

AN EXAMINATION OF TRANS-BORDER CRIMES AND NATIONAL SECURITY IN NIGERIA

BY

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Abstract

Examining the complex network of transnational criminal operations that seriously jeopardize national security, the article focused on Nigeria. The article carefully examined a wide range of criminal activity, including cyber and intellectual property crimes, terrorism, money laundering, drug trafficking and the far-reaching effects of environmental crime. It dissects the intricate dynamics of these criminal networks using a thorough doctrinal analysis, exposing their transnational reach and the difficulties they present to law enforcement. This analysis goes beyond standard discourse to establish a connection between the rise in transnational crimes and globalization. The argument put forth was that the swift interconnectedness enabled by globalization had unintentionally created the conditions for the growth of a worldwide criminal economy. Given this context, the article highlighted the imperative need for comprehensive and well-coordinated measures, calling on governments to reinforce their law enforcement efforts and promote global cooperation by means of public-private partnerships. In light of the ongoing difficulty that transnational crimes provide to societies, the article's conclusion highlighted the necessity of placing a high priority on national security while also posing relevant queries on the viability of totally eliminating criminality.

KEY WORDS: Trans-border Crimes, Crimes, Transnational crime, National Security, Globalization

1.0 Introduction

The end of the cold war saw the emergence of a new phenomenon in the society – the phenomenon of transnational or trans-border crimes with its dimensions and threat to global peace and security.¹ The dimensions and momentum of trans-border crimes have also increased with the emergence of globalization. The phenomenon of globalization encompasses the growing internationalization of financial, industrial and commercial capital, but it also makes threats transnational and heightens the feeling of insecurity of the planet's inhabitation.² While the international order among states is quite strong, the world is not peaceful. In the wake of globalization and the explosion in communication technologies, new security related threats have emerged that are to a great extent independent of national boundaries.³ As a result, a new kind of war is being waged in every country all over the world; this is because the primary threats to national security have changed fundamentally. They no longer spring from territorial and ideological disputes among nation states but from how far globalization, technological threats and criminal networks have grown to challenge nation

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¹Simon Odey Ering, *Trans-border Crime and Its Socio-economic Impact on Developing Economies*, Kamla-Raj 2011 J Sociology Soc. Anth., 2(2): 73-80 (2011) <<http://dx.doi.org/10.1080/09766634.2011.11885550>> accessed 19/12/23.

²Ering (n.1)

³Ngboawaji Daniel Nte, *Trans-national threats and National Security Concerns: A Study of Nigerian-Benin Republic border*, International Security Journal, Number 1 Issue 1 ISSN 2045-2195 2011 <https://www.academia.edu/2001969/Trans_national_threats_and_national_security_concerns_A_study_of_Nigerian_Benin_Republic_border>accessed on 19/12/23

states.⁴ In addition, current global trends such as the growing interdependence between states and the opening of borders, which exist alongside socio-economic, cultural, legal and political inequalities, facilitate the activities of transnational criminal groups.

2.0 Trans-Border Crime: A Conceptual Clarification

The task of defining or describing the concept of ‘trans-border’ or ‘trans-border crime’ would not be an easy one, because many elements have been recognized as constituting it. However, ‘trans-border crime’ represent a number of illegal and notorious activities carried out by individuals and groups across national and international borders, either for financial or economic benefits and also sociopolitical cum religious considerations. It is a set of criminal acts whose perpetrators and repercussions go beyond territorial borders.⁵ These would include human trafficking, money laundering, drug trafficking, arms smuggling or trafficking of weapons, cross-border terrorism, illegal oil bunkering, illicit trafficking in diamonds, corruption, and business fraud, to mention but this notable few.⁶ Also, the concept ‘trans-border’ is capable of other synonyms: - cross-border and/or transnational. There are several views as to their usage but the general consensus is that it entails activities occurring across the border of two or more nations.⁷ Furthermore, the kind of activity or the mode of carrying out such activity (air, land, sea, and the World Wide Web) as also fueled the debate but by and large they are synonymous and can be used interchangeably.

The concept “Transnational” also refers to crimes that have actual or potential effect across national borders and crimes which are intra-State but which offend fundamental values of the international community. The term is commonly used in the law enforcement and academic communities. Furthermore, it describes crimes that are not only international (that is, crimes that cross borders between countries), but crimes that by their nature involve border crossings as an essential part of the criminal activity. Transnational crimes also include crimes that take place in one country, but their consequences significantly affect another country. Examples of transnational crimes include: human trafficking, people smuggling, smuggling/trafficking of goods (such as arms trafficking and drug trafficking and illegal animal and plant products and other goods prohibited on environmental grounds (e.g. banned ozone depleting substances), sex slavery, terrorism offences, torture and apartheid. Transnational Organized Crime (TOC) refers specifically to transnational crime carried out by organized crime organizations. Transnational Crimes may also be crimes of customary

⁴ Nte, (n 2).

⁵ Ering, (n 1).

⁶ Ering, (n 1).

