

국제학석사 학위논문

A Study on MLA Request Effectiveness on Cybercrime Investigation in Nigeria

-Policy Recommendations to Improve MLA Effectiveness-

나이지리아에서의 연구사이버범죄수사를 위한 MLA
공조요청의 효과성연구

-MLA 효과성 제고를 위한 제도적 개선방안-

Ajayi Betty Bukola (아자이 베티 부콜라)

International Studies (국제학과)

Legal Informatics and Forensic Science (정보법과학전공)

한림대학교 대학원

Graduate School, Hallym University

국제학석사 학위논문

A Study on MLA Request Effectiveness on Cybercrime Investigation in Nigeria

-Policy Recommendations to Improve MLA Effectiveness-

나이지리아에서의 연구사이버범죄수사를 위한 MLA
공조요청의 효과성연구

-MLA 효과성 제고를 위한 제도적 개선방안-

Ajayi Betty Bukola (아자이 베티 부콜라)

International Studies (국제학과)

Legal Informatics and Forensic Science (정보법과학전공)

한림대학교 대학원

Graduate School, Hallym University

Joshua I. James, 장윤식 교수지도

국제학석사 학위논문

아자이 베티 부콜라의 석사학위논문을 합격으로

판정함

2019 년 6 월 28 일

심사위원장 박노섭

심사위원 안정민

심사위원 장윤식

심사위원 Joshua I. James

Table of Contents

List of Figures.....	iv
List of Tables	v
CHAPTER 1. INTRODUCTION	1
1.0 Background	1
1.1 Scenario.....	3
1.2 Problem Statement	3
1.3 Objectives of the study.....	5
1.4 Research Questions.....	5
1.5 Hypothesis.....	6
1.6 Significance of the Research	7
1.7 Thesis Structure	7
CHAPTER 2. BACKGROUND RESEARCH.....	10
2.1 What is Transnational crime?	10
2.2 Types of Transnational Crime in Nigeria and the agencies in charge of Investigating such Crimes	11
2.3 Cybercrime as a Transnational Crime	12
2.4 General Challenges of Investigating Transnational Cybercrime	13
2.5 Definition of Cybercrime and categories under the Nigeria Cybercrime Act 2015..	15
2.6 Summary.....	17
CHAPTER 3. INTERNATIONAL COOPERATION AND MLAT	19
3.1 International Cooperation Involved in Cybercrime Investigation.....	19
3.1.1 Budapest Convention on Cybercrime.....	19
3.2 Overview of the Mutual Legal Assistance Treaty	21
3.3 Benefits of MLAT	23
3.4 Challenges of Making an MLA Request.....	24
3.5 Possible Solutions to make MLA Effective.....	25
3.6 Summary.....	27

CHAPTER 4. A STUDY ON MLA REQUEST EFFECTIVENESS ON CYBERCRIME INVESTIGATION IN NIGERIA	28
4.1 Purpose Statement	28
4.2 Methodological Design.....	30
4.3 Survey Structure	31
4.4 Research Questions.....	33
4.5 Limitations.....	33
4.6 Summary.....	35
CHAPTER 5. RESULT	36
5.1 About the Respondents.....	36
5.1.1 Agency Affiliation of Respondents.....	36
5.1.2 Respondents Number of Years in Agency and Position.....	37
5.2 Number of MLA Requests Per Year	38
5.2.1 Number of Request an Agency Sends to Other Countries.....	38
5.2.2 Number of Request an Agency Receives from Other Countries	38
5.3 Length of MLA Request Response.....	38
5.4 Active Cybercrime Investigation	40
5.5 Availability of Legal Framework to Request to Other Countries	42
5.6 Channels to Make Request Regarding an Investigation	44
5.7 Effectiveness of the legal provision(s) to request information from countries	46
5.8 Challenges with MLA Requests.....	48
5.8.1 Challenges Encountered with Sending MLA Request to Other Countries.....	48
5.8.2 Challenges Faced with Received MLA Requests.....	49
5.9 Knowledge of How to Request MLA from Other Countries	50
5.10 Summary.....	52
CHAPTER 6. ANALYSIS AND DISCUSSION	54
6.1 Correlation Between Variables.....	54
6.2 Answers to Research Questions.....	59
6.3 The relevance of the Study	62

6.4 Summary.....	62
CHAPTER 7. POLICY RECOMMENDATIONS AND FUTURE WORK.....	64
7.1 Policy Recommendations.....	64
7.1.1 Utilizing an online platform to address MLA request procedures (i24/7).....	65
7.1.2 Reduction of Bureaucracy in Nigeria legal system (centralized POC)	67
7.1.3 Training of new personnel about international cooperation	69
7.1.4 Training and Re-training of law enforcement officers in the field.....	71
7.1.5 Promotion of Guideline for MLA requests for digital evidence (emphasize)	72
7.2 Future Work.....	74
7.3 Summary.....	74
CHAPTER 8. CONCLUSION	75
REFERENCES	80
ENGLISH ABSTRACT	85
국문초록	87
APPENDICES	89
Appendix 1. List of countries and agencies respondents represents.....	89
Appendix 2. Respondent Categorization	90
Appendix 3. The Greatest challenge with Sending MLA Request	91
Appendix 4. Challenges Faced with Received MLA Requests	93

List of Figures

Figure 1: Illustration of scenario	3
Figure 2: Pie chart showing the agency affiliation of respondents by percentage	36
Figure 3: Responses from Nigeria respondents on the length of MLA request response	39
Figure 4: Responses from other countries on the length of MLA request response	40
Figure 5: Nigeria respondents that do active cybercrime investigation.	41
Figure 6: Other countries respondents that do active cybercrime investigation.....	41
Figure 7: Availability of legal framework to request information in Nigeria	42
Figure 8: Availability of legal framework to request information in Other countries	43
Figure 9: Topic categorization of channels to request MLA to other countries in Nigeria.....	44
Figure 10: Topic categorization of channels to request MLA in other countries.....	45
Figure 11: Effectiveness of legal provisions in Nigeria	47
Figure 12: Effectiveness of legal provisions in Other countries	48
Figure 13: Knowledge of Nigeria respondents on how to request MLA from other countries...	51
Figure 14. Knowledge of other respondents on how to request MLA from other countries.....	52
Figure 15: Percentage of respondents from Nigeria and other countries	90
Figure 16: Greatest challenge faced with sending MLA request in Nigeria	91
Figure 17: Greatest challenge faced with sending MLA request in other countries	92
Figure 18: Challenges faced with received MLA requests in Nigeria.	93
Figure 19: Challenges faced with received MLA requests in other countries.....	93

List of Tables

Table 1: Transnational crimes and the agencies in charge of investigating them in Nigeria 12

Table 2: Respondents number of years in agency and position 37

Table 3: Correlation between knowledge and the number of years in agency and position for
Nigerian respondents..... 54

Table 4: Correlation between knowledge and the number of years in agency and position for
respondents from other countries 54

Table 5: Correlation between tested variables for Nigerian respondents..... 54

Table 6: Correlation between tested variables for Other Countries respondents 54

Table 7: A table showing the countries and agencies of respondents 89

CHAPTER 1. INTRODUCTION

1.0 Background

According to Maitanmi *et al.*, (2013) “cybercrime can be defined in a broader sense (computer-related crime) as any illegal behavior committed by means of, or in relation to, a computer system or network, including crimes like illegal possession and offering or distributing information by means of a computer system or network”. Cybercrime is a major category of transnational crime with different types of crime categorized under it. According to an article written by Umana (2018); Forms and types of cybercrimes in Nigeria are Cyber Terrorism, Fraud and Identity theft, Malware, Cyberstalking, Spamming, Wiretapping and Illegal Interception of Telecommunication.

According to Channing (2017), cybercrime is a type of transnational crime, and other types of transnational crimes include money laundering, drug trafficking, arms trafficking, trafficking in person, terrorism offences, etc. Transnational crime is also known as Transnational Organized Crime. The United Nations Office on Drugs and Crime (UNODC) defines it as an offence that is committed in more than one country and can also be planned or controlled in one country and the effect seen in another, the crime also includes crimes initiated by groups that act in more than one country with the effect seen in another country.

Mueller (2001) described the transnational crime as a crime-related rather than a judiciary term. He stated that the term “transnational crime” was invented by the United Nations Crime Prevention and Criminal Justice Branch and it was named transnational crime to include certain crime types that pass beyond international borders, violating the criminal law of several countries or affecting another country.

To effectively investigate transnational cybercrime, it is crucial to put into perspective both the type of crime and the jurisdiction. To investigate cybercrime, specialized technical skills, tool,

and equipment are normally required, and the skills required to investigate these crimes differ depending on the type of cybercrime. In other words, the type of tool and skill required to investigate network intrusion might differ from the tools and skills required to investigate malware distribution or business email compromise. Then the issue of jurisdiction, this can be tackled by following formal channels of Mutual Legal Assistance Treaties (MLAT) or police-to-police cooperation and friendly relationships between law enforcement agencies of different countries.

There are many challenges faced by law enforcement agencies while investigating transnational cybercrime in Nigeria. One of which is anonymity of the criminal, either using proxy services like Virtual Private Network and TOR browser or fake identities on social media platforms. Another challenge is since transnational cybercrime has no border restriction; it can be initiated in a country, cutting across several others and executed in another. Multi-jurisdiction means more than one jurisdiction, and it implies that the laws might be different for each jurisdiction (i.e. different countries) involved, and the terms of engagement or law enforcement procedure might also be different, thereby making investigation difficult.

This research is based on the review of existing MLA channel of cooperation between Nigerian Law Enforcement agencies and other countries' law enforcement agencies, specifically regarding the investigation of cybercrime as it borders Nigeria. A survey will then be conducted to obtain law enforcement agents' take on the use of MLA for international cooperation between countries' law enforcement agencies regarding an ongoing cybercrime investigation, the length of time it takes for an MLA request to be processed. How knowledgeable law enforcement officers are on MLA matters and how effective legal provision(s) in terms of requesting information from other countries are, the challenges faced by law enforcement agencies when sending MLA request to other countries about an ongoing cybercrime investigation, and when MLA requests are received from other countries will also be addressed. This will then bring to the fore how the knowledge

of law enforcement agents on MLA matter affects the response time of MLA requests, the inherent challenges, and effectiveness of MLA regarding ongoing cybercrime investigation.

1.1 Scenario

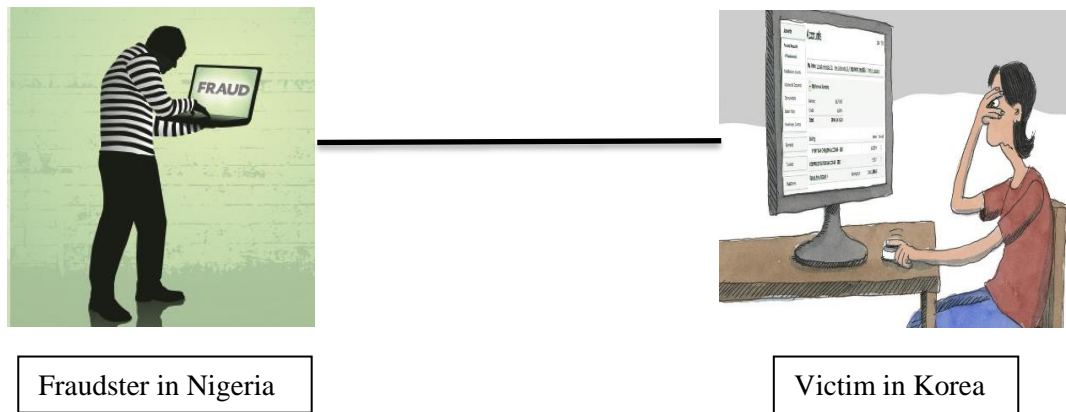


Figure 1: Illustration of scenario

For example, a cybercrime case where a fraudster in Nigeria defrauded a Korean by impersonating Ban Ki-Moon was reported by the victim. The fraudster and the victim communicated via email and the victim realized he had been defrauded after sending money to the fraudster through Western Union. The Korean National Police started an investigation, and it revealed the IP address for communication by the fraudster generated from Nigeria.

In a cybercrime case like this, the investigation cannot be concluded in Korea. International cooperation between Nigeria law enforcement agency in charge of cybercrime and the Korean National Police is essential. So for that to happen, the officer in charge of the case in the Korean National Police has to send an MLA request to the law enforcement agency in Nigeria.

1.2 Problem Statement

Due to the increased internet penetration with its' attendant benefits of global connectivity, the prevalence of crime outside one's jurisdiction has equally increased and has been made easier. Internet-enabled phones and other devices like smartphones, tablets, laptops have made internet

access more accessible and faster. However, one of the disadvantages of this internet access is the issue of cybercrime (Adesina, 2017). Every country sees a crime from a different perspective, and because of this, each country's law regarding the same event may differ. These differences influence the rule of law that prevails in a country.

An article on the overview of transnational crime issues by the Ministry of Law and Indonesian Human Rights stated that the diverse nature of transnational crime has made it difficult to be defined, investigated and prosecuted which is where mutual legal agreement, treaties, and international cooperation comes in to suppress transnational and international crime. MLA is the most formal way of cooperation between countries regarding transnational crime cases. Is MLA effective for co-operation between countries investigating a cybercrime case?

While investigating a transnational cybercrime case, how effective are legal provisions regarding information request from other countries? Are they sufficient to investigate cybercrime as a transnational crime? Do law enforcement agents know how to make mutual legal assistance requests to other countries? What are the challenges faced when MLA requests are sent to or received from other countries? How long does an MLA request take to be processed? Does the MLA knowledge of an officer have an effect on the length of time used to process an MLA request? Are the challenges these law enforcement officers face bear on the effectiveness of MLA or the outcome of a cybercrime investigation involving other countries? These are the issues that will be addressed in the course of this research.

These issues cannot be ignored because they are issues that arise during an ongoing cybercrime investigation involving more than one country when MLA is used as a tool of cooperation. These issues must be addressed to ensure a successful investigation and as a step towards mitigating cybercrime.

1.3 Objectives of the study

1. To know the legal provisions and channels available for making a request to other countries regarding cybercrime investigations in Nigeria to assess the requirements needed to make a request and to know the optimum way to make an MLA request.
2. To know how knowledgeable law enforcement agency officers are with requesting mutual legal assistance from other countries to know;
 - a. If knowledge of MLA has any effect on the effectiveness of mutual legal assistance;
 - b. If knowledge of MLA reduces or limits the challenges faced with received and sent requests, i.e. does it make the information provided in requests sufficient and complete for it to be processed;
 - c. If knowledge of MLA influences the length of time used to process and respond to an MLA request.
3. To recommend policies that can be implemented to improve the effectiveness of mutual legal assistance between countries based on the

1.4 Research Questions

Does knowing how to request mutual legal assistance to other countries accelerate transnational cybercrime investigation in a country? i.e. does it make the investigation faster?

1. Does the knowledge of how to make mutual legal assistance request to other countries affect the effectiveness of mutual legal assistance?
2. Does the knowledge of how to make mutual legal assistance request to other countries reduce or eliminate the challenges that might be faced with sent and received mutual legal assistance requests?

3. Does the knowledge of how to make mutual legal assistance request to other countries reduce the length of time used to process and respond to requests?

1.5 Hypothesis

The statements below are the proposed answers (explanation) to the research questions above; these are reasonings made based on limited evidence as a starting point for the research.

1. Knowing how to make mutual legal assistance request to other countries regarding an ongoing cybercrime investigation does not guarantee the effectiveness of mutual legal assistance or the success of an ongoing cybercrime investigation.

Reasoning

Even with mutual legal assistance treaty between countries, law enforcement agencies are not compelled to respond to requests from other countries. A newly received request might be more urgent than a request that has been received some days, weeks or months ago.

2. Knowing how to make mutual legal assistance request to other countries regarding an ongoing cybercrime investigation does not eradicate challenges that might be encountered in making requests.

Reasoning

Treaty documents include the required documents essential to be attached to a request. Some transnational crime requires more than the documents specified in the treaty agreement, and when the non-listed vital documents are not attached, it brings about insufficient information.

3. Knowledge of how to make an MLA request to other countries should reduce the response and processing time of an MLA request.

Reasoning

Knowing what to do at a particular time when a request is received or in the process to be sent reduces the time spent on the processing. In reality, there may be several reasons, including political reasons, that may affect what response and when a response can be sent.

1.6 Significance of the Research

This research contributes to the body of work dealing with the challenges faced by law enforcement agencies during cybercrime investigations. Specifically, the challenges faced when requesting MLA to other countries, receiving MLA requests from other countries and the average length of time it takes to process an MLA request. This is the first study that looked at the general case of MLA requests effectiveness globally with Nigeria investigators as a specific case study.

1.7 Thesis Structure

Abstract: This is the summary of the whole thesis.

1. **Introduction:** The first chapter is the introduction to the thesis which includes the definition of important terms, the issues to be discussed during this research (problem statement), the objectives of the research, research questions, hypothesis, significance of the research and the thesis structure.
2. **Background Research:** The second chapter introduces readers to the subject matter by giving definitions of terms that are keyword to the research. A list of the types of transnational crime and the agencies in charge of them will be included in this chapter. An overview of the global challenges involved in investigating transnational cybercrime and the Cybercrime Act, 2015 of Nigeria will be reviewed to know the definition of terms and the categories of cybercrime in Nigeria.

3. **International Cooperation and Mutual Legal Assistance Treaty (MLAT):** The third chapter gives a brief introduction to the international cooperation treaties that include cybercrime investigation, that Nigeria is a signatory to and also gives a brief view on what mutual legal assistance treaty is, the challenges and benefits of MLAT and possible solutions proposed by past research to make MLA effective. The mutual legal assistance treaty binding West African countries which Nigeria is a part of was briefly summarized to know the content of the treaty relevant to MLA request.
4. **A Study on Mutual Legal Assistance Request Effectiveness on Cybercrime Investigation in Nigeria:** This chapter gives an overview of the purpose of the study done for this research. This chapter explains the methods used to carry out this research, what platform was used to conduct the survey, disseminate the survey, and how the responses were received. It also includes the dataset gotten through the survey and how the dataset was analyzed and the software used for analysis. Classification of the datasets was also explained in this chapter.
5. **Result:** The results obtained from each question in the administered survey will be explained in this section using graphical illustrations and tables.
6. **Analysis and Discussion:** Analysis of the results reported in chapter 5 will be explicitly explained and discussed in this chapter. The research questions will also be explicitly answered, and the relevance of the study will be stated.
7. **Conclusion and Recommendation:** This chapter includes the conclusion made with the study done, the recommendations and limitations of the study.

References: This section contains the detailed bibliography of the citations made throughout the thesis.

Appendices: This section contains additional information that was not included in the body of the thesis.

In conclusion, this chapter introduces this research, and the main point discussed includes the definition of terms, problem statement, the objective of the study, research questions, hypothesis, significance of the research and the structure of the thesis.

