentaries on the Laws of England.*
[3] M. Jefferson, *Criminal Law,* Pearson, Education Limited Essex (2007) 8th ed. Pp. 12-13.
[4] R. Ross and R. A. Jones, *An Introduction to Criminal Law*, Butterworths, London (1972) p. 35 11th Edition p. 1.
[5] A. Glendhill, *the Penal Code of Northern Nigeria and the Sudan* London (1963).
[6] E. Durkheim, *Rules of Sociological Method*, The Free Press, lllinois (1958) pp. 65-23.

propose that criminology should encompass all antisocial behavior detrimental to society.[7] Adeyemi[8] emphasizes that crime adversely affects societal progress, eroding spiritual and material well-being, compromising human dignity, and fostering a climate of fear and violence that diminishes the quality of life.

Cross-Border Crimes

Borders serve as the delineating lines of a nation's sovereignty and security, acting as filters through which individuals, commodities, capital, and information are assessed for legitimacy. They are emblematic of a nation's historical and ongoing relations with its neighbors.[9] In the realm of international law, misconduct that transcends national interests is categorized into two primary types: international crimes and transnational crimes. International crimes are those actions deemed illicit by international criminal law, as defined by the 1994 draft code, multilateral treaties, or established customary practices among nations. Transnational, or cross-border crimes, are often characterized as offenses that infringe upon the laws of multiple countries[10]. However, relying solely on legal definitions for the study of social phenomena can be restrictive, especially within a global community composed of vastly diverse legal systems. It is more pragmatic to conceptualize cross-border crime in an abstract manner, while still acknowledging legal norms. Cross-border crime can be defined as conduct that endangers legally protected interests across multiple national jurisdictions and is criminalized in at least one of the concerned states. The severity, sophistication, and organization of such crimes can vary. Contemporary concerns about global crimes have been predominantly driven by illegal drug trafficking, terrorism, illicit arms or technology trade, human smuggling, fraud, corruption, and money laundering. The spectrum of serious transnational crime also encompasses tax evasion, capital flight, art and cultural property theft, smuggling of legal commodities, environmental offenses, and the exploitation of child labor. Computer crimes, often dubbed 'the crimes of the future,' largely represent a novel method of committing traditional offenses, with the computer serving as the instrument of crime. Crime, in essence, is an intentional act contravening criminal law, committed without justification or excuse, and subject to penal sanctions by the state as either a felony or misdemeanor. The juristic perspective offers a precise and administratively viable definition, although sociologists continue to refine methodologies for the accurate identification of offenders. Crime is thus described as a breach of legal norms warranting penal consequences, with the perpetrator being the individual responsible for such a breach. Historical legal scholars, such as Blackstone, have defined crime as a violation of the collective rights and duties owed to the community, asserting that any act or omission that contravenes public law constitutes a crime. This emphasis on public wrongs highlights the notion that crimes are breaches against the community's collective rights and duties.

Transnational Crimes

Transnational crimes are offenses that transcend national boundaries or occur within a single nation yet violate the core principles of the global community. These crimes are recognized and addressed by both law enforcement agencies and academic scholars. The prevention of transnational crimes is facilitated by three primary methods: electronic surveillance, undercover operations, and the strategic use of information. These methods have proven to be crucial in aiding investigative agencies in their fight against organized and transnational criminal activities.[11]The societal impact of transnational organized crime is profound, posing threats to peace and human security. Such criminal activities lead to violations of human rights and impede the economic, social, cultural, political, and civil progress of societies worldwide. Organized crime groups may resort to violence and corruption to fulfill their objectives, often manipulating legal entities like businesses or corporations to perpetrate crimes or to launder money obtained from illegal activities. The consequences of these crimes are multifaceted, resulting in physical and economic damage, as well as the erosion of legitimate governmental and commercial functions. The human toll is significant, with innumerable lives lost annually due to organized crime. This includes the health issues and violence linked to drugs, fatalities caused by firearms, and the ruthless practices of human traffickers and migrant smugglers. These criminal acts generally diminish safety, sow discord and confusion, impede community cooperation and trust, and inflict substantial economic losses on individuals and nations alike[12]. They also compromise the fiscal capabilities of states, hinder economic growth through tax evasion, and promote illicit financial transactions. Furthermore, transnational organized crime increasingly threatens both national and international security, with severe repercussions for public safety, health, democratic institutions, and the stability of economies around the world.

[7] T. Sellin, *Culture, Conflict and Crime*, New York Social Science Research Council Bulletin 41 (1938). pp.19.

[8] A. A. Adeyemi, 'Economic Crime in a developing Society'. A paper presented at the Conference of Attorney Generals, 11th – 13th October, 1998), pg.1.