⁷ <<http://www.differencebetweentransborderandcrossborder-wordreferenceforums.htm>> accessed on 26/4/14.

international law or international crimes when committed in certain circumstances. For example, they may in certain situations constitute crimes against humanity.⁸

Organized criminal groups or individuals carry out their illicit activities using major technological tools such as information networks, the financial system and other sophisticated means. They also take advantage of differences in legislation, legal systems and traditions, which often seriously hamper state efforts to respond adequately to the threat of organized or trans-border crimes.⁹ Furthermore, the past few years have been characterized by a significant increase in global criminal activities such as money laundering, trafficking in human and nuclear technology and material, the trade in human organs and migrant smuggling.¹⁰ At the same time, emerging crimes such as modern piracy, and trafficking in toxic waste, counterfeit medicines, precious metals or natural resources have been added to the list of traditional illegal activities. Most recently, transnational crime has grown in scope and is characterized by increasingly global reach, involved in multiple forms of criminal activity, expanding criminal markets to include large-scale financial fraud, environmental degradation and cybercrime. And the syndicates are willing to protect their activities through violent and ruthless means, linked to international terrorist groups and devising novel and notorious organizational strategies to deter capture.¹¹

There are major factors responsible for the preponderance of transnational crime namely:¹² the development of global markets; advancement in technology, efficient communication and transport which have accelerated the movement of people, product, money and of course criminals; the increased volume complexities of international transaction which help disguise criminal activities; the depressed economy of most developing countries like Benin and Nigeria which creates the conducive fertile ground for the gestation of crime networks and operation¹³; and poor Governance leading to absence of border controls and corruption.

3.0 National Security

The growing borderless-ness of organized crime is reflected in the Naples Declaration's discussion of these groups having the potential to expand their activities beyond state boundaries, and of the existence of cooperative relationships between criminal groups in different countries. Structurally, criminal groups have

⁸Robert Cryer, Håkan Friman, Darry Robinson and Elizabeth Wilmshurst, 14 - Transnational Crimes, Terrorism and Torture, <<https://www.cambridge.org/core/books/abs/an-introduction-to-international-criminal-law-and-procedure/transnational-crimes-terrorism-and-torture/3DDAA65779D5EF26D7301EDEB100F554>>

⁹ Osimen Goddy U, Anegbode E. John, Akande Clement. A, Oyewole Oyindamola O, The Borderless-Border and Internal Security Challenges in Nigeria, International Journal of Political Science (IJPS) Volume 3, Issue 3, 2017, PP 17-27 ISSN 2454-9452 <http://dx.doi.org/10.20431/2454-9452.0303003> <<https://www.arcjournals.org/pdfs/ijps/v3-i3/3.pdf>> accessed 23/12/2023

¹⁰Ibid 2

¹¹ D.M. Luna, *Dismantling Illicit Networks and Corruption Modes*. 2008. <<http://www.13iacc.org/IACCworkshops/workshop6.2>> Cited in ibid 4.

¹²Nte, (n 2).

¹³A.D.Ngor Ngor, *Effective Methods to Combat Transnational Organized Crime in Criminal Justice processes: The Nigerian perspective*. Available at <http://www.unafei.or.jp/english/pdf/PDF_rms/no58/58-13.pdf>

been able to exploit the institution of state sovereignty in a variety of ways to conduct their activities beyond the reach of the authorities, whether as a consequence of legal loopholes, the lack of extradition agreements and other mutual assistance, or as a result of the sheer difficulty of coordinating investigative techniques internationally.¹⁴ In October 2010, the national security advisors of 44 nations gathered in Sochi, Russia to discuss transnational crime. Also, representing the United States, former National Security Advisor General James L. Jones, USMC, Ret. warned of the transnational organized crime threats to international security and urged immediate international action. In January 2010, the United States Government completed a comprehensive review of international organized crime—the first on this topic since 1995. Based on the review and subsequent reporting, the Administration has concluded that, in the intervening years, international —or transnational—organized crime has expanded dramatically in size, scope, and influence and that it poses a significant threat to national and international security.¹⁵

In addition, the emerging scenario of trans-national threats which are irrespective of national border and which comprises of a list of different risk factors that seem unending spanning from different trans-national crimes like terrorism, human and drug trafficking, money laundering etc, to widespread environmental degradation, diseases, climate change and even political policies which might threaten a nation's sovereignty,¹⁶ has further challenged the concept of national security which now pertains to people rather than territories on one hand and development rather than military on the other hand. Now, the notion of national security captures the traditional security and human security. National security is now perceived as total security – security of life and property, security of the economy and the economic resource areas of the country, security of food and raw materials resources, of general health of the people, of environment and national integrity, and preservation of all that society considers being important and valuable.¹⁷

4.0 An Examination of Trans-Border Crimes and The Impact on National Security

The nature of criminal activity in the international arena varies along a number of axes. The World Ministerial Conference on Organized Transnational Crime held in Naples in the fall of 1994 developed a series of characteristics typical of transnational organized crime, which while not a definition sheds light on the dominant activities of these groups. These characteristics included: group organization to commit crime; hierarchical links or personal relationships which permit leaders to control the group; violence, intimidation and corruption used to earn profits or control territories or markets; laundering of illicit proceeds both in furtherance of criminal activity and to infiltrate the legitimate economy; the potential for expansion into any new activities and beyond national borders; and cooperation with other organized transnational criminal

¹⁴Allan Castle, *Transnational Organized Crime and International Security*, Institute of International Relations. The University of British Columbia, Working Paper No. 19, November 1997. <<https://icclr.org/wp-content/uploads/2019/06/Transnational-organized-crime-and-international-security.pdf?x48887>> accessed on 19/12/23.