CHAPTER 2. BACKGROUND RESEARCH

This chapter introduces the reader to the subject matter by giving definitions of terms that are keyword to the research. A list of the types of transnational crime and the agencies in charge of such crimes in Nigeria will be included in this chapter. An overview of the general challenges involved in investigating transnational cybercrime already mentioned by past research and the Cybercrime Act, 2015 of Nigeria will be reviewed to know the categories included in the Act.

2.1 What is Transnational crime?

Albanese (2005) defined transnational crime as “violations of law that involves more than one country in their planning, execution, or impact”. Channing (2017) stated that transnational denotes extending or operating across national borders, i.e. transnational crimes are crimes involving more than one country or crimes that cross borders. Fijnaut (2000) made a point that transnational crime is composed of various types of crime, including political, white-collar, organized, and even professional crime. Transnational crime also goes by the names transnational organized crime, organized crime or international crime.

The United Nations Convention against Transnational Organized Crime defines transnational organized crime to be crimes that are committed in more than one state; committed in one country but the operation including its control, planning, preparation and/or direction takes place in another country; committed in one country but is connected with an organized criminal group that is involved in criminal activities in more than one country; or committed in one country and has severe effects in other countries (*UNODC*, n.d).

Transnational Organized Crime – The Globalized Illegal Economy (n.d.) a fact sheet published by the UNODC listed forms of transnational organized crime that include; “Drug trafficking,

human trafficking, smuggling of migrants, illicit trading in firearms, the illegal trade in wildlife, trafficking in natural resources, the sale of fraudulent medicine, and cybercrime (identity theft)".

Albanese (2005) grouped transnational crimes into three main categories which include;

- Provision of illicit goods (trafficking in stolen property, weapons trafficking counterfeiting and drug trafficking)
- Illicit services (human trafficking and commercial sex) and
- Infiltration of business and government (money laundering, fraud, corruption, and racketeering) which affects multiple countries.

The United Nations Office on Drugs and Crime listed transnational crimes to include "theft of art and cultural objects, terrorist activities, sea piracy, theft of intellectual property, illicit arms trafficking, aircraft hijacking, environmental crime, money laundering, trade in human body parts, trafficking in persons, insurance fraud, illicit drug trafficking, fraudulent bankruptcy, infiltration of legal business, corruption and bribery of public or party officials and computer crime which is now known as cybercrime".

2.2 Types of Transnational Crime in Nigeria and the agencies in charge of Investigating such Crimes

In Nigeria, different crimes are handled by different law enforcement agencies. In the case of transnational crime, the agencies that oversee investigations of some of the crimes are listed in Table 1 below.

Table 1: List of transnational crimes and the agencies in charge of investigating such crimes in Nigeria

CRIME	AGENCY
Money Laundering	Economic and Financial Crimes Commission (EFCC)
Trafficking in Persons	National Agency for Prohibition of Trafficking in Persons (NAPTIP)
Arms Trafficking	Nigeria Customs Service (NCS) and Nigeria Police Force (NPF)
Drug Trafficking	Nigeria Drug Law Enforcement Agency (NDLEA)
Terrorism Offenses	Nigeria Armed Forces, Department of State Service, NPF and for Terrorism-related financing; Economic and Financial Crimes Commission (EFCC)
Cybercrime	Economic and Financial Crime Commissions (EFCC) and Nigeria Police Force (NPF)

2.3 Cybercrime as a Transnational Crime

In terms of cyberspace, the internet is continuously used as a tool by transnational organized criminals (Broadhurst *et al.*, 2014; Lyman and Potter, 1998). According to the United Nations Office on Drugs and Crime, cybercrime is one of the fastest growing transnational organized crimes that already affects millions of victims worldwide. UNODC also stated that cybercrime has become easy to commit and harder for law enforcement to stop as technology advances. McConnell (2000) stated that cybercrime is different from other types of crime in four ways: It is easy to commit; It requires little resources compared to the potential damage it might cause; It can be committed in a country's border without being present physically there, and it is often not seen as illegal.

UNODC describes Cybercrime “as an evolving form of transnational crime. The complex nature of the crime as one that takes place in the border-less realm of cyberspace, which is compounded by the increasing involvement of organized crime groups. Perpetrators of cybercrime and their victims can be in different regions, and its effects can ripple through societies around the world, highlighting the need to mount an urgent, dynamic and international response”. This definition reveals the complexity of cybercrime as a borderless crime and how it fits as a type of transnational crime.

Hernandez (2018) listed the 16 most common type of cybercrime to be fraud, hacking, identity theft, scamming, computer viruses, ransomware, DDoS attack, Botnets, spamming, phishing, social engineering, malvertising, cyberstalking, software piracy, child pornography and cyberbullying. These types of cybercrime fit into transnational crime category because they are borderless, are mostly committed using the internet as a tool, can be planned, organized and affect any country.

2.4 General Challenges of Investigating Transnational Cybercrime

Chaturvedi *et al.*, (2014) stated in research that cybercrime is an international problem which is borderless, and cybercriminals operate from relatively different territories which is usually beyond the easy reach of the law enforcement agencies of the countries where the victims reside. For cybercrime to be successfully investigated and prosecuted, international cooperation is important between governments, intelligence agencies, and law enforcement agencies and officers of affected countries and suppose residence of the crime perpetrators.

Lopez and Patel (2007) stated that there are many challenges to cooperate internationally to fight transnational cybercrime. The challenges faced with cooperating internationally with other countries include;

- Harmonizing countries' criminal laws: Common understanding of concepts like computer crime, cybercrime or high-tech crimes must be achieved for countries to respond swiftly to these crimes.
- The extent of cybercrime: How much impact the crime has on individuals and the country as a whole as well as the issues of unidentified victims due to unreported cybercrime cases from ignorant victims and/or reluctant victims especially in the business sector who are concerned about the public reaction if the information is made known to the public.

- Location and identification of criminals across borders: Cybercriminals can easily assume anonymity using proxy services like TOR browsers, Virtual Private Network, etc. which can make identifying criminals and their location difficult.
- Security of electronic evidence of crimes for justice: For admissibility of digital evidence in court, some procedures and guidelines should be followed to avoid alteration of evidence. Digital evidence also brings about legal issues of personal data, which can be an issue considered in a country and might not be necessarily considered in another country. Complicated jurisdiction procedures and issues also arise at each step.

Finckenauer (2000) stated that the factors that make transnational crime possible are; Globalization of the economy, improved communications technology and increased numbers and heterogeneity of immigrants. The author also says that these factors do not cause the crime but only facilitate the possibility of the crime. Challenges in dealing with transnational crime arise from the differences in laws and law enforcement procedures. Finckenauer (2000) quotes that “immigration does not cause crime. The desire to immigrate, however, may cause people to violate immigration quotas and regulations and may lead to illegal immigration, which in turn is exploited by criminals”.

Hatchard (2006) mentioned the three challenges to be taken into consideration when seeking to tackle transnational crime effectively to include; Dealing with crimes that originate from another jurisdiction, investigation of crimes with transnational elements, and tracing and retrieving crime proceed that have been moved to other countries or in some cases, were never in the affected country.

One of the challenges law enforcement agencies faces while investigating cybercrime is the law itself. The law itself is a challenge because hacking a suspect’s computer to obtain information is a crime, and doing that will make the information not admissible in court. In such cases, the officer can also be charged according to the law. The law poses restrictions to the officers that

investigate cybercrime and obtaining information on crimes committed via the internet is difficult because of the potential for anonymity. Oerlemans (2017) in his thesis “Investigating Cybercrime” highlighted the challenges of investigating cybercrime to include; challenges of anonymity, encryption, jurisdiction and the limits of mutual legal assistance.

To sum up, all the points noted all the authors above mentioned the issue of identifying suspects which might be difficult because of the possibility of anonymity. Acquisition of digital evidence which might be found in another jurisdiction brings about requesting assistance from law enforcement agencies of other countries and the issues that might arise while trying to send an MLA request to the requested countries.

2.5 Definition of Cybercrime and categories under the Nigeria Cybercrime (Prevention and Prohibition etc.) Act, 2015

Center for Laws of the Federation of Nigeria, (n.d.) gives a detail of the Nigerian Cybercrime (Prevention and Prohibition, etc.) Act, 2015, referred to as the Nigerian Cybercrime Act. This did not define cybercrime but gave various offences categorised under the Cybercrime Act. According to the explanatory memorandum of the Act, it consists of the framework for the prevention, prohibition, prosecution, detection, and punishment of cybercrimes in Nigeria. “The Act also ensures the protection of critical national information infrastructure and promotes cybersecurity and the protection of computer systems and networks, electronic communications, data and computer programs, intellectual property and privacy rights”.

The Nigerian Cybercrime Act of 2015 consists of 8 parts divided into sections and sub-sections. Contents of the parts are briefly explained below;

- Part I consists of the objective and applications of the act. The purpose of the Cybercrime Act, the area (Federal Republic of Nigeria) which the act is applied and the infrastructure the Acts protects was included in this part.

- Part II consists of laws guiding the protection of critical national information infrastructure. Designs of certain computer systems or network, audit, and inspection of critical national information infrastructure were also included in this part.
- Part III consists of offences and penalties under this act.

The following are some of the offences under the Nigerian Cybercrime Act of 2015.

“Offences against critical national information infrastructure, Unlawful access to a computer, Unlawful interception of communication, Unauthorized modification of computer data, System interference, Misuse of devices, Computer-related forgery, Computer-related fraud, Identity theft and impersonation, Phishing, Spamming, spreading of computer virus”. Other offences include but are not limited to; Child pornography and related offences, Cyberstalking, Cybersquatting, Cyberterrorism, Racist and xenophobic offences.

- Part IV consists of the duties of financial institutions regarding the retention of data and protection of data in their care. This part also includes the duties of financial institution regarding the interception of electronic communications and the penalties given to service providers when they fail to perform specific duties.
- Part V consists of administration and enforcement of the law regarding cybercrime cases. This part mentioned the office in charge of coordinating security and enforcement agencies under the Act. This part also mentioned the establishment and duties of the Cybercrime Advisory Council and the members it should be made up of.
- Part VI consists of the procedure and power of arrest, search, seizure, and prosecution of cybercrime offences in Nigeria. The penalty was given when there is a case of obstruction and refusal to release information by any individual. Other sections in this part are the order for payment of compensation or restitution to victims by convicted persons and order of forfeiture of assets by convicted persons.

- Part VII consists of Nigeria jurisdiction that this Act applies to and situations where International cooperation with other countries is necessary. This part also mentioned the situation where extradition is necessary and the channels through which request for mutual assistance should be made and relevant evidence that should be included in the request. This part also includes the situations where expedition request of preservation of computer data is necessary, and the specification the requests should include — designation of contact point for other countries in cases where Nigeria cooperation is needed internationally.
- Part VIII includes miscellaneous like cases where the Attorney General of the Federation can make orders, rules, guidelines or regulations that are necessary for the efficient implementation of the provision of the Cybercrime Act. This part also includes interpretation of terms that have been mentioned in the previous parts. Finally, the last part included the citation of the bill as The Cybercrime (Prohibition, Prevention, Etc.) Bill, 2015.

According to the Act, essential terms were defined; the offences categorised under cybercrime in Nigeria were listed and explained with punishments. The Cybercrime Act of Nigeria also included the duties of internet service providers in cases where their cooperation is needed. The Act also mentioned situations where MLA is necessary between Nigeria and other countries.

2.6 Summary

In conclusion, this chapter introduced the reader to the subject matter by giving definitions of terms that are keyword to the research. A list of the types of transnational crime and the agencies in charge of such crimes in Nigeria was included in this chapter. An overview of the general challenges involved in investigating transnational cybercrime already mentioned by past research was included, and the Cybercrime Act 2015 of Nigeria was also reviewed to know the categories

included in the Act. From this chapter, I understood that transnational crimes are of various types, and they usually involve more than one country given the name and that cybercrime is a type of transnational crime given the virtuality and the act of anonymity and the fact that it usually affects more than one country. I also understood that the challenges of investigating cybercrime are mainly the anonymity, jurisdiction challenge and the limits on mutual legal assistance. I also understood that the Nigerian Cybercrime Act of 2015 does not just include types of cybercrime, the areas it is applicable and the punishment, but it also consists of protection of critical infrastructure to the federation.

CHAPTER 3. INTERNATIONAL COOPERATION AND MUTUAL LEGAL ASSISTANCE TREATY (MLAT)

This chapter will introduce the international cooperation involved in cybercrime investigation that Nigeria is a signatory to and also give a brief view on what mutual legal assistance treaty is, the challenges and benefits of MLAT and possible solutions proposed by past research to make MLA effective.

3.1 International Cooperation Involved in Cybercrime Investigation

Sieber (1998) stated that countries should come together to fight cybercrime because perpetrators of these crimes are borderless and evidence for a single crime can be found in different regions of the world. With the importance attached to have cybercrime laws in countries, it is also essential that countries have legal authority assigned to assist other countries during an investigation even if an impact of the crime is not seen or felt by the country where the perpetrators reside. Creation of international guidelines to tackle cybercrime is to bring about a process to conduct digital investigations where computers from different countries are involved as well as to eradicate the areas where cybercriminals think they cannot be reached by national laws of a country that has been affected.

3.1.1 Budapest Convention on Cybercrime

The Convention is the first multilateral treaty on crimes committed through computer networks and the Internet, dealing mainly with computer-related fraud, infringements of copyright, child exploitation materials and violations of network security. “It also contains a series of powers and procedures such as the search of computer networks and interception. Its main objective, set out in the preamble, is to pursue a standard criminal policy aimed at the protection of society against cybercrime, especially by adopting appropriate legislation and fostering international cooperation”

(Convention on cybercrime, n.d). Hakmeh (2017) stated that the Budapest Convention, also known as the Council of Europe Convention on Cybercrime, it is presently the main international instrument on cybercrime. The convention aims to help its state parties harmonize their national laws, improve their investigative techniques and increase cooperation.

The Budapest Convention on Cybercrime of the Council of Europe, is a binding international treaty that provides a framework to States regarding (a) the criminalization of conduct (that is, offences against and by means of computers), (b) procedural powers for criminal justice authorities to secure electronic evidence in relation to any crime and subject to the rule of law safeguards, and (c) international cooperation on cybercrime and electronic evidence (Global Forum on Cyber Expertise, 2016).

The Convention is backed up by the Cybercrime Convention Committee which (a) assesses implementation by the Parties, (b) develops Guidance Notes on how existing provisions of the treaty can be applied to phenomena that were not relevant (or they were less so) in 2001 (such as botnets, denial of service attacks, identification of theft and others), or (c) negotiates additions to the Budapest Convention (Seger, 2018). This is important to bring into perspective the new types of crime that are emerging and look into how member states can be of help to each other when such crimes are being investigated. Finally, a dedicated Cybercrime Programme Office was set up in 2014 in Bucharest, Romania, for worldwide capacity building to help States implement the Budapest Convention and apply it in practice.

In short, regarding cybercrime as a matter of criminal justice, a functioning agreement is in place with increasing membership and use in actual law enforcement operations. Seger (2018) opinionated that the Convention had negotiated some twenty years ago, that is, at a time when cybercrime was sufficiently important to warrant an international treaty, but information and communication technologies were not yet that crucial to have other (national) interests stand in the way of agreement. Nigeria is a signatory to this convention.

Other international cooperation that Nigeria is a signatory to are United Nations Office on Drugs and Crime (UNODC), the International Criminal Police Organization (ICPO-Interpol) also known as INTERPOL. Interpol is not an official route for requesting information from other countries regarding an ongoing cybercrime investigation; instead, it is a communication route between law enforcement agencies in different countries, which is the main aim of Interpol. ('What is INTERPOL?', n.d.).

3.2 Overview of the Mutual Legal Assistance Treaty

According to the United Nations, approximately 70% of the means of international cooperation in cybercrime investigations are based on traditional mutual legal assistance (Osula, 2015). The United Nations Office on Drugs and Crime (2018) defines Mutual legal assistance in criminal matters “as a process by which states seek and provide assistance in gathering evidence for use in criminal cases. When international cooperation is needed, treaties represent the most formal vehicle that can be used, whether for mutual legal assistance or extradition”. Treaties allow for focusing of effort and either cooperation on certain types of offences or the consideration of regional concerns and the legal systems of a specific region (UNODC, 2018). Treaties also oblige the parties to cooperate under international law, provided that the request falls within the terms of the treaty (UNODC, 2018).

Stigall (2016) stated that mutual legal assistance is a principal mechanism by which cooperation in transnational criminal matters is requested and afforded. He further defined mutual legal assistance as the mechanism by which states request and obtain evidence and assistance for criminal investigations and prosecutions. Through mutual legal assistance, a country may seek the production of a wide variety of evidence from a foreign government; evidence that is extremely useful in a criminal investigation of transnational criminal activity but that lies beyond the reach of informal assistance. Bank records, the contents of emails, business records, tax

documents, witness statements, and other types of evidence can be rounded up on behalf of a foreign country through requests for mutual legal assistance.

Prost (2007) stated that Mutual assistance in criminal matters “is a mechanism of cooperation which allows for a wide range of assistance between states in the production of evidence, directly and efficiently — generally rendered based on bilateral treaty or multilateral convention”. Mutual legal assistance is a means for one country to obtain evidence from another state for use in court. Swire and Hemmings (2015) mentioned that MLATs create a predictable process for sharing information across jurisdictions, and it takes ten months to process an MLA request in the United States of America.

Where MLATs do not exist, formal requests for information to a foreign court, letters rogatory, or informal information requests are used, but they lack predictability and oversight. Many MLATs also include protections to ensure respect for international human rights and domestic privacy protections (“Letter to US Congress Urging Increase to MLAT Funding,” n.d.). MLATs can be bilateral or multilateral. There are regional MLA schemes within Europe, the Americas, Commonwealth countries, and South-east Asia. Some of the regional MLATs include:

- Inter-American Convention on Mutual Legal Assistance in Criminal Matters (Inter-American MLAT)
- The Economic Community of West African States Convention on Mutual Assistance in Criminal Matters
- Agreement on Mutual Legal Assistance between the European Union and the United States of America (EU-US MLAT) [COE, 2011]
- European Convention on Mutual Assistance in Criminal Matters (EU MLAT)
- Treaty on Mutual Legal Assistance in Criminal Matters (ASEAN MLAT)

There are also many subject-specific conventions that include MLA provisions. Some of these conventions include the UN Convention against Corruption; the UN Convention on Transnational

Organized Crime; the OECD Convention on the Bribery of Foreign Public Officials; and the UN Convention on Psychotropic Substances. States that are a party to these conventions can use the mutual legal assistance provisions for offences that are covered within those conventions.