[9] O. Ogunsakin. Border Control Challenges and their Attendant Effects on National Security in Abolutin, A, *Issues and Challenges: Nigeria's National Security,* Ibadan: John Archers, p.37, 2011.

[10] A. Bossard, *Transnational Crime and Criminal Law* (1990-06-03) Paperback.

[11] <https://unafei.or.jpPDF//HowCanWePreventedTransactionalCrimes> RS/No58 Accessed on 24/09/2024.

[12] <https://www.unodc-org-news.Howdoesorganizedcrimeaffectsociety> Accessed on 24/09/2024.

Transnational Organised Crime

Transnational Organized Crime (TOC) refers to crimes that are planned and executed by coordinated groups operating across national borders. These groups engage in a variety of illegal activities, including drug and arms trafficking, human trafficking, illegal waste disposal, theft, and wildlife poaching. TOC networks utilize systematic violence and corruption to achieve their objectives, posing a significant threat to public safety, health, and the stability of democratic institutions and economies worldwide.[13] As TOC networks grow and diversify, they increasingly converge with other threats, leading to destabilizing effects. The United States has developed strategies to counteract TOC networks that threaten American interests and global security. Particularly vulnerable to TOC are developing countries with weak legal systems, where governance can be compromised, leading to further erosion of law and order. The infiltration of TOC into state mechanisms, including government, intelligence, and business sectors, poses a severe risk to economic development and the integrity of democratic institutions. In some regions, TOC groups have become intertwined with political processes through bribery, economic coercion, and even participation in elections. They establish shadow economies, compromise financial and security sectors, and sometimes provide alternative governance and services, challenging the stability of legitimate markets and alliances. The penetration of TOC into governmental structures intensifies corruption, weakens governance, and undermines the rule of law, judicial systems, the free press, and the development of democratic institutions. The situation in Somalia, where criminal control and piracy have generated substantial illicit funds, illustrates how TOC can destabilize governments. In summary, TOC is a multifaceted threat that undermines state authority and economic stability, necessitating a coordinated and robust international response to safeguard global security and promote lawful governance.

Extradition

Extradition refers to the formal process where an individual is given up by his or her own will or by force to the state, which seeks to prosecute him or her or is handed over to the state through legal procedures after being convicted of a criminal activity. Extradition entails the surrender of an individual, at the behest of another legal jurisdiction, for the purposes of facing trial or punishment. For extradition to proceed, it is imperative that the individual is officially wanted for trial, as evidenced by a judicial warrant demanding their court appearance to respond to criminal charges. This is distinct from being sought merely for questioning, such as in a witness capacity. In the case of *Attorney-General of the Federation v Lawal Olaniyi Babafem*, also known as 'Abdullahi' and 'Ayatollah Mustapher (Babafemi)',[14] the respondent was implicated in conspiring to support a Foreign Terrorist Organisation in the United States. The Federal High Court deemed the existing indictment and the arrest warrant issued by a U.S. Magistrate Judge sufficient to classify the respondent as subject to extradition. Even if a convicted individual is appealing their sentence, this does not negate their status as extraditable. In *Attorney-General of the Federation v Uche Okafor Prince*,[15] the respondent, convicted by the District Court of Helsinki and upheld by the Helsinki Court of Appeal, fled to Nigeria without serving their sentence. Despite the respondent's claim of an ongoing appeal, the Federal High Court ordered their extradition to Finland, focusing on the sentence awaiting completion. The courts have consistently emphasized that extradition proceedings are not a trial of the respondent but rather a procedural expression of international cooperation. This is grounded in the principle that it is in the collective interest of states to ensure that justice is not evaded. As Lord Russell of Killowen, C.J. articulated in *R v. Arton (No.1)* in 1896,[16] the foundation of extradition lies in the mutual interest of civilized societies to see crimes duly punished and in the reciprocal assistance among nations to bring offenders to justice. It is crucial to distinguish extradition from rendition, the latter being a broader term encompassing all methods of returning individuals, including extradition, from one state to another. Unlawful methods such as abduction or 'extraordinary rendition'—government-sanctioned apprehension and transfer of individuals without due process—contrast sharply with formal extradition. Extraordinary rendition strips individuals of their right to legally contest their transfer, underscoring the importance of adhering to established legal extradition protocols.

