

COMMUNIQUE ON SEMINAR/LECTURE ON TRANSNATIONAL LEGAL PRACTICE AND CROSS-BORDER CRIMINALITY.

HELD ON 15<sup>TH</sup>/ 16<sup>TH</sup> FEBRUARY, 2012.

Transnational organized crime is considered as one of the major threats to human security, impeding the social, economic, political and cultural development of societies worldwide. As the world develops on daily basis, it ironically causes a boost in transnational crimes.

Article 3(2) of the United Nations Convention on Transnational Organised Crimes (CTOC) refers to an offence as transnational in nature if such offence is committed in more than one State; committed in one state but conceived in another State, committed in one State but involves organized criminal group that engages in criminal activities in more than one State; or is committed in more than one state but has substantial effects on another State. Indeed, Piracy, Slavery, War crimes, Crimes against peace, Crimes against humanity, Genocide and Torture are some widely accepted examples of transnational crimes.

Sadly, Nigerian organized crime groups are recognized as one of the fastest growing enterprise crime networks in the World, creating an urgent need for an outcry for solutions.

Accordingly, the Nigerian Institute of Advanced Legal Studies, in partial fulfillment of her mandate held a two days Maiden Memorial Seminar/Lecture in honour of the first Director General of the Institute, Honourable Akinola Aguda on the topic “Transnational Legal Practice and Cross-Border Criminality” with a view to curb the growing menace of transnational crimes. The outcomes of deliberations at the Lecture/Seminar are as follows:

**OBSERVATIONS**

1. The complexity of transnational crimes pose international security challenges and have greatly tasked jurisprudence on many fronts, thus, making for the enactment of domestic and international instruments, all in a bid to curb crimes.
2. Conventions on corruption and organized crime are logical reactions to new global threats ie, transnational crimes
3. There is an obvious duty on States to enforce International Criminal Laws on the reasoning that accountability for some serious crimes which threaten world order cannot depend on sovereignty of these States.

4. Borders have opened, travel and trade barriers have fallen and information technology speeds around the world at the press of a button, making the range of transnational organized crime activities broadened and diversified.
5. There have been conventions against transnational crimes which amongst other things, prohibit participation in organized criminal group, criminalize money laundering and corruption and criminalize obstruction of justice.
6. The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 was the first International Convention which criminalizes money-laundering.
7. Asset recovery is a major aspect on the Convention on corruption, thus, making provisions for developing countries to recover national assets.
8. Globalization, technology and financial capital keep criminal groups ahead of state agencies charged with prevention and prosecution of crimes.
9. There is a need for uniform standards in local legislation and procedures on role of Courts and Lawyers in putting a stop to transnational crimes.
10. In cases where evidence suggests that accused has capacity to manipulate the system, international cooperation is needed to expand uniform standards in certain cases of grand corruption to suspend business and economic interests of the Accused until the case is concluded.
11. There is a need for developing countries to embrace global best practices otherwise, they will be lacking technology, financial muscle, human capital and discipline to fully engage in fight against transnational crimes.
12. Nigerian organized crime groups are recognized internationally as one of the fastest growing enterprise crime networks in the world.
13. The International Criminal Court Statute restricts the Court's jurisdiction only to genocide, crimes against humanity, war crimes and the yet to be defined and finalized crime of aggression.
14. The Attorney General's power over criminal prosecution is too broad. As a political appointee and also the Minister for Justice, there are concerns that this power may be used to hinder effective administration of justice in the country.
15. With the exception of the Economic and Financial Crime Commission (EFCC), the other agencies are not adequately funded.

## **RECOMMENDATIONS**

1. The EFCC and the NDLEA should apply scientific method of investigation of money laundering and terrorist financing, including controlled delivery, interception of communication records and documents required for effective investigation and prosecution of crimes.

2. The Jurisdiction of the International criminal Courts is such that it is restricted to crimes emanating from only armed conflicts; there is a need for the courts to widen its scope.
3. There should be full commitment of developed countries and further training technical assistance programmes for investigating and prosecuting agencies, Judiciary and Defence Lawyers, all in preparation to curb transnational crimes.
4. No one country can successfully combat crimes and so coordination, integration, shared experiences and continued improvement of detection techniques is needed to curb transnational crimes.
5. Human and material resources are to be made available to all enforcement agencies.
6. Nigeria does not have a comprehensive legislation on international cooperation. Mutual legal assistance thus, has to be distilled from multiple legislation and various multilateral and bilateral agreements.
7. The Attorney General of the Federation ought to initiate and conclude negotiations and implementation of Mutual Legal Assistance treaties.
8. There is need for heightened awareness of Law enforcement Officers.
9. There is a need to ensure that where papers are transmitted internationally for the purpose of judicial proceedings, the transmittal must be effected in an expeditious manner to the bodies designated by the parties.
10. States are to take appropriate measures to ensure the presence of defendants at Criminal Proceedings.
11. Proceeds of crime intermingled with property acquired from legitimate sources, is to be confiscated up to the assessed value of the intermingled proceeds. Income or other benefits derived from proceeds of crime are also liable to seizure/confiscation.
12. Due to discrepancies in different legal systems and the non-cooperative attitude expressed by many nations, there is a strong argument to centralize powers to investigate, prosecute and punish transnational organized crimes in an International agency which complements the activities of National authorities and is activated when those agencies are unable, incapable or willing to intervene.
13. The International Criminal Courts should provide another forum for prosecution in addition to those established at national levels. This will make International Law enforcement more efficient.
14. Criminals can quickly communicate across international boundaries and so law enforcement agencies must improve their willingness and ability to share intelligence across jurisdictional boundaries.
15. To combat transnational crime, a new sort of mentality must be created-one that understands and is capable of putting up organized resistance. Above all, the international community needs to act more effectively than the criminal organizations

that threaten us—Pino Arlacchi (Executive Director of the United Nations Office for Drug Control and Crime Prevention.