Cross-Border Data Sharing Under the CLOUD Act (n.d.) mentioned that most MLATs are drafted broadly to facilitate a wide range of assistance. They typically provide an inclusive list of the types of assistance that can be provided. Common examples include:

- obtaining witness testimony (either voluntarily or by compulsion)
- executing search warrants
- obtaining bank records
- freezing or forfeiting the proceeds of crime (UNODC, 2018).

Recently, there has been massive growth in MLAT requests to access online records. As criminals have gone online to communicate and store their data, government officials need to access this information to investigate and prosecute crimes (McQuinn & Castro, 2017). Very often, the electronic records are held by companies such as Google, Facebook, Yahoo or Twitter. These companies treat the vast majority of their data as being located in California and therefore subject to California jurisdiction. If the investigation or prosecution is happening in a country outside of the US, this means that there are multiple jurisdictions involved and an MLAT request may be necessary (Gimelstein, 2018). MLATs can be used to obtain a user's online records; subscriber details, email content, metadata and social media accounts (Westmoreland & Kent, 2015).

3.3 Benefits of MLAT

According to Prost (2007), one of the significant advantages of this form of cooperation is that “it covers a broad range of assistance including inter alia, taking evidence or statements of persons, search and seizure, the provision of documents or evidentiary items, the service of documents,

and the temporary transfer of persons to assist an investigation or appear as a witness. As well, assistance can be rendered at any stage of a criminal process from investigation to appeal”.

Generally, mutual assistance can be rendered directly between competent authorities in the two states, often Justice Ministries. This is one of the features of mutual assistance which makes it an effective and efficient mechanism of cooperation; the direct channelling of requests without necessity, for the use of diplomatic or other channels (Prost, 2007).

Reasoning

Regardless of the challenges faced with MLAT, it is still the most formal type of international cooperation between countries regarding transnational cybercrime. The evidence and operations available with the help of MLAT are very crucial to cybercrime investigations and can help make the investigation a successful one.

3.4 Challenges of Making an MLA Request

Prost (2007) mentioned the practical issues with MLA request for prosecutors. The challenges mentioned include;

- **Ineffective Implementation:** According to the author, despite the availability of legal framework guiding requests making, responses are received very late, which renders the assistance unhelpful due to the late arrival of response. According to the author, “the critical problem is lack of or inadequate programs and procedures for effective implementation of mutual assistance programs and the provision of evidence on a practical, case by case, level”.
- **Insufficient Information:** According to a study done by James and Gladyshev (2016) it was stated that “26% of respondents claimed only 25% - 50% of MLA requests received contained all information necessary to process the request”. This supports the point made by (Prost, 2007) that the difference in country’s legal systems results in lack of

understanding as to what information in form or detail should be included when an MLA request is made.

ADB-OECD (2017) mentioned some challenges of MLA, and they include; lack of an adequate legal basis for cooperation, differences in legal and procedural frameworks, language barriers, delayed (no response at all or insufficient) response, traditional grounds for refusing MLA (dual criminality and evidentiary and informational issues).

3.5 Possible Solutions to make MLA Effective

Prost (2007) listed several solutions for active implementation of MLA; some of the solutions proposed are;

- Enactment of relevant legislation to promote international cooperation between countries to bridge the gap of lack of an effective legal basis for cooperation and differences in legal and procedural frameworks. Administration work should have a framework for processing request and the people in charge should have expert-level knowledge.
- Requested countries should willingly assist requesting countries in a useable form unless it violates any law of the country. The request should be responded to with open-mindedness to bridge the legal or procedural differences that might exist between the two (2) countries.
- The request should be made with the form and relevance of the sought evidence to the investigation and prosecution clearly stated to overcome the challenge of
- The request should not be vague. The type of assistance required from the requested country should be clearly stated.

Esquivel (2009) stated that MLA requests should be made in writing in a language acceptable by the requested country and should meet the requirements of the applicable treaty or law of the requested country for it to be processed. This means relevant information about the case being

investigated, the type of assistance and evidence required, the reason for the request and other important information should not be omitted.

Swire and Hemmings (2015) explore possible ways to increase the efficiency of MLAT for the United States of America. Some of the solutions mentioned can be applied to other countries as well. The summary of the applicable solutions is given below;

- Reducing the number of steps required to process an MLA request. *Creation of an MLAT “rocket docket”*. According to the authors, the term was adopted from the Eastern District Virginia, which has a reputation for handling legal cases more quickly than other courts.
- Another proposed solution is reducing the process of sending assistance to requesting country. Creation of direct response to the requested country by opening a single point of contact between the requesting country and the personnel in charge of the records required for the case will streamline the processes an MLA request goes through.
- Creation of adequate online information about MLATs and online methods to make MLAT requests should be considered.

UNODC (2001) in a report, reported best practice recommendations for facilitating MLA, some of them include;

- Increase availability and use of practical guides about national MLA legal framework and practices. Development of national MLA framework by lawmakers and dissemination of such information to domestic authorities about MLA law, practices and procedures of the nation, including how requests can be made to other countries.
- Increase training of personnel involved in MLA. Lectures and presentations about MLA laws, principle and practices should be included in the training courses and workshops given to law enforcement officers.
- Ensure dissemination of up-to-date contact information of country’s central authority via phone, fax, and internet.

- Maintenance of direct contact between members of central authorities, investigators and prosecutors from the requested and requesting country throughout all stages of the request.
- Reducing delay in the execution of requests by placing a time limit on request processing by central authorities is another solution proposed by the UNODC in 2001.

These recommendations to increase the effectiveness of MLA has been proposed by many authors, international and regional cooperation. However, countries have not adopted these proposed solutions possibly because of lack of trust in these organizations proposing the solution, lack of funds to implement these changes or probably lack of interest. There is a need to emphasize the solutions already proposed by these authors and organizations for MLA to be useful in cybercrime cases.

3.6 Summary

This chapter introduced the international cooperation involved in cybercrime investigation that Nigeria is a signatory to and also give a brief view on what mutual legal assistance treaty is, the challenges and benefits of MLAT and possible solutions proposed by past research to make MLA effective. The information provided in this chapter is essential for readers to know the international cooperation Nigeria is a signatory to since Nigeria is a case study for this research. In this chapter, I got an understanding of what MLAT is and the definitions and the thoughts past researchers have about MLA. I also got to understand that Interpol is an international communication route for law enforcement agencies in different countries. Finally, I got to understand the benefits and challenges of MLA and the possible solutions to make MLA effective as proposed by past researchers.

CHAPTER 4. A STUDY ON MUTUAL LEGAL ASSISTANCE REQUEST EFFECTIVENESS ON CYBERCRIME INVESTIGATION IN NIGERIA

This chapter gives an overview of the purpose, for which I undertook this study. This chapter also explains the methods I used to carry out this research, what platform I used to conduct the survey done, disseminate the survey and also how the responses were received. It also includes how I cleaned the data gotten through the survey and how I analyzed the data and the software I used for analysis. How I classified the datasets from the survey will also be explained in this chapter.

4.1 Purpose Statement

According to Facebook statistics, Nigeria population at the end of 2019 is estimated to be 200,962,417. At the end of December 2000, 200,000 people were connected to the internet, at the end of December 2019, the total number of people connected to the internet is expected to increase to 111,632,516 which makes the increase in internet penetration rate (% population) to be 55.5%. From the statistics, it shows that internet penetration is rapidly increasing in Nigeria and will continue to increase in the future. This increase in internet penetration is an advantage for the habitats of the country to connect with the rest of the world, but at the same time, it comes along with the fear of an increase in cybercrime.

Cybercrime is committed in cyberspace through the use of the internet and along with it comes the challenges of anonymity, encryption, jurisdiction and limits of mutual legal assistance treaty while trying to investigate cybercrime as mentioned by Oerlemans, (2017). Aransiola & Asindemade, (2011); Adeniran, (2008); Aghatise, (2006); Tade & Aliyu, (2011) all mentioned

that cybercrime is one of the prevalent forms of crime that is widely committed by university students in Nigeria. Bolaji, 2019 in a journal listed the universities in Nigeria as released by the National Universities Commission. From the list, there were 43 federal universities, 48 state universities, and 79 private universities, making a total of 170 universities in Nigeria. Following the statement made above, if cybercrime is committed by university students in some or all of these universities' investigation is not going to be an easy task.

Comparing the total number of police officers to Nigeria population, the police operating ratio as at 2017 was 1:600 which is below the UN policing ratio of 1:400 ("Nigeria needs additional 31,000 new police officers yearly for five years – IGP," 2017). In addition to the low number of police officers in the federation, not all police officers have the expertise or knowledge to investigate cybercrime. Economic and Financial Crimes Commission (EFCC) is another law enforcement agency apart from the Nigeria Police Force (NPF) that responds mainly to cybercrime money and laundering in the federation. EFCC though noted for their efficiency in investigating and prosecuting perpetrators of these crimes are also limited in number.

In the recent past, the Nigerian government's focus has been on cybercrime, due to the negative effect it has on the country's economy and global image. Globally branded in the media is the 'Nigeria 419 scam'; this has unwittingly become an identity bequeathed to many Nigerians (Lazarus, 2017). Cybercrime activities originating out of Nigeria is not only a transnational problem but also a national problem as these crimes cost the Nigerian government and people millions of dollars each year (Carsten, 2018). Cybercrime has an ever-changing landscape, trends, and tools of perpetration. This, therefore, has made investigation a daunting task (Ismail, 2017). For the successful investigation of transnational cybercrime, mutual legal assistance through international cooperation is vital to obtain evidence and proceeds of crime that might be in other countries.

According to Prost (2007) “success in mutual assistance is dependent almost entirely on the knowledge and most critically, the flexibility of the authorities, requests and even more importantly, assisting”. If an investigating officer in charge of an ongoing cybercrime case has adequate knowledge about the important documents necessary to process an MLA request, goes about obtaining the evidence the formal way and includes all the evidence in the request regardless of what the request contents of the mutual legal assistance treaty binding the two countries states. Does this help increase the effectiveness of a mutual legal assistance treaty? Does it reduce the request processing time? Does this fasten the response from the requested country?

This study through a survey seeks to know from the perspective of law enforcement officers who deal with MLA matters, how much knowledge they have about MLA, if their countries have legal framework allowing their country to make investigation request to other countries, how effective the legal framework is, the channels through which they make their MLA request, the challenges they face with MLA and how long it takes to process an MLA request.

The study will further conduct a correlation analysis to determine if there is a significant relationship between adequate knowledge on MLA matters and the effectiveness of MLA regarding an ongoing cybercrime investigation. The correlation analysis to determine if there is a significant relationship between knowledge of MLA and the processing and response time, the challenges encountered with received and sent MLA request will also be conducted. Knowledge of how to request MLA from other countries being the independent variable and the other factors being the dependent variables.

4.2 Methodological Design

For this research, two (2) methodologies were adopted, and they are;

1. Qualitative Approach: For this research, Nigeria constitution especially the Nigerian Cybercrime Act of 2015 was reviewed to know the contents of the Bills, what area they

addressed and relate them to the problem to be addressed. For more details, Journals, Books, Publications, Documentaries and previous dissertations relating to the topic were also reviewed, compared and analyzed to gain a deep understanding, views, and perceptions of researches that have been done on the topics relating to the subject matter to get insights into the problem to be addressed. The results obtained from the study were also compared to past researches relevant to the subject matter.

2. Quantitative Approach: This approach was used to answer research questions by examining the relationship between variables (dependent and independent) of the study. This approach was also used to quantify the problem to be addressed by generating data using survey. The survey consisted of 15 questions which were sent out to some active law enforcement officers via email to get their intake on the questions. The responses I obtained from the survey were gathered, processed and analyzed using Qualtrics, an online data analysis software. Descriptive analysis was used to describe the basic features of the data in the study in the form of charts and tables to provide simple interpretations of the data. While correlation analysis in Qualtrics was used to determine the relationships between the variables of the study.

4.3 Survey Structure

The survey created for the course of this research was made using Google forms as the survey platform for dissemination of questions and reception of responses. A total number of 53 responses were received in the space of 1 month and 21 days (28th February to 18th April 2019), but only 52 responses were cleaned and analyzed. One response was removed because of insufficient information to categorize it under a group or country. The name of the agency given was unknown, searches proved futile, and responses were received anonymously, which made it impossible to call for clarification.

The responses of the survey came from law enforcement agencies, security services, forensic laboratory, prosecution and central authority that deal with transnational cybercrime investigation, and they also have experience making mutual legal assistance request to Nigeria and received an MLA request from Nigeria. The responses of the survey were exported as a .csv file from google forms and edited in an excel sheet. The respondents could enter in their agency, rank, and some other responses, this led to controversial responses that could not be processed by the data analysis software. The responses received were cleaned by putting them in categories relating to the responses received as a standard to bridge the controversial responses.

The survey was then replicated using Qualtrics as the platform and the standard responses as the new options in the new survey. The import responses function in Qualtrics was used to import the cleaned data into the online data analysis software (Qualtrics). Survey questions, the raw data obtained, and the cleaned data can be found [here](#). Qualtrics was used for descriptive analysis, correlation and text analysis. For descriptive analysis, the responses imported into Qualtrics were processed by the software, and a report was generated automatically with the graphical representations of each question. The software options were used to design the charts and tables to be presentable. Text iQ is a subsection under the Stats iQ of the software. The text analysis tool allows users to categorise responses of a question into assign topics. A topic with much text was analysed using this function. For the correlation analysis, the data and analysis section (Stats iQ) of the software has a cross tabs sub-section which allows the relation of variables in the survey. Questions representing the variables (dependent and independent) were cross tabulated against each other in the software to determine the relationship between two variables.

For the bias of Nigerian in the responses to be removed, the responses were divided into two main categories; responses from Nigeria law enforcement agencies and responses from other countries' law enforcement agencies. Approximately 40% (21) of the respondents are Nigeria law enforcement agency officers, and approximately 60% (31) are from other countries' law

enforcement officers. [Appendix 2](#) shows the graphical representation. The data received for these two categories were analyzed separately.

Prost (2007) stated that the success of MLA is dependent almost entirely on the knowledge of the person in charge. According to the research questions for this research, the independent variable to be tested is how knowledgeable officers are in requesting mutual legal assistance from other countries. The dependent variables are; how effective legal provision in requesting information from other countries is, challenges encountered with sent and received mutual legal assistance requests, the length of time it takes to process a mutual legal assistance request and how knowledgeable officers are in requesting mutual legal assistance from other countries.

4.4 Research Questions

Does knowing how to request mutual legal assistance to other countries accelerate transnational cybercrime investigation in a country? i.e. does it make the investigation faster?

1. Does the knowledge of how to make mutual legal assistance request to other countries affect the effectiveness of mutual legal assistance?
2. Does the knowledge of how to make mutual legal assistance request to other countries reduce or eliminate the challenges that might be faced with sent and received mutual legal assistance requests?
3. Does the knowledge of how to make mutual legal assistance request to other countries reduce the length of time used to process and respond to requests?

4.5 Limitations

There are some limitations to this study, and they include;

1. **Self-reported study:** The responses from this study were self-reported by the respondents. The survey administered was filled by respondents according to their

knowledge and what they know about the subject matter. This makes the responses subjective. This limits the study in the sense that it might not be the same for other countries or other officers in the field, and the respondents might be biased with their responses to the survey. This also limits the study to be used in a global perspective.

2. **Sampling Size:** Law enforcement officers that deal with MLA in countries might not be many. For instance, if there are five (5) officers in charge of MLA in each country and there are 247 countries in the world, it makes a total of one thousand, two hundred and thirty-five (1235) officers in the world that deals with cybercrime. The study received fifty-two (52) responses from 19 countries, which is not really an inadequate representation for the study done but this also limits the study in the sense that it cannot be generalized to a global perspective because the majority of the countries in the world are not represented in the study.
3. **Experienced LEA working on Cybercrime cases with Nigeria LEA:** The survey was targeted at law enforcement agents who have experience working on a cybercrime investigation with law enforcement agency in Nigeria since Nigeria is the case study of this research. Not all law enforcement agencies of the countries in the world have mutual legal assistance experience investigating a cybercrime case with Nigeria law enforcement agencies. This also limits the perspective to which this study can be directed or generalized.
4. **Variance in Cybercrime Types and Experience of Respondents:** There are various types of cybercrime, and the experience of respondents also differs. Responses to the survey might have been from different experiences and perspectives, which explains the variation in responses to the survey.

5. **Non-response Bias:** Non-response bias might be possible as the survey was sent out to several agencies and agents, but only a few turned up to fill the form. This could be as a result of a lack of interest in the subject matter.
6. **Limited Time:** The survey was sent out for barely two months. If there was sufficient time like giving a space of 6 months to gather data for the study, the results obtained might have been different from the current result obtained.

4.6 Summary

This chapter gave an overview of the purpose I conducted the study done for this research. The methods I used to carry out the research were explained, including the platform I used to conduct the survey, disseminate the survey, and receive the responses. This chapter also includes how the data gotten through the survey was cleaned and how the data was analyzed. The software I used for analysis was also mentioned, and how I used the software was explained. In this chapter, I also included that the responses obtained were divided into two groups to remove Nigerian response bias. Finally, the limitations applicable to this study were mentioned and explicitly explained. The main limitation was the fact that the survey was self-reported, which makes it subjective.

CHAPTER 5. RESULT

The results obtained from each question in the administered survey will be explained in this section using graphical illustrations and tables.

5.1 About the Respondents

The first set of questions asked were to know the agency of the respondents and the years spent in the agency and current position they occupy in their agency.

5.1.1 Agency Affiliation of Respondents

The first question asked was the name of the agency the respondents work. 90% of the respondent work for a law enforcement agency in Nigeria and different countries, 4% work for security services in the United States and Zimbabwe, 2% work for Ministry of Justice in Nigeria, 2% work for Digital Forensic Laboratory in Kenya and 2% work for Prosecution chambers in Eswatini. [Appendix 1](#) is a table showing the list of countries and agencies respondents work for.