Extradition is a critical mechanism in upholding the principles of international law, particularly in the context of transnational crime. However, instances of unlawful rendition, such as the 1984 'Dikko Affair', starkly violate these principles. In this case, the Nigerian government's attempt to forcibly repatriate Umaru Dikko from the UK, bypassing legal extradition processes, resulted in severe diplomatic repercussions and highlighted the importance of adhering to international norms. The legal framework governing extradition is comprehensive, with foundational documents such as the 1999 Constitution of Nigeria, the Extradition Act of 1966, its subsequent modifications, and the Federal High Court Rules on Extradition Proceedings. These are bolstered by the Evidence Act and various criminal codes that collectively shape the extradition landscape.

[13] Ibid.

[14] *Attorney-General of the Federation v Lawal Olaniyi Babafemi aka 'Abdullahi'*, '*Ayatollah Mustapher (Babafemi)*' Suit No: FHC/ABJ/CR/132/2013.

[15] *Attorney-General of the Federation v Uche Okafor Prince* SUIT NO: FHC/ABJ/CR/28/2013.

[16] *R v. Arton* (No. 1) [1896] 1 Q.B 108.

3. Legal Framework on Curbing Transnational Organised Crime

This section of the paper examines laws that could be deployed to curb the menace of transnational crime in Nigeria.

Constitution of the Federal Republic of Nigeria 1999 (as amended)

The Nigerian State is a constitutional democracy based on a three-tier structure of governance made up of the federal, state and local governments. The constitution of the Federal Republic of Nigeria 1999 is the foundation to the existence of all other laws in the Nigerian legal system. The 1999 Constitution expressly stipulates that it '… is supreme and its provisions shall have binding force on the authorities and persons throughout the Federal Republic of Nigeria.'[17] The 1999 Constitution is, therefore, the tool by which the validity or legality of all existing laws, within the country, are determined. It is in this sense that the 1999 Constitution stipulates that if any other law is inconsistent with its provisions, 'that other law shall, to the extent of the inconsistency, be void.'[18] By virtue of the 1999 Constitution, the power to make laws and procedures regarding extradition is vested exclusively in the Federal Government of Nigeria.[19] The 1999 Constitution of Nigeria does not explicitly provide specific provisions for the fight against transnational organized crime. However, it does contain some relevant sections that can be applied to combating organized crime generally. Section 4 provides for the Separation of Powers, this section establishes the National Assembly's authority to legislate on matters related to crime and criminal justice, including organized crime. Also, Section 14 provides for the Protection of Public Safety and Public Order, this section empowers the government to ensure public safety and order, which can be applied to combating organized crime. And Section 15(5) provides for the responsibility of the State, this section obligates the state to abolish all forms of corruption and abuse of power. While the Constitution doesn't explicitly address transnational organized crime, Nigeria has enacted specific laws and established institutions to combat organized crime, including. Nigeria is also a signatory to international treaties and conventions aimed at combating transnational organized crime, such as the United Nations Convention against Transnational Organized Crime (UNTOC) and its protocols. Under the Nigerian Constitution, the Attorney-General of the Federation holds significant powers in extradition cases.

United Nations Convention against Transnational Organized Crime (UNTOC) 2000

The legal framework for fighting transnational organized crime (TOC) involves a combination of international, regional and nation laws, as well as cooperative efforts between countries. One of such laws is; United Nations Convention against Transnational Organized Crime also known as the Palermo Convention, this treaty sets out a global framework for combatting TOC. Also, there are three protocols which addresses specific issues i.e., protocol to prevent, suppress and punish trafficking in persons, especially women and children. And also, protocol against the smuggling of migrants by land, sea and air. And protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition. Therefore, United Nations Convention against Transnational Organized Crime, often referred to as the Organized Crime Convention, mandates the criminalization of four specific conducts when committed intentionally: participation in an organized criminal group, laundering of proceeds of crime, corruption, and obstruction of justice. These are outlined in articles 5, 6, 8, and 23 of the Convention respectively. The Convention allows for flexibility in how states establish these offenses within their jurisdictions, emphasizing that the specifics of criminalization are subject to domestic law as per article 11, paragraph 6. Despite its focus on transnational crime, the Convention obligates state parties to criminalize the specified conducts regardless of whether a transnational element or an organized criminal group is involved, as stated in article 34, paragraph 2. This ensures that domestic crimes of similar nature are not exempt from prosecution.[20]

The Convention does not prescribe specific sanctions for these crimes, leaving the determination of penalties to the discretion of each state party, which must align with the gravity of the offense as per article 11, paragraph 1. The severity of sanctions often influences international cooperation, such as extradition and mutual legal assistance, with many states setting a minimum penalty threshold for such cooperation. Transnational organized crimes encompass a wide array of illicit activities conducted across national borders for economic gain. These include, but are not limited to, terrorism, banditry, corruption, illegal mining, human trafficking, arms trafficking, drug trafficking, cybercrime, and other forms of economic and financial crimes. Organized criminal groups often employ sophisticated technological tools and complex methods, such as information networks and financial systems, to facilitate their operations. Activities like smuggling contraband, human trafficking, and illegal oil bunkering using speedboats and vessels are characteristic of transnational organized crime. This section aims to provide an academic analysis of the international legal frameworks designed to combat transnational organized crime, highlighting the pivotal role of the Organized Crime Convention in establishing a cohesive approach to criminalization and international cooperation.