¹⁵*Addressing Converging Threats to National Security, Strategy to Combat Transnational Organized Crime* <<https://obamawhitehouse.archives.gov/administration/eop/nsc/transnational-crime>> accessed on 19/12/23.

¹⁶L, Brainard & M. O'Hanlon, *Reassessing National Security* (2004). <<http://www.brookings.edu/es/research/projects/budject/fiscalsanity/chapter3pdf>> accessed 26/4/13.

¹⁷ Ibid

groups.¹⁸ These listing bears some relation to the context in which the meeting took place, as the set of relationships describes more closely those criminal groups based on the personalistic Mafia model than it does others. Nevertheless, most of the key elements of a useful definition of transnational organized crime are there, including groups organized through personal relationships; the regular use of violence, fraud or corruption to gain illegal access to various goods, assets, control of markets, etc.; and the subsequent reintroduction or integration of criminal assets into the legal economy.¹⁹

4.1 Money Laundering²⁰

Money Laundering is multi-dimensional, constituting of both a national as well as an international dimension; thus, the typologies of money laundering are best observed at both levels. Tritely, money laundering a truly global phenomenon largely exacerbated by the international financial community-offshore banking, safe havens and alternative remittance systems such as 'hawala' among others. The international dimension of money laundering was well depicted in a study of Canadian money laundering police files where it was revealed that over 80% of all laundering schemes had an international dimension. Also, the 1992 Operation Green Ice aptly expatiated the essentially transnational nature of modern money laundering. Money Laundering on an international level necessitates it having a national dimension as well. Money Laundering maybe practiced exclusively on a national level just as much there could be an overlap between the national and international dimension of laundering money.²¹

The international dimension of money laundering is far more effective as compared to the national dimension; it also becomes extremely difficult, if not impossible, to unravel the complex web transactions in order to expose the origin of the money that is the proceeds of the crime if concealed at international level. Today, money laundering is a transnational legal mischief dealt with from both a criminal and/or civil perspective with the aim to take away financial gains from perpetrators. As such money laundering actions could lie in *personum* or *in rem*.²²

In the past, the term money laundering was applied only to financial transactions related to organized crime. Today, its definition has been expanded by government and international regulators such as the 'US office of the controller of the Currency' to mean 'any financial transaction which generates an asset or a value as the result of an illegal act', which may involve actions such as 'tax evasion' or 'false accounting'. In some

¹⁸This list can be found in the "Naples Political Declaration and Global Action Plan Against Organized Transnational Crime," Section II, Subsection A, Paragraph 12, contained in The World Ministerial Conference on Organized Transnational Crime, United Nations Crime Prevention and Criminal Justice Newsletter, Nos. 26/27, Vienna, November 1995.

¹⁹Ibid 13

²⁰Ibid 3

²¹For further reading, see Abhishek Dadoo, *Money Laundering (2008) also cited in Adv. Justine Siphon Chitengi, DAAD Scholar & Advocate of the High Court for Zambia, Combating Money Laundering: Legal Perspective on the Role of Central and Commercial Banks. A presentation at Staff Training Central Bank of Nigeria, Reiz Continental Hotel, Abuja Nigeria, 25- 30 August 2012. by the Institute for Finance & Economic- Zambia.*

²² ibid

countries, the concept is broader than the involvement of money to include “any economic good” and other transactions. Money laundering is ipso facto illegal; the acts generating the money almost are themselves criminal in some way (for if not, the money would not need to be laundered).

Historically, money laundering evolved in 1931 when many methods were devised to disguise the origins of money generated by the sale of illegal alcohol. During this period Al Capone’s was convicted for tax evasion, mobster Meyer Lansky transferred funds from Florida ‘Carpet Joints’ to accounts overseas. After the 1934 Swiss Banking Act, which created the principle of bank secrecy, Lansky bought a Swiss Bank into which they could transfer his illegal funds through a complex system of ‘Shell Companies’, holding companies, and ‘offshore bank’ accounts. In the post-World War II era, legislators found themselves in a quandary as they were confronted with a growing list of commercial, fiscal, and environmental offenses that did not actually cause direct harm to any one identifiable victim, there was no stinking corpse. They decided that confiscating the proceeds of crime would adequately deter potential criminals. Anxious to avoid confiscation, organized criminals now needed to give these huge sums of money – not easily consumed or invested, in the legal economy without raising eyebrows a patina of legitimacy they needed to ‘Launder’ it. Money laundering has been dubbed the ‘Achilles heel of organized crime’, for it compels mobsters to seek out and co-opt established business men and women with highly technical know-how and access to legal institutions like banks to launder their plunder.

Money laundering has attendant effects on the socioeconomic development of societies. Money laundering is a significant problem both internationally and in relation to Nigeria. Through an inextricable link to crime, it allows acts such as theft, extortion, illegal arms sales and embezzlement to continue and therefore must be addressed in the battle against such activity. On April 17, 2012, former Nigerian governor James Ibori was sentenced to 13 years in prison in the United Kingdom after he pleaded guilty to 10 counts of fraud and money laundering.²³ Another money laundering scam is the one against Sanusi Lamido, MTN, Stanbic IBTC in a \$8 Billion Money Laundering crime.