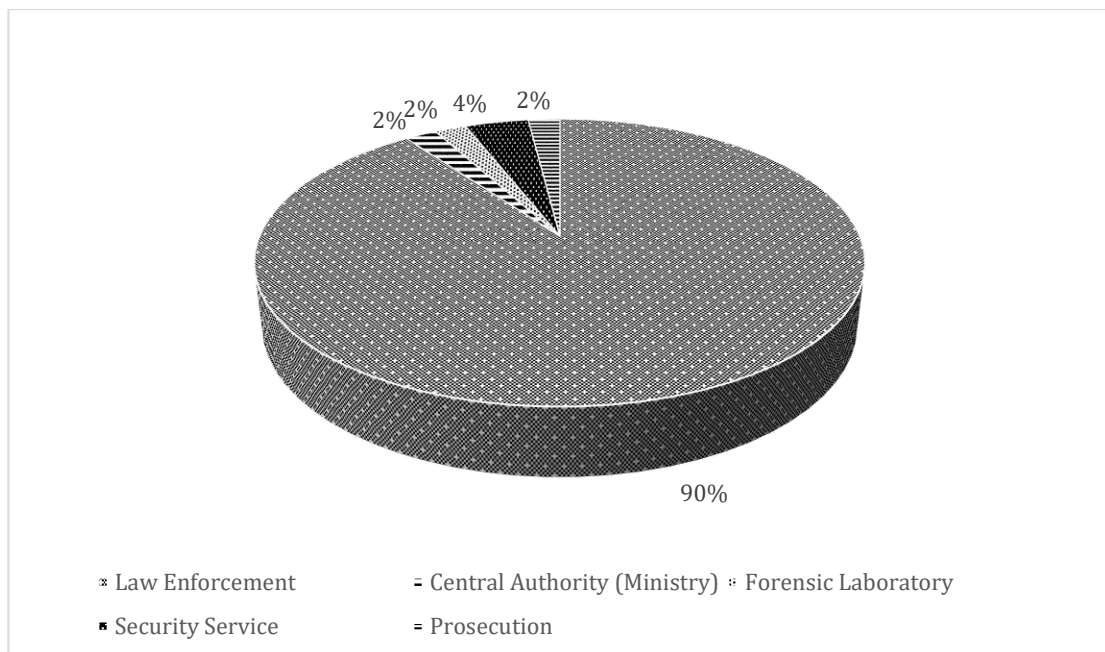


Figure 2: Pie chart showing the agency affiliation of respondents by percentage

5.1.2 Respondents Number of Years in Agency and Position

From the survey responses, the minimum number of years a respondent from Nigeria has worked for his/her agency was three years, and the maximum is 19 years. The mean number of years respondents have worked in their agency is 9.3 years with the variance being 27.7 and standard deviation being 5.3.

For other countries, the minimum number of years a respondent has worked for his/her agency was two years with the maximum being 40 years. The mean number of years respondents have worked in their agency is 15.35 years with the variation being 61.39 and variance 7.84.

The minimum number of years a respondent from Nigeria has worked in his/her current position was 1.5 years, with the maximum being ten years. The mean number of years respondents have worked in their current position is 10.2 years, with the variance being 35.2, and the standard deviation is 5.9.

For other countries, the minimum number of years a respondent has worked in his/her current position was one year with the maximum being 23 years. The mean number of years respondents have worked in their current position is 9.9 year, with the variance being 20.3, and the standard deviation is 4.5.

Table 2 below shows the summary of the results obtained

Table 2: Respondents number of years in agency and position

	Nigeria	Other Countries
Minimum number of years in an agency	3	2
Maximum number of years in the agency	19	40
Minimum number of years in current position	1.5	1
Maximum number of years in current position	10	23

5.2 Number of MLA Requests Per Year

5.2.1 Number of Request an Agency Sends to Other Countries

For the average number of MLA requests Nigeria agencies sends to other countries, 10 had the highest responses with 19.0% followed by 20 and 50 with 14.3%, 0, 2 and 5 had 9.5% responses 4, 6, 15, 100, 1000 had 4.8% responses. The mean of the responses is 9.2, the variance 21.2 and the standard deviation is 4.6.

22.6% of respondents from other countries said in a year, no MLA request is sent to other countries from their agency, 16.1% said the average number of requests sent from the agency is 10. 50 and 100 had 9.7% responses, 3, 5 and 20 had 6.5% responses, 1, 6, 7, 19, 30, 300 and 1000 all had 3.2% responses. The mean of the responses is 10.5, with the variance being 23.3 and standard deviation being 4.8.

5.2.2 Number of Request an Agency Receives from Other Countries

For respondents from Nigeria, 0 and 10 had the highest responses with 14.3% response, 15 and 200 had 9.5% response, 1, 3, 6, 7, 20, 22, 30, 50, 100, 150 and 1000 all had 4.8% responses. The mean of the responses is 14.1, with the variance being 43.3 and standard deviation being 6.6.

22.6% of respondents from other countries said their agency receives no request from other countries. 20 had 16.1% responses, 1 had 12.9% responses, 2 had 9.7% responses. 100 and 1000 had 6.5% responses. 3, 4, 5, 10, 35, 200, 300 and 500 all had 3.2% responses. The mean of the responses is 11.5, with the variance being 40 and standard deviation being 6.3.

5.3 Length of MLA Request Response

The question asked in this category was “In your experience, how long does MLA response take on average?”

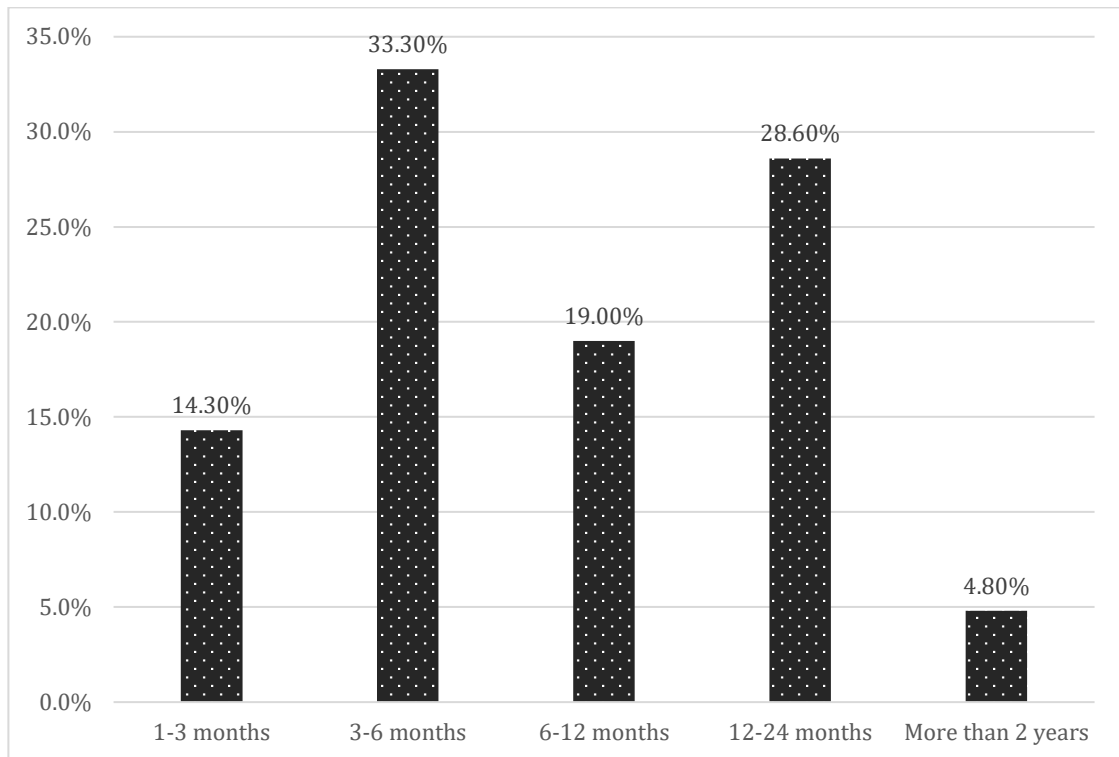


Figure 3: Responses from Nigeria respondents on how long it takes on average to respond to an MLA request

7(33.3%) of respondents from Nigeria said it takes 3- 6 months to respond to an MLA request, 6(28.6%) said it takes 12- 24 months to respond, 4(19%) said it takes 6- 12 months, 3(14.3%) said it takes 1- 3 months and 1(4.8%) said it takes more than 2 years to respond to an MLA request.

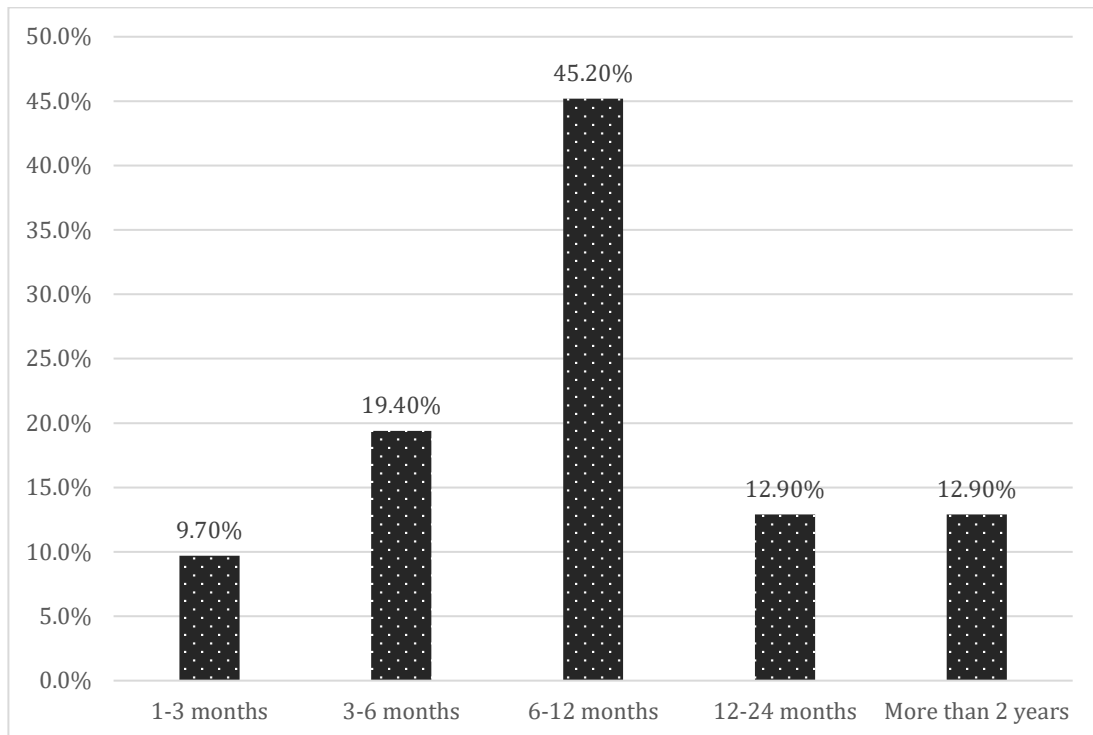


Figure 4: Responses from other countries on how long it takes on average to respond to an MLA request

14(45.2%) respondents from other countries said it takes 6-12 months to respond to an MLA request, 6(19.4%) said it takes 3- 6 months to respond to an MLA request, 4 (12.9%) said it takes 12-24 months to respond, and another 4 (12.9%) said it takes more than 2 years to respond to an MLA request. 3(9.7%) said it takes 1-3 months to respond to an MLA request. The result is similar to the study done by Swire and Hemmings (2015) which mentioned that it takes ten months to process an MLA request in the United States of America.

5.4 Active Cybercrime Investigation

A question was asked to assess the percentage of respondents that are involved in active cybercrime investigation. The pie charts below show the results obtained.

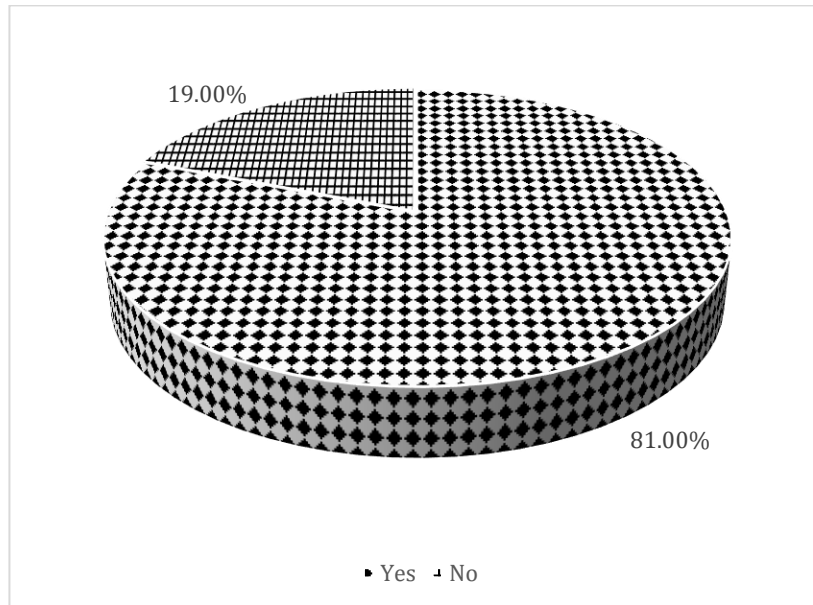


Figure 5: Pie chart showing the percentage of Nigeria respondents that do active cybercrime investigation.

81% of respondents from Nigeria are involved in active cybercrime investigation, while 19% of the respondents said they do not do active cybercrime investigation.

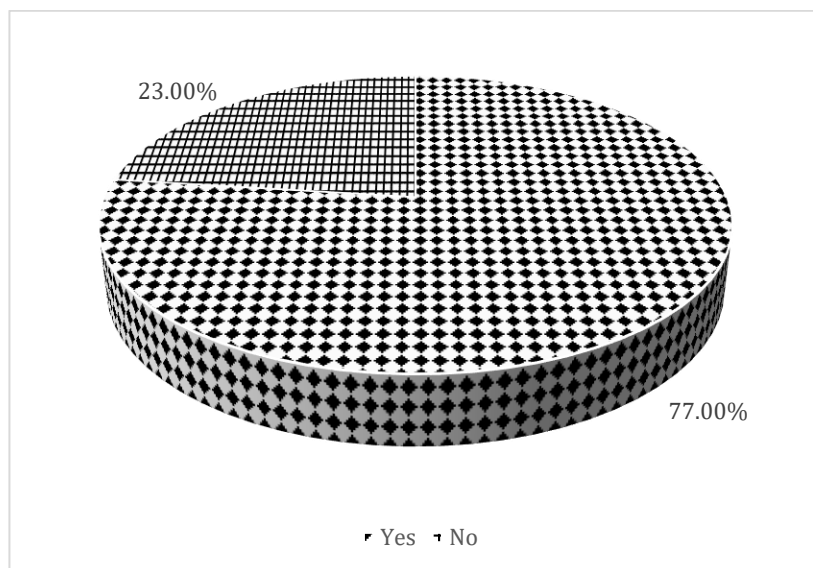


Figure 6: Pie chart showing the percentage of respondents from other countries that do active cybercrime investigation.

For this question, 77% of respondents from other countries are involved in active cybercrime investigation while 23% of them said they do not do active cybercrime investigation.

5.5 Availability of Legal Framework to Make Cybercrime Investigation Request to Other Countries

The question “Do you have a legal framework allowing your country to make cybercrime investigation request to other countries?” was asked to assess the percentage of respondents that are aware of the availability of legal framework allowing their countries to request help from other countries regarding a cybercrime investigation.

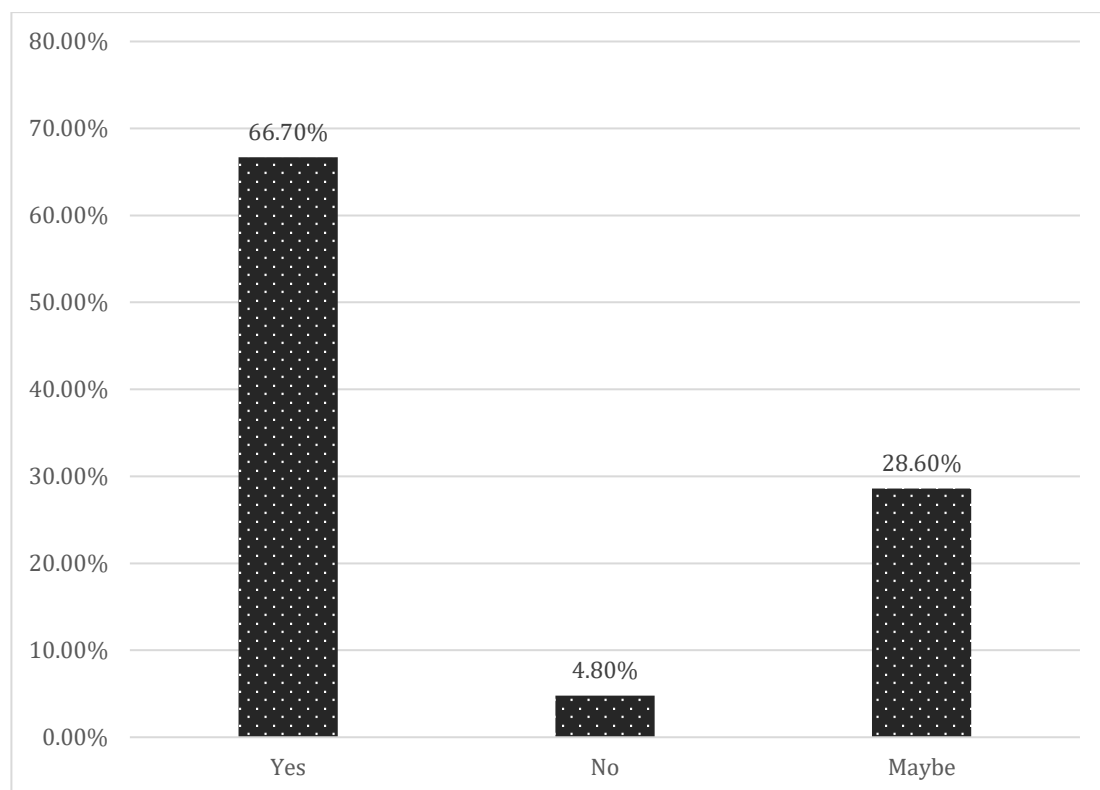


Figure 7: Bar chart showing the Nigerian responses to the question “Do you have a legal framework allowing your country to make a cybercrime investigation request to other countries?”

The Nigeria responses from the survey shows; 14 (66.7%) said there was legal framework allowing their country to make cybercrime investigation request to other countries, 6 (28.6%) were not sure of the legal framework availability, and 1(4.8%) said there was no legal framework allowing their country to make cybercrime investigation to other countries.