The United Nations Convention against Transnational Organized Crime (UNTOC), along with its supplementary protocols, obligates states parties to harmonize their domestic legislation with the provisions of the Convention.[21] Article 34, paragraph 1, specifically enjoins each state party to adopt the necessary legislative and administrative measures, in

[17] Section 1(1) Constitution of the Federal Republic of Nigeria 1999.
[18] Section 1(3) Constitution of the Federal Republic of Nigeria 1999.
[19] Second Schedule, Exclusive Legislative List; Item 27 1999 Constitution of Nigeria (as amended).
[20] See Travaux Preparatoires of the Negotiations for the Elaboration of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto (United Nations publication, Sales No. E.06.V.5), p. 57.
[21] United Nation Convention against transnational organize crime 2014.

line with the fundamental principles of its legal system, to criminalize the offenses enumerated within the Convention.[22] The UNTOC stipulates the criminalization of four intentional conducts: participation in an organized criminal group (Article 5), laundering of proceeds of crime (Article 6), corruption (Article 8), and obstruction of justice (Article 23). While the Convention primarily addresses transnational organized crime, it requires states to criminalize these conducts irrespective of any transnational element or the involvement of an organized criminal group, as detailed in Article 34, paragraph 2. This ensures that domestic offenses are treated with the same severity as transnational crimes. In combating transnational organized crime, the Convention advocates for two principal legal mechanisms: mutual legal assistance (MLA) and extradition. MLA is a treaty-based framework that facilitates cooperation between states in gathering evidence, and in the tracing, freezing, seizing, and confiscation of criminally derived assets. Extradition, another critical mechanism for international cooperation, involves the surrender of individuals by one state to another for prosecution or to serve a sentence for crimes committed within the jurisdiction of the requesting state. This process is typically governed by treaties, which provide the legal foundation for such requests. This academic examination will critically analyze the mechanisms of international cooperation employed in the fight against transnational organized crime. It will explore how states collaborate to transfer suspects for trial or convicted individuals to serve sentences, often in their home countries, thereby aiding their reintegration into society and underscoring the significance of international legal frameworks in addressing the challenges posed by transnational organized crime.

Extradition Act, Cap E14 LFN, 2004

The legal framework governing extradition in Nigeria is comprised of several key instruments, including the Constitution of the Federal Republic of Nigeria 1999 (as amended), the Extradition Act of 1966, the Extradition Act (Modification) Order of 2014, and the Federal High Court (Extradition Proceedings) Rules of 2015. Additionally, the Evidence Act of 1973 and various criminal or penal codes also play a role in the administration of criminal justice related to extradition. The Extradition Act, 1966 was enacted on 31st December 1966 and came into operation in January 1967. It was enacted to repeal all previous extradition laws made by or applicable to Nigeria and to provide for a more comprehensive legal regime with respect to extradition of fugitive offenders.[23] While the Constitution provides the general foundational legal framework for extradition law and practice, the Extradition Act is the primary legislation for specific matters. As the primary statute regulating extradition in Nigeria, it recognizes two Separate categories of States. States in the first category are those that have an extradition agreement with Nigeria and in respect of which an agreement order has been made and published in the Federal Gazette.[24] The second category consists of Commonwealth States.[25] This categorization is significant because while it is necessary to enter into separate and individual bilateral (or infrequently, multilateral) extradition treaties with States in the first category,[26] there is no such requirement for the second category of Commonwealth States.[27] The Extradition Act initially conferred magistrates with the jurisdiction to determine extradition proceedings. However, this positioned changed with the coming into force of the 1999 Constitution. Section 251(1) (i) of the 1999 Constitution grants the Federal High Court exclusive jurisdiction to entertain and determine all extradition related matters. This change in jurisdiction created an apparent conflict because the Extradition Act was not immediately amended to align with the new constitutional provision. In order to remedy this anomaly, the President of Nigeria on 23 May 2014 issued an executive order to amend the Extradition Act. The Extradition Act (Modification) Order 2014 expressly modified the Extradition Act by not only replacing the magistrate with the judge of the Federal High Court by also transferring the supervisory powers from High Courts of the State to the Federal High Court. For the purposes of reading and interpreting the Extradition Act, the Extradition Act (Modification) Order must be seen as an integral part of the Extradition Act. The two must be read together.