4.2 Drug Trafficking²⁴

The problem with drug trafficking is probably among the most alarming problems in transnational crime.²⁵ Drug trafficking typically refers to the possession of an illegal drug in a predetermined quantity that constitutes the drug that is going to be sold. Legally, the US defines drug trafficking as ‘*an offense under federal, state, or local law that prohibits the manufacture, import, export, distribution or dispensing of a*

²³<<http://www.fintrac.gc.ca/publications/watch-regard/1-eng.asp>> for more instances on Money Laundering and Terrorist Activity Financing Watch: April – June 2012 accessed on 19/09/2013. See also *Money Laundering: Nigeria ranked 7th in the world* <http://www.cruisenigeria.com/2012/12/money-laundering-nigeria-ranked-7th-in-the-world/money_laundering/> accessed on 19/09/2013.

²⁴Ibid pg. 75-77

²⁵ R. Muna, *Security of Transnational Crime: Small Arms and Light Weapon and Drug Trafficking in Indonesia* (2002). <<http://www.rsis-ntsisa.org/.../transnational-crime/reifqi.pdf>> cited in ibid 2.

controlled substance (or a counterfeit substance) or the possession of a controlled substance (or a counterfeit substance) with intent to manufacture, import, export, distribute or dispense.' However, drug trafficking involves selling drugs and drug paraphernalia, whether it is a local exchange between a user and a dealer or a major international operation. Drug trafficking is a problem that affects every nation in the world and exist on many levels.

In November 2008, UN report on Drug Trafficking in West Africa shows that declining US cocaine and a rising European one appears to have prompted South American cocaine traffickers to make use of low-governance areas in West Africa as transit zones. This gave rise to at least 46 tons of cocaine seizures to Europe via West Africa since 2005. Prior to this time, the entire continent combined rarely seized a ton annually. There appear to be two parallel one, mainly involving large maritime and private air shipments, owned and managed by South Americans. In exchange for logistics assistance with these shipments, West Africans are paid in cocaine. This has created a second flow, as West Africans also traffic these drugs to Europe, usually via commercial air flights. For instance, Senegal and Nigeria were the source of the greatest volumes of cocaine seized on commercial air flights,²⁶ but they also have the largest international air traffic volumes.²⁷ This is an indication of the popularity of the route. The growing use of West Africa as a large cocaine stockpiling location is further confirmed by recent seizures made by European and Latin American countries of cocaine shipments bound to Africa.²⁸

Nigeria is neither a producer nor consumer nation in the illicit drug trade but serves as a major transit route. Of all transnational criminal activities prevalent in Nigeria, the drug trade has brought the country much more woes and international pariah status than any other has. Drug trafficking came to official prominence from 1983-1984 in Nigeria, following public execution of some convicted drug traffickers.²⁹ Report shows that in the last three months of 2010, officials of the National Drug Law Enforcement Agency (NDLEA) impounded hard drugs valued at N5 billion.³⁰ Within the same period, 130 kilogramme of heroin shipped into the country from Iran were impounded at the Tin Can Island Port, Apapa, Lagos. The substance is valued at \$10 million. All of these are indications of the increasing profile of West African route for Drug

²⁶In October 2011, there was an allegation against Babatunde Ayinla Nurudeen Olasunkanmi Omidina "Baba Suwe" for allegedly carrying drugs. However, there was no concrete evidence to the allegation and was later acquitted by the court. <<https://www.vanguardngr.com/2011/10/ace-actor-baba-suwe-arrested-with-cocaine/>> accessed 20/02/2014. Also, Taiwo Akinwande, popularly known as Yetunde Wunmi, is one of the most notable actresses in the Yoruba movie industry; was arrested, prosecuted and convicted for drug peddling. <<http://news2.onlinenigeria.com/entertainment/166097-actress-yetunde-wunmi-poverty-pushed-me-into-drug-peddling.html>> accessed on 20/02/2014.

²⁷Guinea (Conakry) and Mali are disproportionately represented in terms of the number of air couriers detected relative to their air traffic volumes. Statistics show that a total of 3161 kilograms of cocaine were seized in 2006 and rose to 6,468kilogram in 2007. These data were made available as of 31st September 2007 from data collected by UNODC between January-September, 2007. *Source: United Nation office on Drugs and Crime (UNODC): World Drug Report, 2007 and UNODC Data for Africa 2006 – 2007 Statistics.*

²⁸Annual cocaine seizures in West Africa 2000 – 2007. *Source: UNODC: World Drug Report, 2007 and UNODC Data for Africa 2006 – 2007 Statistics* showing the number of maritime seizures made by European Navies off the West African coast between 2005 and 2006, a clear indication of increasing number of Drug trafficking in the region.

²⁹ Ibid 11

³⁰ See This Day Newspaper of 29th November, 2010.

Trafficking. Also, United Nation office on Drugs and Crime,³¹ reported that there is a rapid rise in the consumption of hard drugs in the country. And according to its statistics, the increase in drug use in Nigeria is directly linked to the high level of corruption in the country. Nigerian Traffickers operate with impunity in Benin so also Beninese in Nigeria through the Nigeria – Benin border. Traffickers use legitimate business to camouflage drug operation. Proceeds are often invested in property (Real Estate) and this enables them to launder illicit profits.