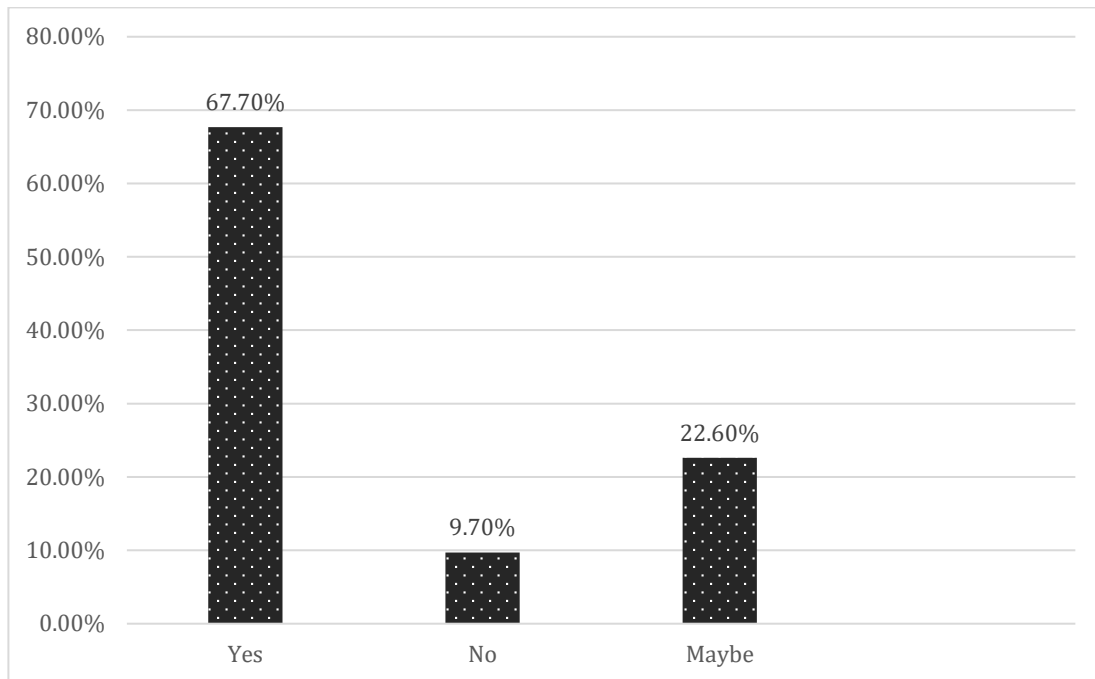


Figure 8: Bar chart showing the responses from other countries to the question “Do you have a legal framework allowing your country to make a cybercrime investigation request to other countries?”

Responses from other countries indicates; 21(67.7%) said there was legal framework allowing their country to make cybercrime investigation request to other countries, 7 (22.6%) were not sure of the legal framework availability, and 3(9.7%) said there was no legal framework allowing their country to make cybercrime investigation to other countries.

A similar question from Comprehensive Study on Cybercrime (Malby *et al.*, 2013) was included in the survey; “Does your country have legislation used as a basis for mutual legal assistance for cybercrime?”. Approximately 75% of the respondents reported the availability of legislation in their country applicable to cybercrime MLA matters according to the survey results reported in the study. For this study, the question asked was “Do you have a legal framework allowing your country to make a cybercrime investigation request to other countries?” 67.3% of the whole survey sample reported the availability of a legal framework in their country, which is lesser than the result reported by Malby *et al.*, (2013).

5.6 Channels to Make Request Regarding an Investigation

Respondents were asked for the channels their agencies have to make a request to other countries regarding an investigation. The respondents listed the channels their agency make a request through, some mentioned one, while others mentioned more than one channels used by their agencies. Qualtrics Text iQ function, which is used to categorize responses of questions into assign topics, was used to categorize the responses into topics. The assigned topics include; Interpol and MLAT, MLAT (Mutual Legal Assistance Treaty), Interpol, Ministry of Foreign Affairs and Ministry of Justice.

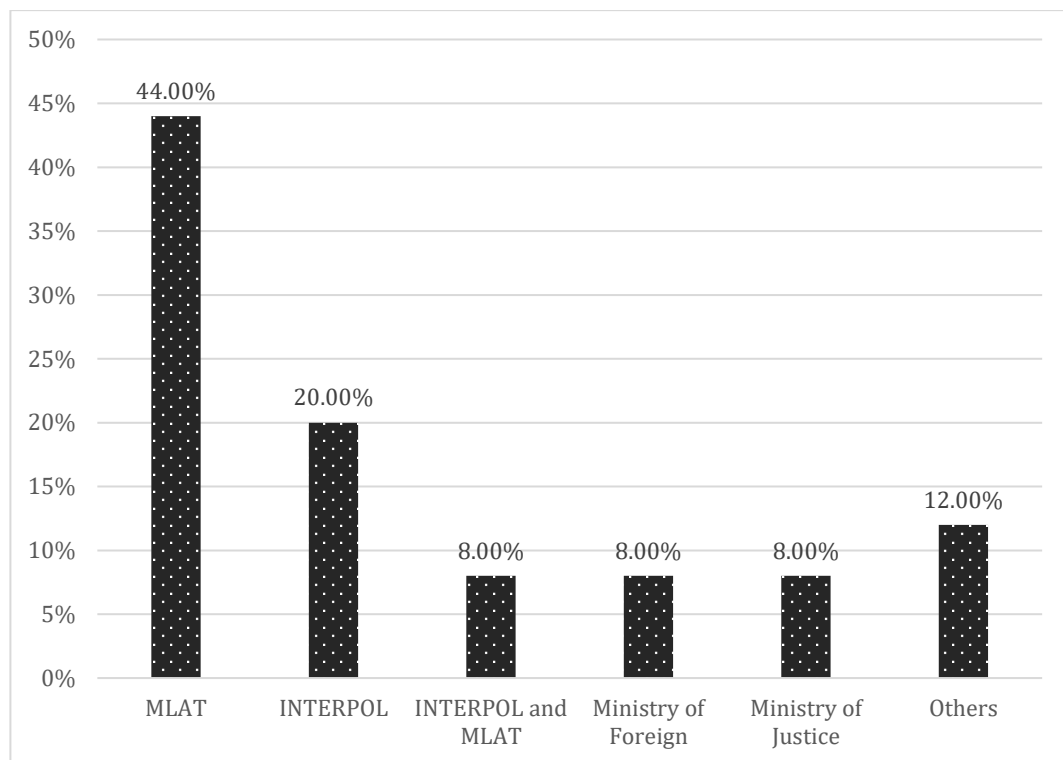


Figure 9: Chart showing the topic categorization of channels Nigeria respondents have to request MLA to other countries

From the Nigerian respondents, 44% of respondents mentioned MLAT as the channel their agency has to request MLA to other countries, 20% of respondents mentioned Interpol as their channel for requesting MLA to other countries. 8% of respondents mentioned Interpol and MLAT as the channels used by their agency. 8% of respondents mentioned Ministry of Foreign Affairs

as the channels used by their agency, and another 8% said Ministry of Justice was the channel used by their agency to make a request to other countries regarding an investigation. Other channels mentioned by Nigerian respondents include the Budapest convention international network point of contact (POC) 24/7, through the office of the Attorney General of the Federation and via emails.

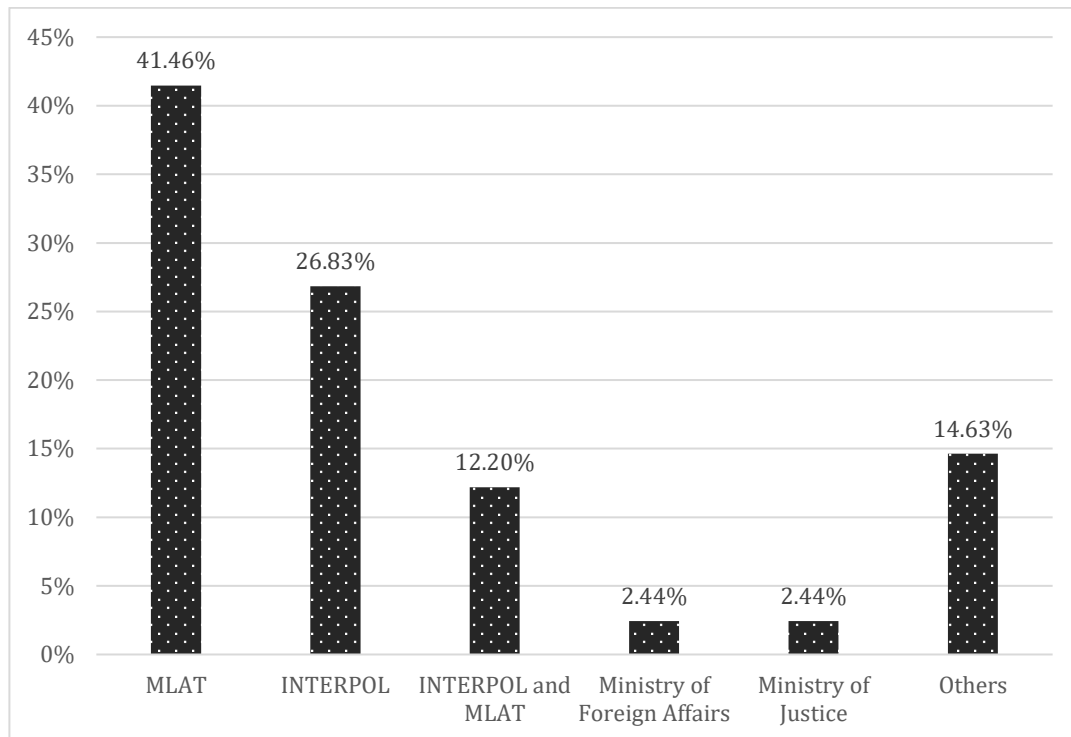


Figure 10: Chart showing the topic categorization of channels respondents from other countries have to request MLA to other countries

Respondents from other countries had similar responses to the respondents from Nigeria. 41.46% of respondents mentioned Interpol as the channel their agency use to request other countries regarding an investigation. 26.83% of respondents from other countries mentioned MLAT as the channel used by their agency to make request, 12.20% of respondents mentioned Interpol and MLAT as the channels used by their agency while 2.44% of respondents mentioned Ministry of Foreign Affairs as the channel used by their agency to make request to other countries another 2.44% of respondents mentioned Ministry of Justice as the channel used by his/her agency to make request to other countries regarding an investigation. Other channels mentioned by

respondents include diplomatic channels, Secure Information Exchange Network Application (SIENA) request, through legal attaché or liaison officers and via personal contacts to colleagues abroad.

The main channels to make an MLA request about an investigation by both Nigeria respondents and respondents from other countries is the Mutual Legal Assistance Treaty (MLAT) between countries and International Police Cooperation (Interpol) is used as a communication route between law enforcement agencies in different countries. Other channels include through central authorities like Ministry of Foreign Affairs, Ministry of Justice and through Attorney General's office, Other channels include direct contact through emails, via legal attaché or liaison officers, etc.

This result is similar to the study done by James and Gladyshev (2016), where respondents reported that channels for MLA requests included through the central authority of their nations and of the requested country, through direct contact to law enforcement agencies and investigators in the requested country and Interpol.

5.7 Effectiveness of the legal provision(s) to request information from countries

A question was asked to assess how effective the respondents think their legal provisions to request information from other countries is. A scale of 5 was used to assess the effectiveness with one being not effective at all, two being slightly effective, three being moderately effective, four being very effective and five being extremely effective.

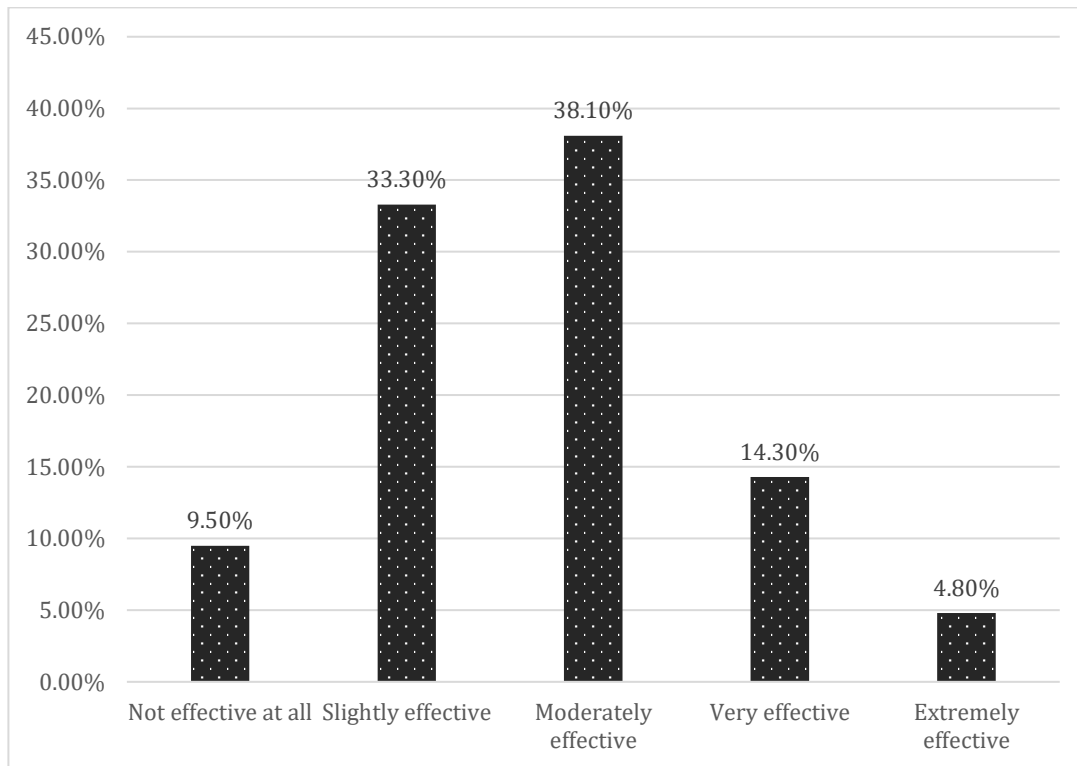


Figure 11: Chart showing how effective Nigeria respondents think their legal provision(s) for requesting information from other countries are

From the Nigeria respondents category, 38.1% said their legal provision(s) in terms of requesting information from other countries are moderately effective, 33.3% of the respondent said their legal provision(s) are slightly effective, 14.3% said the legal provision(s) are very effective, 9.5% said the legal provision(s) are not effective at all and 4.8% of the Nigeria respondent said the legal provision(s) are extremely effective.

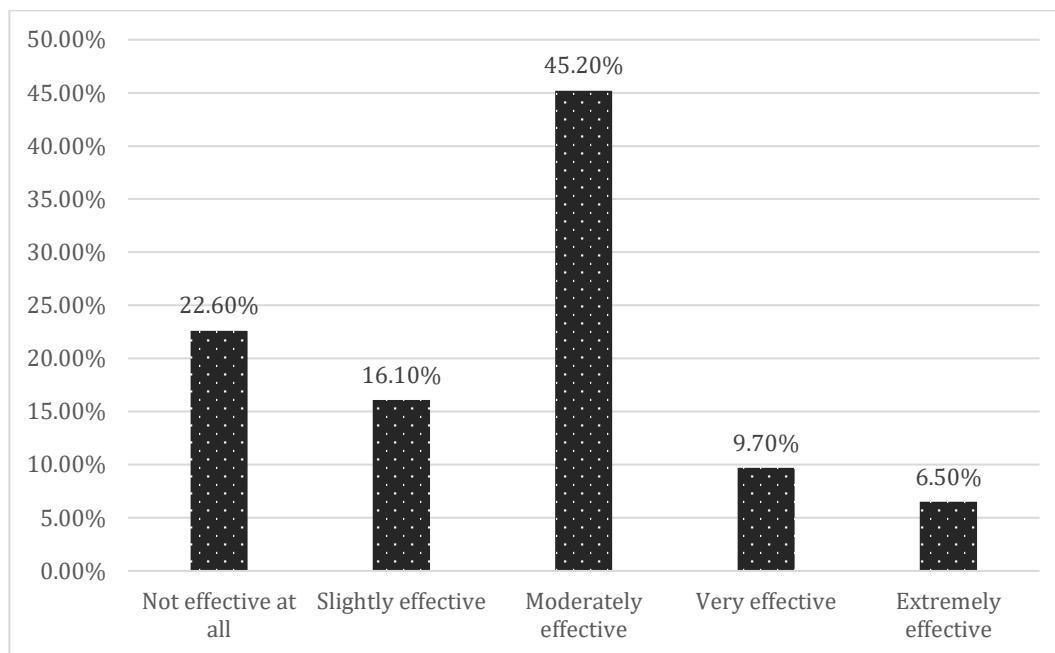


Figure 12: Chart showing how effective respondents from other countries think their legal provision(s) for requesting information from other countries are

45.12% of the respondents from other countries said their legal provision(s) in terms of requesting information from other countries are moderately effective, 22.6% of the respondents said their legal provision(s) are not effective at all, 16.1% said the legal provision(s) are slightly effective, 9.7% said the legal provision(s) are very effective and 6.5% of the respondents from other countries said the legal provisions for requesting information from other countries are an effective.

5.8 Challenges with MLA Requests

5.8.1 Challenges Encountered with Sending Mutual Legal Assistance (MLA) Request to Other Countries

The question “What is the greatest challenge with making an MLA request to other countries?” was asked to know the challenges faced by law enforcement agencies in both Nigeria and other countries while trying to send a request to other countries regarding an ongoing investigation. The options that were given includes; Bureaucracy, delayed response, no point of contact, insufficient

knowledge about the legal provisions of the country request is made to, no response from the requested country, language barrier and the last option was a free space to write any challenge that was not included in the options.

61.9% of the Nigerian respondents said bureaucracy was a noted challenge faced with making MLA request to other countries, 19% chose delayed response another challenge, 9.5% picked insufficient knowledge about the legal provisions of the country request is made to as the greatest challenge, 4.8% said no response from the requested country was the greatest challenge faced and another respondent replied “All of the above” indicating all the challenges listed including language barrier and no point of contact are the challenges faced with making MLA request to other countries.

For respondents from other countries, the delayed response was a noted challenge with 45.2%, and bureaucracy was another noted challenge with 19.4%, followed by no point of contact with 12.9% and insufficient knowledge about the legal provisions of the country request is made to have 3.2%. Any respondent did not pick the language barrier. Other challenges included by respondents are slow response and bureaucracy and mainly lack legal framework in the requested countries, very limited knowledge about international cooperation/channels/MLA procedures, etc. especially with investigators on fieldwork that does not have experience with international investigation steadily.

[Appendix 3](#) shows the graphical representations of the greatest challenge faced with making MLA request to other countries.

5.8.2 Challenges Faced with Received MLA Requests

The question “What is the challenge(s) you face when a request is received concerning an ongoing investigation from another country?” was included in the survey to know the challenges faced by law enforcement agencies in Nigeria when an MLA request is received from other

countries and also to assess the challenges faced by law enforcement agencies in other countries when a request is received from Nigeria.

For this question, it was allowed to pick more than one option. For Nigerian respondents, insufficient information was the highest with 28.6%; internal logistic issues had 19%, trust issues had 9.5%, a vague request had 4.8%, none had 4.8%. Other responses were combined responses with insufficient information included in all combined responses.

Result of responses from other countries are; insufficient information was the highest with 11%, 12.9% of the respondent said they have no challenge with received MLA request from Nigeria. 9.7% vague request is one of the challenges encountered with MLA request received from Nigeria, 6.5% of the respondents from other countries said some of the requests received are out of date requests, 3.2% said trust issues are encountered with received request and 3.2% said internal logistic issues are also encountered with received requests.

[Appendix 4](#) shows screenshots with the full responses with choice count and percentage of choices.