Furthermore, International extradition plays a pivotal role in the global fight against transnational organized crime, as delineated in Title 18 of the United States Code, Sections 3181-3196. These statutes, stipulate that a valid extradition treaty must be in effect for the extradition process to commence. The United States maintains extradition agreements with approximately 111 nations and has recently expanded its treaty network to include around 40 additional countries across Asia and other regions, such as Australia, the Hong Kong Special Administrative Region, India, Korea, Malaysia, the Philippines, and Sri Lanka, while also upholding treaties with key Asian states like Japan and Thailand. Extradition of Nationals is a complex issue in contemporary extradition practices. Common law countries typically do not distinguish between nationals and non-nationals for extradition purposes. However, many civil law countries either prohibit the extradition of their citizens or allow it under exceptional circumstances, potentially creating safe havens for nationals who have committed crimes abroad. Some countries opt to prosecute such individuals domestically in lieu of extradition, but these prosecutions can be challenging and costly, often placing significant burdens on crime victims. The U.S. advocates that criminals should not avoid punishment due to their nationality and that offenders should generally be tried in the community most affected by the crime. This stance is increasingly shared by many civil law

[22] At its meeting held from 28th to 30th October, 2013 the working Group on Technical Assistance recommended *inter alia*, that the United Nations Office on Drugs and Crime (UNODC) should continue to provide coordinated technical assistance to states to ensure the effective implementation off the organized crime convention. The working Group also recommended the UNODC should continue the development of technical assistance tools, for the convention and the protocols therefore and on specialized issues including mutual legal assistance and extradition (see CTOC/Cop/WE2/2013/5).

[23] Preamble, Extradition Act, 1966.

[24] Section 1 Extradition Act, 1966.

[25] Section 2, ibid.

[26] Section 1 Extradition Act, 1966.

[27] Section 2, ibid.

countries. Historically, Mexico extradited a citizen to the U.S. for the first time in 1996, and Colombia resumed extraditing its nationals to the U.S. in 1999 after a decade-long hiatus. Bolivia, Argentina, and Uruguay have signed extradition treaties with the U.S. that include provisions for the extradition of nationals. Most new U.S. extradition treaties mandate the extradition of nationals, and negotiations are ongoing with several European countries to include such provisions. In respect to Nigeria's jurisdiction there are some local classical cases which explains in details the position of extradition act as stated in the cases of *Attorney General of the Federation v Anuebunwa*[28], *Abacha v. Fawehinmi*[29], *Mobil Producing v. LASEPA*[30], *Abubakar v. Nasamu*[31], etc.

Mutual Legal Assistance in Criminal Matters Act 2018

Mutual Legal Assistance (MLA) is a key legal tool in the fight against transnational organized crime. MLA involves the provision of assistance in the collection and transmission of evidence or information by one country's authority to another, in response to a request for assistance in an investigation or ongoing criminal matter. With crime increasingly operating on an international scale, the law must evolve to address this reality and ensure justice for victims. Nigeria is committed to supporting investigative, prosecutorial, and judicial authorities in the battle against international crime and is capable of providing a broad range of mutual legal assistance. In this article, the concept of mutual legal assistance will be employed as a strategic tool in the fight against Transnational Organized Crime. Mutual legal assistance requests are typically based on treaties known as mutual legal assistance treaties. Mutual Legal Assistance Treaties represent a significant advancement over traditional letters rogatory, offering a structured legal framework for international cooperation in criminal matters. The United States currently enforces MLATs with thirty-one nations, encompassing a diverse range of jurisdictions from Switzerland to the Hong Kong Special Administrative Region.[32] These agreements extend across major European countries and key 'bank secrecy' areas, reflecting a strategic coverage of global financial hubs. An additional twenty-three MLATs have been signed and are poised to become operative shortly, bringing the total to fifty-four. This burgeoning network is set to parallel, if not surpass, the existing web of extradition treaties. Nations such as the Philippines, Korea, Canada, Australia, and the United Kingdom are actively engaging in MLAT negotiations, indicating a global trend towards enhanced judicial collaboration. The U.S. prioritizes the establishment of MLATs within Asia to effectively combat transnational organized crime networks, including the notorious Chinese Triads. Existing MLATs with Thailand, the Philippines, Korea, Australia, and the Hong Kong Special Administrative Region exemplify this focus. Furthermore, the U.S. is negotiating an MLAT with Japan, a process initiated by the foresight and diligence of UNAFEI Director Kitada. MLATs impose a clear duty on signatories to assist one another in criminal investigations. The scope of assistance includes, but is not limited to:[33]Acquisition of financial records, Witness interrogation and statement procurement, Access to governmental documents, such as police reports, Document service and custody transfers for cooperative purposes, Execution of searches and seizures and Asset freezing and repatriation of stolen goods or illicit proceeds.