The National Drug Law Enforcement Agency (NDLEA) have been established by the Nigerian government to fight the upsurge in drug trafficking. Added to this, is the promulgation of National Drug Law Enforcement Agency Act. The act seeks to enforce laws against the cultivation, processing, sale, trafficking and use of hard drugs and to empower the Agency to investigate persons suspected to have dealings in drugs and other related matters. The NDLEA with the cooperation of other international agencies has relatively fought the war against drug trafficking but the porous border of Nigeria – Benin has limited the effects which the Agency must have made.³² Drug trafficking has both social and economic cost for Nigeria. In Nigeria, drug trafficking helps in worsening off or raiding helpless skewed income distribution. The traffickers are rich people whereas the non-traffickers are not. Also, the manner in which the drug traffickers in Nigeria spend their money also has social implications. They spend their money recklessly before the poor masses; a consequent manifestation is that those without such access will express their anger and ill feelings in the act of crime of delinquency.³³

4.3 Terrorism

Terrorism is by its very nature and application a transnational criminal act. It features both local and transnational components in its planning and execution. The UN Report on Terrorism recognizes that terrorism and transnational organized crime are inter-related and connected. Other transnational crimes such as money laundering, illicit proliferation of Small Arms and Light Weapons (SALW), corruption, and drug and human trafficking are some of the means by which terrorist acts are funded and effected. It is therefore, logical to merge these two aspects of peace and security into a single project because of their over-arching factors.³⁴

³¹United Nations Office on Drugs and Crime, *The Globalization of Crime: A Transnational Organized Crime Threat Assessment*, Geneva, UNODC, 2010. <https://www.unodc.org/documents/data-and-analysis/tocta/TOCTA_Report_2010_low_res.pdf> accessed 19/12/23

³²O. Agbu, (N.D.), *Revisiting Corruption and Human Trafficking in Nigeria*. <<http://www.westafricareview.com/vol4.1/agbu.html>> cited in ibid 2.

³³ Ibid 2

³⁴Regional Program Of Action For Peace and Security Sub-Program Of Action For Promotion Of Inter-State Cooperation On Peace And Security Project Number 1.2.2: *Fighting Transnational Crime And Terrorism*, Final Version: 19 September 2006, pg. 7.<https://www.icglr.org/images/LastPDF/Project_1-2-2_Fighting_transnational_crime_and_terrorism.pdf> accessed on 19/12/23.

Terrorism remains one of the main threats to the security, stability and well-being of nations globally.³⁵ Terrorists have the determination and capability to strike high profile targets anywhere, using any of the repertoires of methods available to them. Terrorists seek opportunities to undertake operations that would communicate their message. Thus, no country is immune from acts of terrorism, but it is clear that they will seek to carry out operations where conditions favour their objectives, and where the impact would be devastating.³⁶ Transnational terrorists and criminals may collaborate, appropriate shared tactics, and otherwise benefit from interaction, resulting in bolstered capabilities, enhanced organizational infrastructure, improved access to resources, and expanded geographic reach. Historical examples also indicate that terrorist and transnational criminal groups may evolve, converge, transform, or otherwise alter their ideological motivations and organizational composition to appear similar. Although information on the extent and nature of criminal-terrorist relationships, including their impact on national security, remains anecdotal, many view the potential confluence of criminal and terrorist actors, skills, resources, and violent tactics as a cause for concern. Such enhancements may in turn lengthen the duration of insurgencies, extend the longevity and capabilities of criminal and terrorist organizations, and undermine the ability of fragile governments to exert full control of their territory.³⁷

A modern trend in terrorism is toward loosely organized, self-financed, international networks of terrorists. Another trend is toward terrorism that is religiously or ideologically-motivated. Radical Islamic fundamentalist groups, or groups using religion as a pretext, pose terrorist threats of varying kinds to U.S. interests and to friendly regimes. A third trend is the apparent growth of cross-national links among different terrorist organizations, which may involve combinations of military training, funding, technology transfer, or political advice.³⁸ Looming over the entire issue of international terrorism is the specter of proliferation of weapons of mass destruction (WMD). For instance, Iran, seen as the most active state sponsor of terrorism, had been secretly conducting- and continues to openly seek- a uranium enrichment program, and North Korea has both admitted to having a clandestine program for uranium enrichment and claimed to have nuclear weapons.³⁹ Indications have also surfaced that Al Qaeda has attempted to acquire chemical,