5.9 Knowledge of How to Request MLA from Other Countries

The question “Do you know how to request MLA from other countries?” was asked to assess how knowledgeable law enforcement officers are in requesting MLA from other countries.

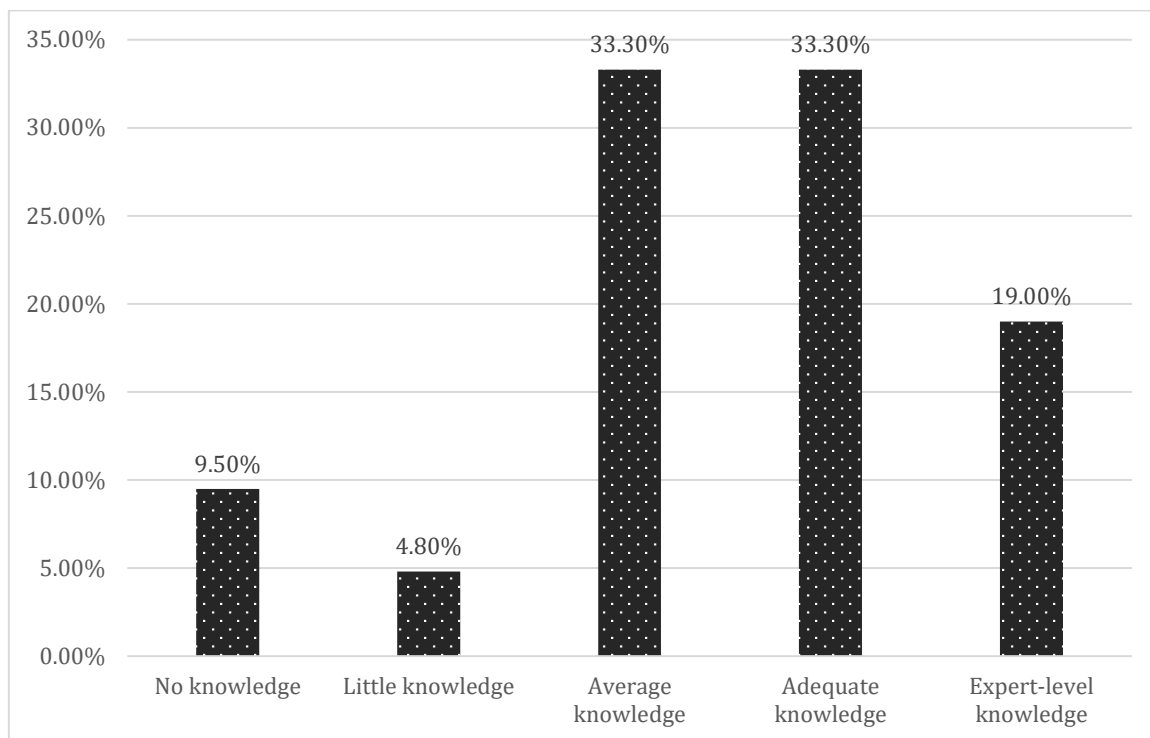


Figure 13: Knowledge of Nigeria respondents on how to request MLA from other countries

33.3% of respondents from Nigeria have Average knowledge of how to make MLA request to other countries, another 33.3% have Adequate Knowledge, 19% have expert-level knowledge, 9.5% do not know how to make MLA request and 4.8% have little knowledge on how to make MLA request to other countries.

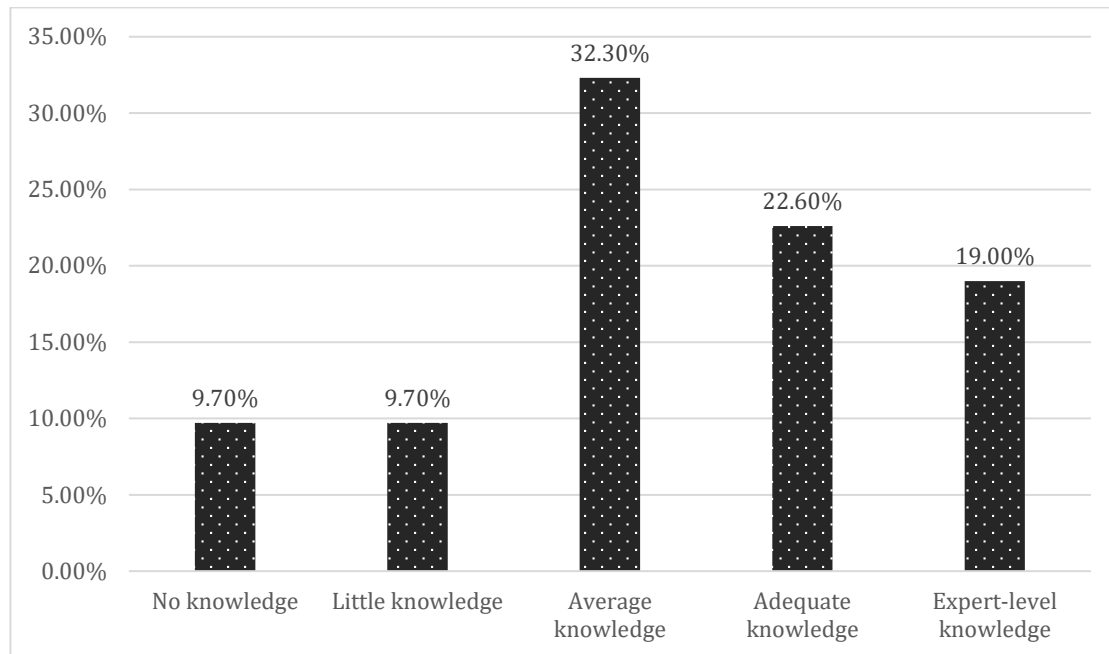


Figure 14. Knowledge of respondents from other countries on how to request MLA from other countries

32.3% of respondents from other countries have average knowledge on how to request MLA from other countries, 25.8% have expert-level knowledge, 22.6% have adequate knowledge, 9.7% do not know, and another 9.7% have little knowledge on how to request MLA from other countries.

5.10 Summary

This chapter included all the results obtained from the survey. The data gotten were represented using graphical illustrations and tables where necessary. Past researches similar to the results were also mentioned in applicable sections. From the study, it showed that it takes 6- 12 months on average to process an MLA request. MLAT was the main channel of requesting MLA from other countries, and Interpol is used as a communication route between law enforcement officers in different countries regarding an ongoing cybercrime investigation. The study showed that most of the respondents think the legal provision(s) in their country to make an information request to other countries regarding an ongoing cybercrime investigation is moderately effective. The noted

challenges indicated by the respondents for sending requests to other countries are bureaucracy and delayed response while insufficient was the noted challenge with requests that are received from other countries from the study. The result from the study showed that most of the respondents have average knowledge on how to send an MLA request to other countries regarding an ongoing cybercrime investigation.

CHAPTER 6. ANALYSIS AND DISCUSSION

Analysis of the results reported in the previous chapter will be explicitly explained and discussed in this chapter. The research questions will also be explicitly answered, and the relevance of the study will be stated.

6.1 Correlation Between Variables

Using Qualtrics, the correlation analysis on a significant level of 95% was done between the independent variable “knowledge of how to request MLA from other countries” against the dependent variables represented by other question. The relevant results are shown in the tables below.

Table 3: Correlation between knowledge and the number of years in agency and position for Nigerian respondents

Independent Variable	Dependent Variable	p-value
Number of years in the agency	Knowledge of how to request MLA from other countries	0.05
Number of years in current position		0.02

Table 4: Correlation between knowledge and the number of years in agency and position for respondents from other countries

Independent Variable	Dependent Variable	p-value
Number of years in the agency	Knowledge of how to request MLA from other countries	0.75
Number of years in current position		0.69

Table 5: Correlation between tested variables for Nigerian respondents

Independent Variable	Dependent Variable	p-value
Knowledge of how to request MLA from other countries	Challenges with received MLA request	0.03
	Length of MLA response	0.02
	Effectiveness of Legal provisions	0.37

Table 6: Correlation between tested variables for Other Countries respondents

Independent Variable	Dependent Variable	p-value
Knowledge of how to request MLA from other countries	Length of MLA response	0.00001
	Challenges with received MLA requests	0.01
	Effectiveness of legal provisions	0.33

For the number of MLA requests sent to other countries, for Nigerian respondents, the mean value was 9.2 and the variance 21.2. For respondents from other countries, the mean value was 10.5, with the variance being 23.3. The mean value indicates that Nigeria law enforcement agencies send lesser MLA requests to other countries in comparison to the results from another country. The variance indicates that responses from other countries had more difference than responses from Nigeria. The reason for the differences might be as a result of the combination of responses from 18 countries classified as one.

For the number of MLA requests received from other countries, Nigeria responses had the mean value of 14.1 with the variance being 43.3. Responses from other countries had a mean value of 11.5 with the variance being 40. The result of the mean value indicates that Nigeria law enforcement agencies receive more MLA requests than other countries. The variance indicates that responses from other countries had lesser difference than responses from Nigeria. Again, the result cannot be conclusive because of the combination of responses from 18 countries classified as one in comparison to the result from one country.

From Nigerian respondents, the average time to respond to an MLA request lies between 6- 12 months and 12- 24 months. There was a significant relationship ($p\text{-value} = 0.02$) between the response time and knowledge of how to make MLA request. For respondents from other countries, it takes 6- 12 months on average to respond to an MLA request and the knowledge of how to make MLA request had a significant relationship ($p\text{-value} = 0.00001$) with the length of time it takes to respond to an MLA request. This significant relationship discussed above indicates that, from my study, increased knowledge of how to make MLA request reduces the length of time it takes to respond to an MLA request.

Swire and Hemmings (2015) mention in their study that it takes ten months to process an MLA request in the United States of America. This supports the result obtained from my study that it takes 6-12 months on average to process an MLA request. The time factor is relative. The length

of time it takes to respond to a request might be dependent on some other factors like the relationship between the two countries, the type of cybercrime case that is to be investigated, the impact of the crime, etc. These factors might be considered when cases are received from other countries, and the cases might be responded to according to priority not according to when the cases are received. This time taken to process a request is too long compared to the number of requests received in a year. As mentioned by Prost (2007) as one of the challenges of MLA, the response to requests are received very late and might not be useful by the time it arrives.

Comparing the results obtained for the availability of legal framework allowing countries to make cybercrime investigation request to other countries in my study to the result obtained by Malby *et al.*, (2013), the results for my study is lesser than the result reported by Malby *et al.*, (2013). The change in result might be due to sampling size difference or unawareness of the respondent to the legal framework in their country, allowing for MLA request to other countries or the difference in what was tested or how the question was asked. The result from the survey indicates that many countries' lawmakers have to put in more efforts to make provisions for a legal framework allowing their country to request MLA from other countries. Moreover, if there is a legal framework in place for this purpose, awareness should be created among officers of law enforcement agencies to encourage them to learn about the legislation to increase their knowledge on mutual legal assistance requests.

For the channels available to make a request to other countries regarding an ongoing cybercrime investigation in my study, most respondents from Nigeria and other countries mentioned Interpol as a channel for communication and MLAT which is provided by international co-operation as the channel for sending an MLA request to other countries. This result is like the study done by James and Gladyshev (2016). If those are the main channels for making requests to other countries, it indicates most countries are a signatory to one or more international cooperation that provides this mutual assistance.

For Nigerian respondents, the number of years spent in the agency has a significant relationship with the knowledge of how to make MLA request with a p-value of 0.05, this indicates, the longer you work for an agency, the more knowledgeable you are on how to request MLA from other countries. The number of years spent in their current position was also significant to the knowledge of how to request MLA with a p-value of 0.02, this shows if the position an officer stationed deals more with crimes across a national border, there is a high probability of being more knowledgeable and active with MLA matters. The result of respondents from other countries showed no significance between the number of years worked in position or agency and knowledge on how to request MLA from other countries. The result might be as a result of not focusing on a country. The dataset consists of responses from 18 different countries. There is bound to be differences in the country's legal system, and combining the countries will affect the result.

The analysis of the data obtained from both Nigeria and respondents from other countries indicated that law enforcement officers have adequate knowledge on average on how to request MLA from other countries. This knowledge was the basis for the study I did, and since it was a self-reported study, it is subjective and might be different if there was a way to measure the knowledge of law enforcement officers on MLA matters objectively.

The responses obtained from both Nigerian and respondents from other countries indicates legal provisions to request information from other countries are slight to moderately effective. Prost (2007) stated that “success in mutual assistance is dependent almost entirely on the knowledge and most critically, the flexibility of the authorities, requests and even more importantly, assisting”. Regarding that, a correlation analysis was done between knowledge of law enforcement officers and the effectiveness of legal provisions allowing countries to request information from other countries regarding an ongoing cybercrime investigation, and it indicated no significant relationship.

Ineffectiveness of these legal provisions can be as a result of not having enough channels or relationship with other countries to help in the investigation of cybercrime involving other countries. Ineffectiveness can also be as a result of a country not having standard procedure and guidelines to follow regarding an ongoing investigation.

The results obtained from the survey shows Nigerian respondents indicated bureaucracy as the greatest challenge encountered with making MLA request to other countries while respondents from other countries indicated delayed response as the greatest challenge they experience when an MLA request is sent to Nigeria. These challenges are somewhat related because the procedures officers who work in law enforcement agencies in Nigeria have to go through before their MLA requests can be processed in their country before it is forwarded to the requested country is lengthy and burdensome. This can also be the factor that leads to delayed response on the part of respondents from other countries. Swire and Hemmings (2015) also mentioned the cumbersome stages for processing MLA requests as a problem affecting the effectiveness of MLA.

Knowledge of how to make MLA request to other countries have no significance in the challenges encountered with sent requests. Other challenges indicated by the respondents both Nigerian and other countries include no point of contact, insufficient knowledge about the legal provisions of the country request is made to, no response at all from the requested country, language barrier, etc.

With regards to the challenges faced when an MLA request is received from other countries, the result shows insufficient information as the main challenge encountered with received requests. This is like the study done by James and Gladyshev (2016) where it was stated that “26% of respondents claimed only 25% - 50% of MLA requests received contained all information necessary to process the request”.

The challenges pointed out by respondents in this survey is like some challenges mentioned in past researches. ADB-OECD (2017) challenges like the challenges pointed out in the survey are

language barriers and delayed (no response at all or insufficient) response. MLAT documents include documents that are required to request MLA from other countries but does not include relevant information and evidence needed in specific cases or crime type. MLAT is used for any transnational crime which cybercrime is a type. There are several types of cybercrime, and these MLAT documents do not include the content of request by crime type.

For Nigerian respondents, the knowledge of how to make MLA requests has a significant relationship ($p\text{-value} = 0.03$) with the challenges faced with the received request; For responses from other countries, the knowledge of how to make MLA requests also has a significant relationship ($p\text{-value} = 0.00001$) with the challenges faced with the received request.

The relationship above indicates the more knowledgeable law enforcement agents are with making a request; the fewer challenges they will encounter when MLA requests are received from other countries.

6.2 Answers to Research Questions

1. Does the knowledge of how to make mutual legal assistance request to other countries affect the effectiveness of mutual legal assistance?

Answer: From the study done, having adequate knowledge of how to request mutual legal assistance to other countries does not accelerate transnational cybercrime investigation ($p\text{-value} = 0.37$ for Nigeria and 0.33 for other countries) as shown in [section 6.1](#). Most respondents from the survey have adequate knowledge about how to request MLA from other countries, and they still mentioned how slightly effective it is.

As stated in my hypothesis, “even with mutual legal assistance treaty between countries, law enforcement agencies are not compelled to respond to requests from

other countries. A newly received request might be more urgent than a request that has been received some days, weeks or months ago”.

2. Does the knowledge of how to make mutual legal assistance request to other countries reduce or eliminate the challenges that might be faced with sent and received mutual legal assistance requests?

Answer: From the study, it revealed that the knowledge of how to request MLA does not reduce or eliminate the challenges faced with the sent request. Law enforcement agencies after sending MLA requests have no power over the sent request. The only power they have over the request is to make sure it consists of the necessary documents that will be needed to process the request. After the request is submitted, the officer in charge has no power over the processing nor the response from the requested country. As stated in my hypothesis, treaty documents include the required documents essential to be attached to a request. Some transnational crime requires more than the documents specified in the treaty agreement, and when the non-listed vital documents are not attached, it brings about insufficient information and might lead to delayed response or no response at all.

From the study, it revealed that the knowledge of how to request MLA does reduces and eliminates some of the challenges faced with requests that are received (p-value 0.03 for Nigeria and 0.01 for other countries) as shown in [section 6.1](#) — knowing how to go about processing a request, knowing the right documents to cross-check and the right authority to relate the progress with sure limits the challenges that might be encountered.

3. Does the knowledge of how to make mutual legal assistance request to other countries reduce the length of time used to process and respond to requests?

Answer: The study revealed that the length of processing time is reduced when the officer in charge knows how to go about the request (p-value 0.02 for Nigeria and 0.00001 for other countries) as shown in [section 6.1](#). As stated in my hypothesis, “knowing what to do at a particular time when a request is received or in the process to be sent, reduces the time spent on the processing but in reality, there may be several reasons including political, that may affect what response and when responses can be sent.”

To crown it up and answer the main research question, “Does knowing how to request mutual legal assistance to other countries accelerate transnational cybercrime investigation in a country? i.e. does it make the investigation faster?”, from the study, the knowledge of how to make MLA request does affect the processing time and the challenges faced with received MLA requests but does not affect the effectiveness of MLA. Moreover, if the effectiveness of MLA is not affected by the knowledge of MLA, it is not likely to accelerate transnational cybercrime investigation in a country.

As mentioned earlier, ineffectiveness can be related to the relationship between countries, lack of standard procedure and as mentioned by Swire and Hemmings (2015), insufficient knowledge about what is required to process a request by the requested country.

As mentioned earlier, MLAT is used for a transnational crime which is of different types, and the documents do have a guide for making a request but do not have a guide for requesting for assistance according to the type of crime in question.

Cybercrime, as a transnational crime is different from physical crimes like arms and drugs trafficking that the evidence can be seen physically and prosecuted quickly. Cybercrime, as said by Oerlemans (2017), is committed in cyberspace, and it comes with many challenges of data encryption, the anonymity of the criminal, jurisdictional problem and limit of MLA. These

challenges affect the investigation of the crime, and the effectiveness of MLA can be assured by the willingness of the requested country to help regardless of the state of the request sent.