Mutual Legal Assistance Treaties delineate the extent of the obligation to provide judicial cooperation. These treaties mandate that assistance be rendered from the investigation's inception, even before formal charges are levied. This provision addresses and rectifies a limitation often encountered with letters rogatory. MLATs clearly define the circumstances under which cooperation may be withheld. Common grounds for refusal include requests related to political or military offenses not recognized by standard criminal law or those contravening the requested state's constitution. Additionally, MLATs universally allow for the rejection of requests that compromise the 'essential interests' of the requested state, such as national security or fundamental public policy. This explicit articulation of refusal conditions lends predictability to the process of international legal cooperation. Notably, some of the earliest U.S. MLATs, including those with Switzerland and the Netherlands, featured an enumerated list of offenses eligible for assistance, allowing for denial if the crime was not listed. This approach proved counterproductive, hindering collaboration in significant cases where the legal frameworks of the involved countries diverged without impacting any 'essential interest.' Subsequent MLATs evolved to permit assistance for any offense meeting the criterion of 'dual criminality,' meaning the act constitutes an offense in both the requesting and requested states. However, this requirement was eventually deemed overly restrictive, especially during preliminary investigation stages where the precise charges may be uncertain. Therefore, most MLATs have abandoned the dual criminality prerequisite, except for requests involving search and seizure or asset forfeiture.[34] A pivotal innovation in MLATs is the requirement for each signatory to appoint a 'Central Authority' – a designated agency or official responsible for the swift execution of requests. Typically, this role is assigned to the Ministry of Justice or the Attorney General. The effectiveness of a Central Authority transcends that of a passive conduit; it is expected to actively facilitate the fulfilment of each request. Practical

[28] (SC.CV/118/2021)
[29] (2006) 6 NWLR Pt.660
[30] (2002) 18 NWLR Pt. 786
[31] (2012) 17 NWLR Pt. 1330
[32] Offences subsequently lead to other offences, for example, attacks result in information theft, and then stolen information can be sold and used by those who bought it to commit fraud.
[33]United Nations Convention Against Transnational Organized Crime and the Protocols thereto at: http://www.odccp.org/odccp/crime_cicp_convention.htmlaccessed on 5th May, 2024.
[34] French Criminal Code, Title V, Art. 450-1 to Art. 450-4; Italian Penal Code, Regio Decreto 19 Oct. 1930, N.1390, Art. 416 (Associazione a Delinquere) and Art. 416-bis (associazione a delinquere di stampo mafioso) and Spanish Criminal Code, Association Illicit Art. 515 y 516 Codigo Penal.

experience underscores that the efficacy of a Central Authority is instrumental to the success of an MLAT's implementation.

4. Powers of the Attorney-General in Extradition under the Constitution of the Federal Republic of Nigeria, 1999

The Attorney-General's authority in extradition matters is derived from Section 174 (1) (a) of the Constitution, which empowers the Attorney-General to initiate and conduct criminal proceedings against any person in respect of offenses created by the National Assembly, excluding court-martial cases. Extradition requests must be accompanied by specific documents, including an affidavit by a designated officer, a copy of the indictment or charge sheet, a duly authenticated warrant of arrest, and/or a copy of the judgment and sentence passed on the fugitive, as well as a copy of the relevant law from the requesting state. An extradition request is deemed appropriate when the fugitive is located within Nigeria. The request must be made in writing, submitted by a diplomatic or consular representative of the requesting country to the Attorney-General of the Federation and Minister of Justice, and include the aforementioned documents and a certificate of conviction from the requesting country. Upon receipt, the Attorney-General may exercise the powers prescribed by the Constitution and Section 6 of the Extradition Act. Reciprocity is a fundamental principle of international law that countries may adopt in the absence of a formal treaty. Nigeria acknowledges and can engage in reciprocity for all non-coercive requests for Mutual Legal Assistance in Transnational Organized Crime, regardless of whether there is a bilateral or multilateral agreement with the requesting state. However, extradition requests to Nigeria must be based on an enforceable bilateral or multilateral legal instrument shared with the requesting state. The Central Authority Unit within the office of the Attorney-General of the Federation oversees administrative and prosecutorial procedures. This unit is also responsible for filing extradition processes in court and overseeing the proceedings to completion. The Federal High Court of Nigeria manages the judicial processes. If an extradition application is granted, the fugitive will be remanded in prison custody or held by a law enforcement authority until surrender. The Nigerian Prison Service or a designated law enforcement authority will detain the fugitive until they are surrendered to the requesting state's authorities. In adherence to international norms, the Central Authority Unit maintains the confidentiality of extradition requests, neither confirming nor denying their existence, nor disclosing details outside relevant government departments without the consent of the requesting state. Evidence obtained from foreign jurisdictions under Mutual Legal Assistance will not be used for purposes other than those specified in the request, in accordance with Nigerian law.