³⁵For instance, Umar Farouk Abdulmutallab, a 24-year-old Nigerian man accused of attempting to blow up Northwest 253 flight as it was landing in Detroit on Christmas day in 2009. He pleaded guilty to eight charges, including terrorism before the US Court and was sentenced to life imprisonment. <<http://www.vanguardngr.com/2012/02/underwear-bomber-nigerians-divided-over-mutallabs-life-jail-verdict/#sthash.Q8g7hvKC.dpuf>> accessed on 20/02/2014. Also, On the Boko Haram Menace in the Northern part of Nigeria. See A. F. Ahokeh, *Boko Haram: A 21st Century Challenge In Nigeria* <<http://eujournal.org/index.php/esj/article/view/334>> accessed on 30/04/ 2013; Anyadike, Nkechi O, *Boko Haram and National Security Challenges in Nigeria; Causes and Solutions* <<http://iiste.org/Journals/index.php/JEDS/article/view/4849>> accessed on 06/04/ 2013; Professor Adagba Okpaga, Ugwu Sam Chijioke, Eme, Okechukwu Innocent, *Activities Of Boko Haram And Insecurity Question In Nigeria*, Arabian Journal of Business and Management Review (OMAN Chapter) Vol. 1, No.9; April 2012. See also, Terrorism News Articles Excerpts of Key Terrorism News Articles in Major Media <<http://www.wanttoknow.info/indexnewsarticles>> accessed on 20/02/2014.

³⁶Ibid 79 at pg. 1. In addition, see “*Why fighting crime can assist development in Africa*”, UNODC, May 2005. A UN Office of Drugs and Crime (UNODC) Report, stating factors that contribute to this situation.

³⁷See John Rollins, *Terrorism and Transnational Crime: Foreign Policy Issues for Congress* <<https://sgp.fas.org/crs/terror/R41004.pdf>> accessed on 19/12/23.

³⁸ Ibid at 81

³⁹ See, Larry A. Nicksch, CRS Issue Brief IB91141, North Korea’s Nuclear Weapons Program.

biological, radiological, and nuclear weapons. As a result, stakes in the war against international terrorism are increasing and margins for error in selecting appropriate policy instruments to prevent terrorist attacks are diminishing.⁴⁰ As terrorism is a global phenomenon, a major challenge facing policy makers is how to maximize international cooperation and support, without unduly compromising important national security interests. A significant issue facing policymakers is how to minimize the economic and civil liberties costs of an enhanced security environment. The issue of how to combat incitement to terrorism- especially in instances where such activity is state sponsored or countenanced- perplexes policymakers as well.⁴¹

4.4 Cyber and Intellectual Property Crimes

The drumbeats of cyber warfare have been sounding for years. Network intrusions are widely viewed as one of the most serious potential national security, public safety and economic challenges. Technology, in this case, becomes a double-edge sword. “The very technologies that empower us to lead and create also empower individual criminal hackers, organized criminal groups, terrorist networks and other advanced nations to disrupt the critical infrastructure that is vital to our economy, commerce, public safety, and military.” The cyber security marketplace is flooded with products that promise quick fixes but it is becoming clear that the increasing persistence and sophistication of attacks will require solutions beyond the traditional.⁴² As modern society is heavily information-dependent, computer-related crimes are easily committed on an international scale. International access to information and the mobility of data are fundamental to the working of our economic systems. Distance, time and space have ceased to be obstacles in commercial transactions. There is no longer any need for the physical presence of human agents. As the manipulation and storage of data take place within the dimension of international telecommunication networks, the usual border controls are bypassed. International instruments containing principles of the transborder flow of data, such as those by the United Nations, focus clearly on the principle of free flow of information, tempered by concerns to protect the confidentiality and integrity of the transmitted information, particularly in the case of sensitive data. Given the utility of paperless commercial transactions in international commerce and the rapidly improving sophistication of electronic communications, the volume of cross-border computer has increased significantly.⁴³

The limitless scope of the Internet as a medium for supply and sale of illicit product is a growing concern. It has evolved rapidly from an early technological environment where a certain amount of expertise was required, to a user-friendly experience in which anyone can establish a web site, participate in an auction,

⁴⁰ Ibid at 81

⁴¹ ibid

⁴²Sandra I. Erwin, Stew Magnuson, Dan Parsons and Yasmin Tadjdeh, *Top Five Threats to National Security in the Coming Decade*

<<http://www.nationaldefensemagazine.org/archive/2012/November/Pages/TopFiveThreatstoNationalSecurityintheComingDecade.aspx>> accessed on 19/08/2013.

⁴³International Cooperation: Computer Crime <http://mobrien.com/computer_crime.shtml> accessed on 19/09/ 2013 at 11:12:16 AM

advertise or buy and sell products. It is an important channel of supply for counterfeiters, allowing them to simultaneously supply products at both the wholesale and retail levels whilst at the same time offering relative anonymity.⁴⁴ The international elements in the commission of computer crime create new problems and challenges for the law. Systems may be accessed in one country the date manipulates in another and the consequences felt in a third country. Hackers can physically operate in one country, move electronically across the world from one network to another and easily access databases on a different continent. The result of this ability is that different sovereignties, jurisdictions, laws and rules will come into play. More than in any other transnational crime, the speed, mobility, flexibility, significance and value of electronic transactions profoundly challenge the existing rules of international crime law.⁴⁵

Individuals and criminal concerns can make it exceptionally difficult for investigators. Typically, they do this by hosting their web sites in one jurisdiction, running their business from a second, manufacturing in a third, distributing their illicit wares globally by mail or international carriers and banking the proceeds in yet another. Often these enterprises embark on money laundering exercises to disguise the extent of their income and to hide it from tax authorities.⁴⁶ There are a number of complex issues to confront, given the multiplicity of countries potentially involved in a crime. How can it be determined which country the crime was actually committed? Who should have jurisdiction to prescribe rules of conduct or of adjudication? In crimes involving multinational contacts, there will frequently be conflicts of jurisdiction. Countering computer crimes committed from a distance and having an increasing range of international targets (such as country of commission of the crime, the number of actors and victims involved, and the range of potential consequences) will require a well-developed network of inter-State cooperation to attain effective investigation and prosecution. In the light of the technicalities of international interaction, cooperation between nations in criminal matters is crucial.⁴⁷