6.3 The relevance of the Study

This study from the perspective of law enforcement officers gave an insight into;

- The average number of MLA request sent and received by agencies per year
- The average length of time it takes to respond to an MLA request (6- 12 months)
- How much work needs to be done by governments of countries to put into place a legal framework to allow their countries to make cybercrime investigation request to other countries.
- The channels available for countries to make a request to other countries regarding a cybercrime investigation
- The effectiveness of MLA as an instrument of requesting information from other countries regarding an ongoing cybercrime investigation
- The challenges faced with when MLA requests are received from and sent to other countries
- How knowledgeable law enforcement officers are on MLA matters and how their knowledge affects the effectiveness, processing time of MLA and how it affects the challenges faced with MLA requests.
- However, the study cannot be entirely relied on due to the subjectivity of the study as a self-reported study.

6.4 Summary

The analysis of the results reported in the previous chapter was explicitly explained and discussed in this chapter. The research questions were also explicitly answered, and the relevance

of the study was stated. From the chapter, I understood that the study I did is somewhat similar to the past study done by researchers. The responses got for the length of time it takes to process to an MLA is similar to the study done by Swire and Hemmings (2015). The responses gotten for the channels of making a request was also similar to the study done by James and Gladyshev (2016). However, the result obtained for the available legal framework to make an information request in countries was slightly different from the study done in 2013 by Malby *et al.* The possible reasons for the difference was also mentioned in this chapter. The correlation analysis and what they indicated was also mentioned in this chapter.

CHAPTER 7. POLICY RECOMMENDATIONS AND FUTURE WORK

In this chapter, the recommendations made based on the study I did, and study done by past researches will be explicitly explained. The proposed policy will be discussed under the subtopics of how it can be done and what is required to be implemented, benefits of the recommendation, how feasible each recommendation is, the time frame for implementation and effectiveness and finally the possible challenges that might be faced with each recommendation. This chapter finally includes the future work I am interested in carrying out based on this research done by me.

7.1 Policy Recommendations

Each of my proposed policy will be briefly introduced and then further discussed under the following subtopics;

- a. Steps Required to Implement the Policy and Resources Needed: This will include the materials that are needed for the proposed policy to be implemented. It will also cover how the proposed strategy can be done.
- b. Benefits to the process: This will include the advantages of implementing the proposed policy to the system.
- c. Feasibility of the Proposed Policy: This will include how possible the proposed recommendation is.
- d. Implementation and Effectiveness Time Frame: The implementation time frame is the length of time it will take to put into practice the proposed policy. The effectiveness time frame is how long it will take for results to be seen after the recommendation has been implemented.

- e. Possible Challenges Associated with the Proposed Policy: This will include the confrontations that might be faced while considering implementing the proposed policy.

Nigeria is the case study of this research, and the recommendations will be discussed with Nigeria being the center of consideration. In Nigeria, there are various Ministries which are the central authority for the different sectors and organizations in the country. For law enforcement agencies in Nigeria, the central authority for requesting mutual legal assistance is resident in the Federal Ministry of Justice. The Attorney General of the federation is the head of the Ministry of Justice, and he is also known as the Minister of Justice. The Attorney General of the country has to give consent for the proposed policies to be considered for implementation.

The following recommendations are based on the findings of my research. They are not necessarily the best policies. This is because of the complexity of international politics, it unknowns and the varying degrees of the level of cooperation between individual countries.

7.1.1 Utilizing an online platform to address MLA request procedures (i24/7)

The study I did indicated insufficient information as the noted challenge with received requests. The study is also similar to the research done by James and Gladyshev (2016), which stated that respondents also reported insufficient information as a challenge with received requests. This insufficient information in requests can be bridged by creating an online platform where information on how to send MLA request regarding different types of crime between central authorities of different countries can be disseminated. This online platform gives prospective requesting countries the guideline of what is needed for their request to be processed in the requested country and a platform to send the requests through.

This online platform is solely for the use of central authorities in the respective countries to aid MLA requests. This proposed platform, like the i24/7 system used by Interpol, can be used for communication and information sharing purposes. However, the i24/7 system is only available to the National Central Bureau (NCB) and selected law enforcement agencies. Unlike the i24/7

system, where information received cannot be used for court purposes, requests/ information received on this proposed platform could be legally used for court purposes since it will be processed through the central authority of the country.

Swire and Hemmings (2015) also gave a similar recommendation to the U.S. government to have sufficient information about MLAT, and online methods of making MLAT as a process of increasing the effectiveness of MLAT as a tool of investigating the transnational crime.

- a. Steps Required to Implement the Policy and Resources Needed:** To successfully implement the proposed policy, which will be implemented at the central authority level, there will be a need for funds to purchase dedicated computers and servers by the respective governments of member state countries. These computers and servers will serve as a central server for data collection. This will serve as a collection point for all MLA requests securely sent to the central authority of a particular country. This can be implemented in all countries interested in deploying this proposed policy. Unlike the UNODC's Sherloc Database, which is available to everyone on a website, this proposed online platform should have portals that will be available to only central authorities of countries that will implement it.

This recommended online platform will provide an alternative channel of communicating MLA requests between central authorities of member countries and therefore, will require high-level online security measures to be implemented. Similar to the security measures recommended on the e-CODEX platform for European Union member states to exchange forms and digital evidence securely, as mentioned by Jōgi *et al.* (2018). The e-CODEX platform is an IT system for cross-border judicial cooperation which allows users to send and receive documents, legal forms, evidence or other information securely.

- b. Benefits to the process:** The benefits attached to implementing this proposed policy include; the swift transmission of request, implementation of end-to-end security in the communication channel, real-time communication and collaboration between countries.
- c. Feasibility of Proposed Policy:** The feasibility of this proposed policy is dependent on respective governments to dedicate funds to implement it. It's implementation will be at the level of the respective countries central authorities.
- d. Implementation and Effectiveness Time Frame:** Implementation depends on the availability of funds in the respective countries to deploy the platform. The effectiveness of the policy can be measured if compared with the previous channel of communicating and sending requests between countries.
- e. Possible Challenges Associated with the Proposed Policy:** The perceived challenges with implementing this policy will primarily be based on funds in the respective countries to deploy this platform. The centralized standard format or operating software to deploy the platform. Training of personnel (POC) in the respective countries to use the platform effectively.

7.1.2 Reduction of Bureaucracy in Nigeria legal system (centralized POC)

The study that was done by Swire and Hemmings (2015) mentioned Bureaucracy as a challenge encountered with sending MLA requests to other countries; this bureaucracy eventually leads to the delayed response of the request sent. For the study I did, respondents indicated bureaucracy and delayed response as noted challenges faced with sending MLA requests to other countries. The reduction in the bureaucracy can bridge these challenges by streamlining the request process through a centralized point of contact for requests to be processed at a go.

To increase timeliness in sending and processing MLA request, the reduction of bureaucracy in Nigeria legal system should be considered. Streamlining the process means having a centralized point of contact where multiple processes can come through. Swire and Hemmings (2015) also

mentioned a reduction of the number of steps required to process an MLA request by streamlining the request processes as a possible solution to make MLA more effective.

- a. **Steps Required to Implement the Policy and Resources Needed:** Implementing a reduced bureaucracy policy in the Central Authority will involve automating most of the processes and eliminating much of paperwork from the online platform created for sending and receiving MLA requests securely. A centralized point of contact who has authorizing powers for decision making will then be appointed. There will be a central collection server, which will form the warehouse for the collection of all requests that comes into the central authority each having templates for specific requests. The template for a cyber-related request for assistance will then be moved to the terminal of the POC who already has a template to address emails to the relevant investigating agency. He would look through the request and forward to the relevant agency for investigation.
- b. **Benefits to the process:** The benefits of this policy include the elimination of the backlog, which arises because only a few low-ranking officers have to read through requests and sort while handling other processes. The sorting is already done by the provision of the online template for making specific requests. Reduced paperwork is another benefit as it takes only the POC who is also an authorizing officer to get and send only related requests to relevant investigating agencies.
- c. **Feasibility of Proposed Policy:** The implementation of the policy is feasible as seen with other existing platforms that have reduced paperwork and increased confidentiality like the i24/7 and other secured platforms for information exchange.
- d. **Implementation and Effectiveness Time Frame:** This will depend wholly on how quick the member states can agree and set up the online systems. The effectiveness can then be measured in comparison with what is currently in existing.

- e. **Possible Challenges Associated with the Proposed Policy:** The associated challenge with implementation will be dependent on the member states consenting on the platform's usage and time frame for each member state to implement.

7.1.3 Training of new personnel about international cooperation

From the study I did, knowledge plays a positive role in the reduction of processing and response time of MLA request (p-value 0.02 for Nigeria and 0.00001 for other countries). From my study, it also showed that increased knowledge brings about fewer challenges with received MLA requests (p-value 0.03 for Nigeria and 0.01 for other countries). Since knowledge is brought about by training, training of new officers in the field about international cooperation regarding transnational cybercrime investigation is essential.

UNODC (2001) also recommended the increased training of personnel involved in international cooperation. Newly employed officers in the law enforcement agencies should be trained on the available channels of making MLA request when they encounter transnational cybercrime and how to go about requesting MLA to other countries regarding an ongoing cybercrime investigation. This can be achieved by assigning new officers as mentees to officers with expert knowledge of cybercrime investigation (the know-how). According to an article by Leischen (2015), mentorship programs in law enforcement agencies have proven effective to help young officers become smarter and more productive. The mentoring officers should be given the task of putting the new officers through the cybercrime investigation know-how and if presently working on a case, should go through the processes carrying the new officer along.

- a. **Steps Required to Implement the Policy and Resources Needed:** For this proposed policy to be successfully implemented, transnational crimes have indicators which show that the cooperation of a given country is needed including IPs gotten from email headers, date and timestamps that indicate geographical locations, currencies, identifying source

of the attack, transit and destination of the perpetrator and evidence. The mentees can be trained to follow the steps below identified as investigators role by UNODC (2010);

- i. Identify if or where cooperation is required: In the event of a loss (financial or intellectual) outside one's jurisdiction, international cooperation will be needed.
 - ii. Identify what evidentiary materials are required: This type of evidence will say the country's specific information such as IPs, Bank details, passport information and other relevant details when available.
 - iii. Identify what your legal constraints are: Preliminary knowledge of existing treaties between your country and the country that request is the sort to be made to. Finding out the legal provisions for such crime in the country request is the sort to be made to and knowing if there is the existing point of contact to the country is also essential.
 - iv. Identify what procedure is likely to produce the expected result: When the requested country has been identified, this can determine whether to engage them directly through police-to-police cooperation based on an existing relationship or through formal channels created by international cooperation like Budapest convention, UNODC or other regional treaties.
 - v. Mentees should be guided by senior officers, prosecutors or investigating judges, as appropriate, before embarking on a course of international cooperation: No one is an Island of knowledge.
- b. Benefits to the process:** There will be a continuity of competence of the investigating body, it saves time; it brings about a lasting relationship between officers in different countries. Fresh ideas can also be injected by the young mentees to improve the existing process.

- c. **Feasibility of Proposed Policy:** This policy is feasible because law enforcement training requires a period of mentorship in the field of investigation. Therefore, this can also be incorporated in such a mentorship scheme.
- d. **Implementation and Effectiveness Time Frame:** Implementation depends on a stipulated time frame for mentorship training by the law enforcement agency and the effectiveness time frame depends on continuity, which will bring about the better experience in the new officers.
- e. **Possible Challenges Associated with the Proposed Policy:** This can be banned depending on the management of the organization since it is not compulsory by the law. Another possible challenge that might be encountered with this policy is the financial constraint to deploy resources for the mentorship training scheme fully.

7.1.4 Training and Re-training of law enforcement officers in the field

From the study I did, the knowledge positively affects the length of response time (p-value 0.02 for Nigeria and 0.00001 for other countries) and the challenges faced with the received request (p-value 0.03 for Nigeria and 0.01 for other countries). Moreover, as mentioned earlier, knowledge is brought about by training. Law enforcement agencies should ensure the training and re-training of its officers regarding the available legal provisions to make MLA request to other countries. Training does not necessarily have to be passing across new knowledge; it can also be about discussing challenges encountered and how these challenges can be overcome through the sharing of ideas and possible solutions during training. This would ensure effectiveness in the process of MLA request and guide successful cybercrime investigations. This can be done by organizing training and seminars whenever new laws are made or when new channels regarding transnational crime investigations are provided. This is also similar to the recommendation given by UNODC (2001) to increase training of personnel involved in MLA.

- a. **Steps Required to Implement the Policy and Resources Needed:** The law enforcement agency in conjunction with the Ministry of Justice can hold annual training and re-training sections to bring to speed law enforcement officers in the field with relevant laws regarding MLA request and other international cooperation. The training and re-training can be done in batches to accommodate all officers in different regions of the country and to prevent moving all officers off the field at the same time.
- b. **Benefits to the process:** Benefits attached to implementing this policy include; increased competence, shorter turn over time of processed requests, the effectiveness of officers and increased knowledge of the channels available for international cooperation and how to go about requesting MLA to other countries.
- c. **Feasibility of Proposed Policy:** Just like seminars and conferences are usual functions carried out by government agencies annually, this policy of training and re-training could be implemented as an upgrade of any of the training for law enforcement. Therefore, it is very feasible and can be implemented.
- d. **Implementation and Effectiveness Time Frame:** Implementation of this policy solely depends on the agreement of the management of both the Ministry of Justice and law enforcement agency and other relevant stakeholders. The effectiveness time frame depends on the commencement of training.
- e. **Possible Challenges Associated with the Proposed Policy:** Budgetary constraint is a usual challenge with many Government agencies, and this negatively impacts on training budgets. Time can also be a challenge considering the workload of police officers.

7.1.5 Promotion of Guideline for MLA requests for digital evidence (emphasize)

The focus of my study is the cybercrime investigation. Cybercrime has a virtual component that requires digital evidence for investigation and prosecution. International cooperation treaty documents state how to make MLA requests and the contents of the request, but do not state

accurately the documents needed to be attached to the MLA request regarding a cybercrime investigation and cybercrime usually require digital evidence to be successfully investigated. UNODC (2001) also recommended the increasing availability and use of practical guides. As stated by James and Gladyshev (2016) to create “a generally accepted guideline for writing mutual legal assistance requests for digital evidence should be created and a community to promote such guidelines to ensure more requests would be complete and accurate”. In February 2019, UNODC released Practical Guide for Requesting Electronic Evidence Across Borders. Emphasis should be on the use of this guideline to improve MLA requests effectiveness for cybercrime cases. This recommendation should be considered to reduce the challenges of insufficient information encountered with received MLA request regarding cybercrime investigation.

- a. Steps Required to Implement the Policy and Resources Needed:** Emphasis on compliance to guidelines put out from treaties and conventions should be continuously encouraged among member states. Time frame to challenge member countries to ensure compliance should also be set.
- b. Benefits to the process:** Every member country stands to benefit from being able to collaborate seamlessly or with less limitation. The benefits also include being able to share digital information and conduct cross border investigation, which would result in a decline in the rate of cybercrime.
- c. Feasibility of Proposed Policy:** The already existing policies are the outcome of international deliberation for which member states are represented and become signatories. The concerns and recommendations expressed at such meetings are what makes the content of the regulation. It is the expectation of all member countries to ensure compliance, and that is the clear recommendation of this policy.

- d. Implementation and Effectiveness Time Frame:** Implementation will depend on the knowledge acquired by the officers. The Effectiveness depends on the adoption of the policy by other member states
- e. Possible Challenges Associated with the Proposed Policy:** Adoption of the policy by other countries can infringe in the full implementation and effectiveness of the policy.

7.2 Future Work

In the future, I plan to replicate this survey but in a more qualitative approach, in an observatory mode and environment by conducting a one-on-one interview with law enforcement officers who have experience with mutual legal assistance. Qualitative analysis will be used to analyze data instead of quantitative analysis to get a more objective view of participants.

7.3 Summary

In this chapter, my proposed recommendations were explicitly explained and discussed under subtopics of how they can be carried out, the materials needed for their implementation, the advantages and disadvantages attached to each recommendation. It also included how feasible each recommendation is and the time frame it might take to implement the policy and the length of time it will take for results to be seen. My recommendation includes; Utilization of an online platform to address MLA request procedures like the i24/7 communication platform of Interpol. Reduction of bureaucracy in Nigeria legal system by the use of a centralized point of contact. Training of new personnel about international cooperation by mentorship, Training and re-training of law enforcement officers by holding annual conferences or seminars in conjunction with the Ministry of Justice, and the promotion of guideline for MLA requests for digital evidence provided by UNODC.

CHAPTER 8. CONCLUSION

Transnational crime is any crime that goes beyond a country's given border. Transnational crime, given the name, is a crime that affects more than one country. Types of transnational crime include; Cybercrime, arms trafficking, drug trafficking, trafficking in persons, money laundering, etc. The focus of this research was cybercrime. Cybercrime is any offence against the availability, integrity or confidentiality of computer systems or data. Examples of cybercrime include; Fraud and Identity theft, Phishing, Spamming, Ransomware, BEC, software piracy, etc. The complex nature of cybercrime as one that takes place in the border-less realm of cyberspace, which is also made complex by the increasing involvement of organized crime groups. Perpetrators of cybercrime and their victims can be in different regions, and its effects are seen anywhere around the world. These characteristics of cybercrime show how it fits as transnational crime and the need for an urgent, dynamic and international response.

For transnational cybercrime to be investigated, there is a need for mutual legal assistance (MLA) between the affected countries. MLA is brought about by International cooperation. International cooperation can be country to country; where the affected countries come together to investigate the crime together. Interpol is also another international cooperation, not for requesting formal MLA from countries but a communication route between law enforcement agencies in different countries. International cooperation like the Budapest convention, UNODC, etc. and other regional convention like ECOWAS, OECD Convention, generate Mutual Legal Assistance Treaty (MLAT) that can be used between member states to request for a formal MLA through their central authorities. These treaties are used in cases where an investigation needs the cooperation of other countries and cannot be concluded in a given country. In Nigeria, the agencies in charge of investigating cybercrime are the Economic Financial Crimes Commission (EFCC) and the Nigeria Police Force (NPF).

The general challenges of investigating cybercrime include; the bureaucracy and delayed response experienced while trying to send an MLA request, as mentioned by Swire and Hemmings (2015). The evidence needed to investigate cybercrime are mostly digital and can be moved from one jurisdiction to another. When MLA requests are sent to a country, and the response takes a long time, there is a possibility of the evidence needed in that country to have been moved to another country, or the perpetrator might have also moved to another country. This complicates the investigation of the crime. Another challenge is insufficient information of sent request as mentioned in a study done by James and Gladyshev (2016). When information included in an MLA request is insufficient, it affects the ability to process such requests which might lead to no response from the requested country. Other challenges faced with investigating cybercrime include; anonymity of the perpetrator, encryption of data, jurisdiction difference and the limits of mutual legal assistance (Oerlemans, 2017).

The research questions of this study I carried out were; Does the knowledge of how to request mutual legal assistance to other countries accelerate transnational cybercrime investigation in a country? i.e. does it make the investigation faster? Does the knowledge of how to make mutual legal assistance request to other countries affect the effectiveness of mutual legal assistance? Does the knowledge of how to make mutual legal assistance request to other countries reduce or eliminate the challenges that might be faced with sent and received mutual legal assistance requests? Does the knowledge of how to make mutual legal assistance request to other countries reduce the length of time used to process and respond to requests?