Extradition is a key legal mechanism in combating transnational organized crime, allowing states to surrender individuals to other states seeking prosecution or enforcement of a court's sentence. It is a cornerstone of international cooperation in this domain, often regulated by bilateral treaties that designate the Attorney-General of the Federation as the central authority, as empowered by the Nigerian Constitution. Extradition is the formal procedure by which individuals charged or convicted of a crime are surrendered by one sovereign entity to another for prosecution or to fulfill a sentence following a legal conviction. As elucidated in the case of *George Udeozor v Federal Republic of Nigeria*[35], extradition entails the surrender of an individual, upon request, who is accused of criminal activity by a different legal authority back to the requesting jurisdiction for trial or punishment. For extradition proceedings to commence, it is imperative that a legal warrant has been issued, mandating the appearance of the individual in court to respond to criminal charges. This is distinct from situations where an individual may be sought for questioning, such as a witness. In the matter of *Attorney-General of the Federation v Lawal Olaniyi Babafemi, also known as 'Abdullahi' or 'Ayatollah Mustapha (Babafemi)'*[36], the respondent was sought for allegedly conspiring to support a Foreign Terrorist Organization in the United States. The Federal High Court was presented with an existing indictment and an arrest warrant issued by a U.S. Magistrate Judge, which sufficed to categorize the respondent as subject to extradition. In scenarios where an individual has been convicted and sentenced, the potential or ongoing appeal process does not negate their status as extraditable. This was exemplified in *Attorney-General of the Federation v Uche Okafor Prince*[37], where the respondent, after being convicted by the District Court of Helsinki, Finland, and having the conviction affirmed by the Helsinki Court of Appeal, fled to Nigeria without serving the sentence. Despite the respondent's claim of an ongoing appellate review, the Federal High Court ordered the extradition to Finland, focusing on the sentence awaiting fulfillment. The courts have clarified, as seen in *Attorney-General of the Federation v. Olayinka Johnson (also known as Big Brother, Rafui Kofoworola, and Gbolahan Opeyemi Akinola),*[38] that extradition proceedings are not a venue for trial but rather a procedural expression based on the principle that it is in the interest of all states to prevent individuals from evading justice by fleeing beyond the jurisdiction where they are sought. Lord Russell of Killowen, C.J., articulated in R v. Arton (No.1) in 1896 that the foundation of extradition law lies in the broad principle that recognized crimes should not remain unpunished and that nations should assist each other in bringing alleged criminals to justice.

It is important to distinguish extradition from rendition, which is a broader term encompassing all methods of returning individuals, including extradition, from one state to another. Unlawful or irregular methods, such as abduction or

[35] *George Udeozor v Federal Republic of Nigeria,* CA/L/376/05.

[36] *Attorney-General of the Federation v Lawal Olaniyi Babafemi aka 'Abdullahi', 'Ayatollah Mustapher (Babafemi)*' Suit No: FHC/ABJ/CR/132/2013.

[37] *Attorney-General of the Federation v Uche Okafor Prince* SUIT NO: FHC/ABJ/CR/28/2013.

[38] *Attorney-General of the Federation v. Olayinka Johnson (AKA Big Brother) (AKA Rafui Kofoworola), (AKA Gbolahan Opeyemi Akinola)* SUIT No. FHC/L/16C/2013.

'extraordinary rendition,'[39] involve government-sponsored apprehension and transfer of individuals wanted for criminal offenses to the sponsoring state or a cooperative third-party state. Extraordinary rendition circumvents the individual's right to contest their transfer and often breaches international law principles, particularly when the transferred individuals face torture or unfounded criminal charges or trials.[40] The 1984 'Dikko Affair' serves as a historical instance of an unlawful rendition attempt. In the aftermath of Nigeria's 1983 coup d'état, the Federal Military Government sought the return of Umaru Dikko, a former minister implicated in corruption, from the United Kingdom. However, before the British government could formally respond, Nigerian security personnel, in collaboration with three Israeli nationals, forcibly seized Mr. Dikko and endeavoured to ship him to Nigeria concealed within a crate. This audacious operation was ultimately thwarted by British security forces, resulting in the incarceration of the perpetrators and a subsequent diplomatic rift between Nigeria and Britain.[41] This episode, albeit unsuccessful, exemplifies Nigeria's defiance of established international norms in pursuit of its political objectives.