Trademark counterfeiting and copyright piracy are serious Intellectual Property (IP) crimes that defraud consumers, threaten health and safety, cost society billions of dollars in lost government revenues, foreign investments or business profits and violate the rights of trademark, patent, and copyright owners. Imitations of products pose a significant safety threat to consumers worldwide. Unsuspecting customers put their health, and even life, in jeopardy each time they use counterfeited products, counterfeited alcoholic beverages and food products or travel in automobiles and aircrafts maintained with substandard counterfeit parts.⁴⁸ Other intellectual property theft ranges from movies, music, and video games to imitations of popular and trusted brand names, to proprietary designs of high-tech devices and manufacturing processes.

⁴⁴ Ibid 62

⁴⁵ Ibid 88

⁴⁶ ibid

⁴⁷ Ibid 88

⁴⁸ The International IP Crime Investigator's College (IIPCIC): *About IP Crimes*. <<http://www.interpol.int/IntellectualProperty/AboutIPcrime.html>> accessed on 19/09/2013 at 11:39am

There is an ever-growing need for facilitation and coordination of international police efforts in combating this criminality, which operates across international borders and has very serious consequences on the national security of nations.⁴⁹

Environmental Crime

In some parts of the world, large-scale poaching and illegal logging pose a major threat to wildlife and forests. Today, 50% of the world's species are facing the fastest man-made mass extinction. Given the diversity of locations where poaching, harvesting, transit, purchase, and consumption of wildlife occurs, illicit trafficking in endangered species is a transnational crime. Countries can be affected either at source, transit or destination points. Wildlife crime threatens national security and may endanger human and domestic livestock health through the spread of virulent diseases. Trafficking in natural resources such as timber generates billions of dollars in criminal revenues annually and contributes to deforestation, loss of species and their habitats, and contributes to climate change and rural poverty. Organized criminal syndicates are moving poached or illegally harvested wildlife with the help of the same sophisticated techniques and networks used for illicit trafficking in persons, weapons, and drugs and other contraband. There are many challenges posed by the poaching and illicit trafficking of wildlife including the involvement of number of related crimes such as fraud, counterfeiting, money-laundering, violence and corruption.⁵⁰

The illegal exploitation of natural resources whether in war and in peace is a transnational crime that is at times used to fuel conflicts within the region. Meeting in Durban in July 2002, the AU Heads of State and Government resolved that the Peace and Security Council should develop by 2005, a framework for addressing the problem of illegal exploitation of resources in Africa and combating, in a concerted manner, all networks plundering the resources of Africa and using them to fuel conflicts. This sub-regional project will reinforce this determination.⁵¹

Also in this regard, is the issue of Transboundary Movement of Hazardous Waste. Over the years, as countries have become more industrial, they have faced an increase in waste and a corresponding increase in hazardous waste. At the same time, environmental awareness has grown and legislation has been developed to control the handling of waste in general and hazardous waste in particular. This tightening of regulations combined with increasing lack of landfill has caused a rise in the price of waste disposal. As a result, a search for cheaper waste disposal means started and was met with the possibility of transporting the waste to other countries that did not have such rigid regulation or could be 'persuaded' to accept hazardous waste. This went on for many years before public pressure placed an emphasis on the issue and it became an

⁴⁹ *ibid*

⁵⁰ See UNODC on Emerging Crimes. <<http://www.unodc.org/unodc/en/wildlife-and-forest-crime/index.html>> accessed on 31/05/2013 at 1:39:47 PM

⁵¹ *Ibid* 79

international concern. Waste producers are continuously faced with the problem of disposing of their waste and must choose from among a number of different disposal and treatment options. Increasingly they are choosing to export the waste to other countries where this is possible.⁵² In the bid to curb this problem, the Basel Convention was enacted. Incidents which led to the creation of the Basel Convention was the *Khian Sea* waste disposal incident⁵³ and the 1988 Koko case.⁵⁴

5.0 Globalization and Transborder Crimes: A Linkage

Emerging concerns in international studies points to the existence of a correlation between globalization and trans-border economic crimes. This, ideally, is understood in the growing tendency to discuss contemporary transnational events in the logic of globalization as a phenomenon describing the revolutionary structural changes in contemporary world of increasing interdependence and denationalization of clusters of political, economic and social activities in which people, capital, images, ideas and values enjoy free and speedy flow across collocated national boundaries.⁵⁵ This grants recognition to a galloping information super-highway that condenses the world into a metaphor of a 'global village'. Whilst many had contended that globalization is not an entirely new phenomenon, except that it has only recently gathered momentum,⁵⁶ several others are of the view that the phenomenon, in its contemporary sense, reflects a fundamental restructuring in the advanced capitalist West and the adjustment of the rest of the world to that restructuring.⁵⁷ Added to this, the trans-border economic activity accentuated by the deterritorialization, which globalization depicts is "not only on global scale but from the public to private space".⁵⁸