5. Conclusion and Recommendations

This study has fulfilled its objective by providing a comprehensive analysis of the legal frameworks governing formal cooperation in transnational organized crime, delineating their strengths and weaknesses. It has illuminated practical applications of these frameworks and discussed the challenges and prospects associated with them. The implementation of the proposed solutions is anticipated to enhance international cooperation in combating transnational organized crime, ensuring that criminal justice in Nigeria is not impeded by geographical boundaries or national sovereignty. Moreover, the article underscores the borderless nature of criminal activities and corruption, necessitating mechanisms that transcend national jurisdictions. Mutual legal assistance, as prescribed by international and regional instruments, has proven its worth through practical applications, enabling countries to apprehend criminals and recover assets lost to corruption. Despite its limitations, it remains one of the most effective tools for international cooperation against criminal activities, with Nigeria having leveraged this practice in several instances. To bolster the awareness and practical application of international cooperation in transnational organized crime in Nigeria, there is the need for integration into training manuals. Incorporate international cooperation in transnational organized crime into the training and operational manuals of law enforcement agencies to enhance awareness and practical application. Also, the National Assembly and the Attorney General's office should work in tandem to fortify the existing legal framework. This includes reviewing, negotiating, and domesticating treaties that encompass all facets of cross-border cooperation in transnational organized crime. The establishment of a permanent framework for joint investigations[42], recognition of foreign criminal proceedings, and enforcement of criminal judgments, akin to the EU's arrangements, is crucial. Drawing inspiration from the UK's Regulation of Investigatory Powers Act and the European Arrest Warrant, Nigeria should aim to facilitate seamless cooperation within the ECOWAS region for serious crimes without the stringent requirement of dual criminality.[43]

Furthermore, the National Assembly should introduce amendments to the Extradition Act 1966 to expedite extradition processes. This includes the adoption of provisional warrants of arrest for suspected fugitives within or transiting through Nigeria. Consider the inclusion of a dedicated chapter on international cooperation in transnational organized crime in the forthcoming amendments to the Administration of Criminal Justice Act (ACJA). This would not only elevate the concept to national prominence but also encourage sub-national entities to establish units focused on interstate and international cooperation in transnational organized crime, mirroring provisions found in the criminal codes of countries like Egypt and France**.** Also, the Nigerian Central Authority Unit should focus on recruitment and training that specifically addresses the identified skills and knowledge gaps. Emphasizing linguistic proficiency in major global languages and providing access to official translators from embassies can streamline international cooperation. Additionally, staff should be educated in comparative criminal law and procedures to navigate the legal systems of civil, common, and Islamic law jurisdictions effectively. Invest in the training of law enforcement and judicial personnel to effectively handle cases involving transnational organized crime, mutual legal assistance, and extradition. Moreover, implementing technical aid schemes and exchange programs with other central authorities can enhance understanding of foreign legal systems and establish best practices for international cooperation Law enforcement agencies should establish dedicated departments for international cooperation in transnational organized crime. These units should coordinate with the Federal Ministry of Justice and develop policy documents to formalize cross-border law enforcement cooperation within their standard operating procedures.

[39] A. Singh, *Globalizing Torture: CIA Secret Detention and Extradition Rendition*. New York: Open Society Foundations (2013).

[40] Article 3 of The United Nations Convention Against Torture, prohibits states parties from expelling, returning or extraditing a person to another state where there is substantial ground to believe such a person will be subjected to torture.

[41] U. Dikko (Abduction) British Parliament Hansard No. HC Deb 06 July 1984 Vol 63 cc609-17, pp. 609-615; A. Akinsanya (1985) The Dikko Affair and Anglo-Nigerian Relations. *The International and Comparative Law Quarterly*, Vol. 34 No. 3 pp. 602-609; and Kassim-Comparative Law Quarterly, Vol, 35, No. 3 pp. 526-527.

[42] Especially Joint Parallel investigation (JPI) and Joint Investigative Bodies (JIBs) which must at always be led or coordinated by personnel from State in which investigation is taking place.

[43] This observation is in line with the Review of E-Commerce Legislation Harmonization in ECOWAS (2015) available at https://tft.unctad.org/wp-content/uploads/2019/08/ECOWAS-study-on-cyberlaws.pdf accessed 22nd February, 2024.