This marked shift from the public to private domains in the age of globalization has its dark side with specific reference to cross-border movement of people and trade, investment and finance that constitute the cutting edge of globalization. The underbelly is reflected in the increasing spread and sophistication of criminal networks and their nefarious trans-border economic activities. Another author captures this succinctly: 'While the wave of economic globalization has given rise to increased internationalization of economic activities, it has equally opened the door for 'global criminal economy' to flourish.' This subjective dimension of globalization, beyond interlacing individuals and groups who are now increasingly

⁵²S. Barakat, *Conventions, Treaties and Other Responses to Global Issues: Transboundary Movement of Hazardous Waste* <<http://www.colss.net/Sample-Chapters/C14/E1-44-02-02.pdf>> accessed on 20/02/2014.

⁵³A ship carrying incinerator ash from the city of Philadelphia in the United States dumped half of its load on a beach in Haiti before being forced away. It sailed for many months, changing its name several times. Unable to unload the cargo in any port, the crew was believed to have dumped much of it at sea. <http://en.wikipedia.org/wiki/Khian_Sea_waste_disposal_incident> accessed 20/02/2014 at 3:00pm.

⁵⁴In this case, 5 ships transported 8,000 barrels of hazardous waste from Italy to the small town of Koko in Nigeria in exchange for \$100 monthly rent which was paid to a Nigerian for the use of his farmland. <http://en.wikipedia.org/wiki/Basel_Convention> accessed on 20/02/2014 at 3:00pm.

⁵⁵Hurrell, Andrew and Ngaire Woods, *Globalization and Inequality*. Journal of International Studies, 24(3), 1995, pp. 447-470.

⁵⁶E. Toyo, *Background to Globalization*. Ibadan: Academic Staff Union of Universities (ASSU) 2000.

⁵⁷Amin, S. Preface, in Mahjoub A. (Ed.) *Adjustment or Delinking: The African Experience*. Kokyo/London and New Jersey: United National University Press/Zed Books Ltd. 1990.

⁵⁸K.A. Ninsin, *Globalization and the Future of Africa (A Research Agenda for the African Futures Network on Regional and strategic studies)*. Occasional Paper Series. (2000).4(1).

aware (consciously or unconsciously) of the globalize world, provides the premise upon which the nexus between globalization and trans-border economic crimes finds easy comprehension.⁵⁹

6.0 Conclusion

Trans-border criminal organisations and enterprising kleptocratic regimes operating throughout the world pose increasing concerns for the international community. The activities of these criminal elements affect our joint security, stability of entire regions and economies, and the future progress against the erosions of public trust and core democratic values. There is need for countries of the West African sub-region and indeed the world to employ coordinated and comprehensive strategies to fight these crimes wherever they manifest themselves. This entail developing strong law enforcement approaches, and enhancing our cooperation through public-private partnerships.⁶⁰ Available literature on trans-border crime also shows that no region of country of the world is spared of this phenomenon. For instance, the problems of crime and violence – the drug trade and trafficking in weapons and others are factors that make the Caribbean countries and their economics most vulnerable. The seriousness of these problems has necessitated governments of this region to explore innovative policy responses at both national and regional levels. The concern is to come out with approaches to address crime and violence in the region. The activities of rebel groups, trans-border criminals, kidnappers, arm-smugglers, cultists and other social misfits add up to the tension that has characterized life on the continent and specifically the West African sub-region. The situation has become more eerie when the issue of demented persons such as serial killers, rapists, drug-abusers, child-kidnappers, prostitutes, ritual killers etc. is taken into consideration. These wide ranges of crimes constitute social nuisance to the West African sub-region and indeed Africa. Today, organized crime has diversified and extended beyond borders, undermining the credibility and effectiveness of institutions, jeopardizing criminal justice systems, violating human rights and corrupting political leaders.

In the light of the foregoing, one jurisprudence question or debate that comes to mind is ‘*can there ever be an end to crime?*’ in my opinion, the answer isn’t in the affirmative because as long there exist societies, nations and human relations and interaction, the best there can be is a reduction in crime activities in any nation and in this respect, there may not be an end to trans-border crimes, however, there is the need to drastically curtail trans-border crimes. Therefore, issues of security are salient to sustainable development and national survival. Creating national security awareness has been identified as a new policy initiative to address the diverse nature of instability and insecurity.⁶¹

⁵⁹M. Mustapha, (2004). Globalization and Trans-border Crime: Nigeria’s Security Dilemma. Retrieved from <www.gamji.com/NEWS2809.htm>

⁶⁰ Ibid 31

⁶¹G. Akinsanmi, Nigeria National Security Awareness Key to Sustainable Development. *This Day*, Daily, Dec 2, 2007, pp. 6-7.

6.1 Recommendation

The article carefully analyses the various problems that trans-border crimes in Nigeria present. It emphasises how urgently cohesive, international strategies are needed to stop these crimes. The article acts as a strong call to action for governments and law enforcement organisations to improve enforcement protocols, promote public-private partnerships, and increase cooperation. This article's significance stems from its ability to educate policy-makers and stimulate cooperative efforts to lessen the extensive effects of transnational crimes on national security.