The qualitative approach and quantitative approach are the methodologies I used for this research. A qualitative approach was implemented by the review of Journals, Books, Publications, Documentaries and previous dissertations relating to the topic to gain an in-depth understanding, views, and perceptions of past researches that have been done on the subject matter. I also reviewed the Nigerian Cybercrime Act of 2015 to know the contents of the Bills, what area it

addresses. A quantitative approach was implemented by the use of a survey I carried out to know from the perspective of law enforcement officers who deal with MLA matters what they know about the subject matter. The data I obtained through the survey were cleaned by correcting errors that might affect the processing and analysis of the data. The data were also divided into two datasets (Nigerian and other countries responses) to remove Nigeria response bias. The data was then processed and analyzed using an online data analysis software called Qualtrics. Correlation analysis was done between the variables of the study. The dependent variables are; length of MLA response, challenges of MLA and the effectiveness of legal provisions for making MLA request, while the independent variable is the knowledge of MLA.

The result of my study showed that 67.3% of the total respondents have legal provisions allowing their country to make an information request regarding an ongoing cybercrime investigation to other countries. This study was a little lesser than the result from the study done by Malby *et al.* (2013) which specified that 75% of respondents have legal provisions allowing their country to make an information request to other countries. The differences might be due to the difference in sample size, the unawareness of respondents about the legal provisions of their country and probably the difference in the question structure. My study showed that MLAT, Central authority and Interpol were the channels of making an MLA request to other countries. This was similar to the study done by James and Gladyshev (2016), which indicated that Central authority, Interpol were the channels of making MLA request to other countries. My study also indicated that most of the respondents have average knowledge on how to go about MLA request.

My study indicated that it takes 6-12 months on average to process an MLA request. This is similar to the study done by Swire and Hemmings (2015), which stated that it takes ten months to process an MLA request in the United States of America. The responses from my study indicated that bureaucracy and delayed response were noted challenges with sending an MLA request to other countries for all respondents. Swire and Hemmings (2015) also mentioned

bureaucracy; delayed response are challenges faced with sending a request to other countries. Insufficient information was the noted challenge faced when an MLA request is received in my study. James and Gladyshev (2016) also specified that insufficient information is a challenge faced with received requests.

This research aimed to identify the effect knowledge of MLA has on the length of response time, the challenges faced with MLA and the effectiveness of legal provisions available to request MLA from other countries. Based on the analysis of the data received through the administered survey, it can be concluded that knowledge of MLA does not accelerate the transnational cybercrime investigation in a country. The study revealed that knowledge of MLA has no significant relationship with the effectiveness of MLA but positively affect the length of response time and makes the challenges faced with received MLA requests fewer.

The main limitation of my study was the subjectivity of the responses since it was self-reported. Law enforcement officers responded to the survey based on what they know about the subject matter without a way of verifying their responses. In the future, I plan to replicate this survey but in a more qualitative approach, in an observatory mode and environment by conducting a one-on-one interview with law enforcement officers who have experience with mutual legal assistance. Qualitative analysis will be used to analyze data instead of quantitative analysis to get a more objective view of participants.

This is the first study that attempts to measure the effectiveness of MLA requests specifically made to Nigeria investigators as a specific case study. My proposed recommendations to make mutual legal assistance effective includes; Utilization of an online platform to address MLA request procedures like the i24/7 platform used for communication between law enforcement agencies that are member states of Interpol. Reduction of bureaucracy in Nigeria legal system by the use of a centralized point of contact to receive and send MLA requests. Training of new personnel on international cooperation by active mentorship process. Training and re-training of

law enforcement officers by holding annual conferences or seminars in conjunction with the Ministry of Justice and the promotion of the guideline for MLA requests for digital evidence provided by the UNODC.

REFERENCES

- ADB-OECD (2017). Mutual Legal Assistance in Asia and the Pacific: Experiences in 31 jurisdictions. *Strategies for Business, Government and Civil Society to Fight Corruption in Asia and the Pacific*. <https://doi.org/10.1787/9789264077010-en>
- Adeniran, A. I. (2008). The Internet and the Emergence of Yahoo Boys Subculture in Nigeria. *International Journal of Cyber Criminology*, 2(2), 368-381.
- Adesina, O. S (2017). Cybercrime and Poverty in Nigeria. *Canadian Social Science*, 13(4), 19–29. Available online at <http://cscanada.net/index.php/css/article/view/9394>
- Africa Internet Users, 2019 Population and Facebook Statistics. <https://www.internetworldstats.com/stats1.htm> (May 27, 2019).
- Aghatise, E. J. (2006). Cybercrime definition. Computer Research Centre. Retrieved from <http://www.crime-research.org/articles/joseph06/2>.
- Ajayi, B. B. (2019). A Study on Mutual Legal Assistance Request Effectiveness on Cybercrime Investigation in Nigeria Survey Results. <https://github.com/LIFSHallym/A-Study-on-MLA-Request-Effectiveness-on-Cybercrime-Investigation-in-Nigeria>
- Albanese, J. S. (2005). *Transnational crime*. Whitby, ON de Sitter Publications.
- Aransiola, J., & Asindemade, S. (2011). Understanding Cybercrime Perpetrators and the Strategies they employ in Nigeria. *Cyberpsychology, Behavior, and Social Networking*, 14(12), 759-63.
- Argyriou, A. (2015). “Data Collection from Resource-Limited Wireless Sensors for Cloud-Based Applications,” 2015 IEEE Global Com
- Art. 3 (2) of the 2000 United Nations Convention against Transnational Organized Crime, 2225 United Nations Treaty Series, p. 209.
- Bolaji, F., (2019). “List of Universities in Nigeria as Approved by NUC -2019 Latest Release.” *Campusbiz*. <https://campusbiz.com.ng/list-of-universities-in-nigeria/> (May 27, 2019).
- Brenner, S., & Schwerha, J. J., (2004). Introduction—Cybercrime: A Note on International Issues. *Information Systems Frontiers*, 6(2), 111-114.
- Broadhurst, R., Grabosky, P., Alazab, M. and Chon S. (2014). *Organisations and Cyber Crime: An Analysis of the Nature of Groups Engaged in Cyber Crime*. 8 *International Journal of Cyber Criminology* http://www.verizonenterprise.com/resources/reports/rp_data- (April 4, 2019).
- Carsten, P. 2018. “Nigeria’s Internet Fraudsters Zero in on Corporate Email Accounts | Reuters.” *Reuters*. <https://www.reuters.com/article/us-nigeria-cyber-crime/nigerias-internet-fraudsters-zero-in-on-corporate-email-accounts-idUSKBN1I42BG> (March 19, 2019).
- Center for Laws of the Federation Of Nigeria. (n.d.). CYBERCRIMES (PROHIBITION, PREVENTION, ETC) ACT, 2015 - LAWS OF THE FEDERATION OF NIGERIA 1999 - 2015. Retrieved June 4, 2019, from <http://lawnigeria.com/LawsOftheFederation/Cyber-Crime-Act,-2015.html>
- Channing, M. (2017). *Transnational Crime and the Developing World*. https://www.gfintegrity.org/wp-content/uploads/2017/03/Transnational_Crime-final.pdf (June 3, 2019).
- Commonwealth Cybercrime Initiative | The Commonwealth. *The Commonwealth*. <http://thecommonwealth.org/commonwealth-cybercrime-initiative> (April 16, 2019).
- Commonwealth Secretariat Strategic Plan. 2017. http://thecommonwealth.org/sites/default/files/inline/CommonwealthSecretariatStrategic_Plan_17_21.pdf (April 16, 2019).

- Commonwealth (2017). Model Legislation on Mutual Legal Assistance in Criminal Matters Office of Civil and Criminal Justice Reform. http://thecommonwealth.org/sites/default/files/key_reform_pdfs/P15370_14_ROL_Model_Leg_Mutual_Legal_Assistance.pdf
- Community Computer Centre (CCC) in collaboration with the Directorate of Communication. 2017. "ECOWAS and the COUNCIL of EUROPE Join Forces to Help West African Countries in the Fight against Cybercrime | Economic Community of West African States (ECOWAS)." *Ecowas*. <http://www.ecowas.int/ecowas-and-the-council-of-europe-join-forces-to-help-west-african-countries-in-the-fight-against-cybercrime/> (March 28, 2019).
- "Convention on Cybercrime: Details of Treaty No. 185." In *Council of Europe*, <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/185> (March 19, 2019).
- Council of Europe. (2011). AGREEMENTS ON EXTRADITION AND MUTUAL LEGAL ASSISTANCE BETWEEN THE UNITED STATES AND THE EUROPEAN UNION. <http://www.statewatch.org/news/2015/jul/eu-council-eu-usa-mla-handbook-8024-11.pdf>
- Esquivel, Y. (2009). "The United Nation Convention against Corruption and Asset Recovery: The Trail to Repatriation." In *Tracing Stolen Assets: A Practitioner's Handbook*, 117-122. Basel: International Centre for Asset Recovery and Basel Institute on Governance. <https://www.baselgovernance.org/publications/tracing-illegal-assets-practitioners-guide>
- Evans, D. (2011). The Internet of Things: How the Next Evolution of the Internet Is Changing Everything. Retrieved from https://www.cisco.com/c/dam/en_us/about/ac79/docs/innov/IoT_IBSG_0411FINAL.pdf Accessed March 5, 2019.
- Fijnaut, (2000). 'Transnational Crime and the role of the United Nations', 8 *European Journal of Criminal Law and Criminal Justice* 119, at 120.
- Finckenauer, J. O (2000). *Meeting the Challenge of Transnational Crime*, 6. <https://www.ncjrs.gov/pdffiles1/jr000244b.pdf> (December 18, 2018).
- Gercke, Marco. 2012. "Understanding Cybercrime: Phenomena, Challenges, and Legal Response." *ITU Telecommunication Development Bureau*. file:///Users/lifslab/Desktop/Cybercrime legislation EV6.pdf (January 14, 2019).
- Gimelstein, S. (2018). A Location-Based Test for Jurisdiction over Data: The Consequences for Global Online Privacy. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.3144159>
- Global Forum on Cyber Expertise. (2016). The Budapest Convention on Cybercrime: a framework for capacity building - News item - Global Forum on Cyber Expertise [Nieuwsbericht]. Retrieved June 4, 2019, from <https://www.thegfce.com/news/news/2016/12/07/budapest-convention-on-cybercrime>
- Hakmeh, J (2017). "Building a Stronger International Legal Framework on Cybercrime | Chatham House." *The Royal Institute of International Affairs*. <https://www.chathamhouse.org/expert/comment/building-stronger-international-legal-framework-cybercrime> (March 18, 2019).
- Hatchard, J. (2006). "Combating Transnational Crime in Africa: Problems and Perspectives." *Source: Journal of African Law* 50(2): 145-60. <https://www.jstor.org/stable/pdf/27607969.pdf?refreqid=excelsior%3A014db481633c8601af1ea89d5ce53aa4> (January 16, 2019).
- Hernande, Z. (2018). "The 16 Most Common Types of Cybercrime Acts | VoIP Shield." <https://www.voipshield.com/the-16-most-common-types-of-cybercrime-acts/> (January 15, 2019).
- Inter-American Convention on Mutual Assistance in Criminal Matters. *Global Affairs Canada*. <https://www.treaty-accord.gc.ca/text-texte.aspx?id=104683> (April 16, 2019).

- Interpol. "What Is INTERPOL?" *Interpol*. <https://www.interpol.int/Who-we-are/What-is-INTERPOL> (March 28, 2019).
- Ismail, N. (2017). Staying ahead of the distributed cybercrime threat. Retrieved June 5, 2019, from Information Age website: <https://www.information-age.com/staying-ahead-distributed-cybercrime-threat-123468447/>
- James, J. I., and Gladyshev, P. (2016). "A Survey of Mutual Legal Assistance Involving Digital Evidence." *Digital Investigation* 18: 23–32. <https://linkinghub.elsevier.com/retrieve/pii/S174228761630072X> (April 3, 2019).
- Jögi, L., Randma, H., Luuk, M. (2018). 13th edition of the THEMIS Competition Semi-final. International Cooperation in Criminal Matters Need for Speed in Mutual Legal Assistance. www.ejn-crimjust.europa.eu/ejn/libdocumentproperties.aspx?Id=16
- Kamal, B., n.d. International Cooperation: *Mutual Legal Assistance and Extradition*. https://www.unafei.or.jp/publications/pdf/GG6/05-4_Malaysia.pdf
- Kent, G. (2015). The Mutual Legal Assistance Problem explained | Center for Internet and Society [WWW Document]. URL <http://cyberlaw.stanford.edu/blog/2015/02/mutual-legal-assistance-problem-explained> (accessed 6.17.19).
- Lazarus, S. (2017). The view that "419" makes Nigeria a global cybercrime player is misplaced. Retrieved June 5, 2019, from The Conversation website: <http://theconversation.com/the-view-that-419-makes-nigeria-a-global-cybercrime-player-is-misplaced-73791>
- Leischen, S. (2015). Putting Experience to Work: The Value of a Formal Mentoring Program [WWW Document]. Public Saf. URL <https://inpublicsafety.com/2015/02/putting-experience-to-work-the-value-of-a-formal-mentoring-program/> (accessed 6.27.19).
- Letter to US Congress Urging Increase to MLAT Funding. (n.d.). Retrieved June 4, 2019, from Center for Democracy & Technology website: <https://cdt.org/insight/letter-to-us-congress-urging-increase-to-mlat-funding/>
- Lopez, J. and Patel, A. (2007). "International Cooperation to Fight Transnational Cybercrime." *ResearchGate*. https://www.researchgate.net/publication/4273821_International_Cooperation_to_Fight_Transnational_Cybercrime (March 18, 2019).
- Lyman M. D., and Potter G. W. (1998). "Organized Crime and Drug Trade." In *National Criminal Justice Reference Service*, 213–27. <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=177133> (March 18, 2019).
- Maitanmi, O., Ogunlere, S., Ayinde, S., & Adekunle, Y. (2013). Impact of Cyber Crimes on Nigerian Economy. *The International Journal Of Engineering And Science (IJES)*, Vol 2(4), 45–51.
- Malby S, Mace R, Holterhof A, Brown C, Kascherus S, Ignatuschtschenko E. Comprehensive study on cybercrime. Technical Report. United Nations Office on Drugs and Crime (UNODC); 2013. URL, https://www.unodc.org/documents/organized-crime/UNODC_CCPCJ_EG.4_2013/CYBERCRIME_STUDY_210213.pdf
- McQuinn, A., & Castro, D. (2017). How Law Enforcement Should Access Data Across Borders. *INFORMATION TECHNOLOGY*, 38. <http://www2.itif.org/2017-law-enforcement-data-borders.pdf>
- Manual on Mutual Legal Assistance and Extradition*. https://www.unodc.org/documents/organized-crime/Publications/Mutual_Legal_Assistance_Ebook_E.pdf (April 16, 2019).
- McConnell International (2000). *Cybercrime and Punishment? Archaic Laws Threaten Global Information*. www.mcconnellinternational.com www.witsa.org (March 18, 2019).
- Ministry of Law and Indonesian Human Rights. "An Overview: Transnational Crime Issues In International Criminal Law Associated With MLA Regim." *Media Publication Legislation*

- and Law Information.* <http://ditjenpp.kemenkumham.go.id/hukum-pidana/258-an-overview-transnational-crime-issues-in-international-criminal-law-associated-with-mla-regim.html> (June 3, 2019).
- Mueller, G. O.W. (2001), *Transnational Crime: Definitions and Concepts*. Pp. 13-21 in Williams, Phil and Dimitri Vlassis (eds.), *Combating Transnational Crime: Concepts Activities and Responses*. London: Frank Cass Publishers.
- Mutual Legal Assistance and Other Forms of Cooperation Between Law Enforcement Agencies. (2013). www.oecd.org/corruption/acn (April 16, 2019).
- Nigeria needs additional 31,000 new police officers yearly for five years – IGP. (2017, September 22). Retrieved June 5, 2019, from Premium Times Nigeria website: <https://www.premiumtimesng.com/news/top-news/243898-nigeria-needs-additional-31000-new-police-officers-yearly-five-years-igp.html>
- Nuth, M. (2008). Taking Advantage of New Technologies: For and Against Crime *Computer Law and Security Report*, 24, 437-446.
- Oerlemans, Jan-Jaap (2017). “Investigating Cybercrime.” *SIKS dissertation* 01. https://www.researchgate.net/publication/313164048_Investigating_Cybercrime (Accessed January 15, 2019).
- Organized Crime. *United Nations Office on Drugs and Crime.* <https://www.unodc.org/ropan/en/organized-crime.html> (April 16, 2019).
- Osula, A. M. (2015). Mutual Legal Assistance & Other Mechanisms for Accessing Extraterritorially Located Data. *Masaryk University Journal of Law and Technology*, 9(1). <https://doi.org/10.5817/MUJLT2015-1-4>
- Peter, R. and Carol, P. eds. (1999). *Commission on Behavioral and Social Sciences and Education, Transnational Organized Crime: Summary of a Workshop*, Washington, D.C.: National Academy Press, 1999.
- Prost Kimberly. 2007. “Mutual Legal Assistance in Criminal Matters.” *Organization of American States*. https://www.oas.org/Juridico/mla/en/can/en_can_prost.en.html (April 16, 2019).
- Research Guide International Law | Peace Palace Library. (n.d.). *Transnational Crime: Introduction*. Retrieved January 14, 2019, from <http://www.peacepalacelibrary.nl/research-guides/international-criminal-law/transnational-crime/>
- Rouse, M. (2018). What is a digital certificate? - Definition from WhatIs.com. WhatIs. <https://searchsecurity.techtarget.com/definition/digital-certificate> (accessed 6.18.19).
- Seeger, A. (2018). “Enhanced Cooperation on Cybercrime: A Case for a Protocol to the Budapest Convention | ISPI.” *Italian Institute for International Political Studies*. <https://www.ispionline.it/en/pubblicazione/enhanced-cooperation-cybercrime-case-protocol-budapest-convention-20964> (March 19, 2019).
- Sieber, U. (1998). *Legal Aspects of Computer Related Crime*, European Commission, version 1, p. 25.
- Stigall, D. (2016). *Countering Convergence: “Central Authorities” and the Global Network to Combat Transnational Crime and Terrorism*. https://www.airuniversity.af.edu/Portals/10/ASPJ_French/journals_E/Volume-07_Issue-1/stigall_e.pdf (April 8, 2019).
- Swire, P. P. (2005). Elephants and Mice Revisited: Law and Choice of Law on the Internet, *University of Pennsylvania Law Review*, 153(6), 1975-2001.
- Swire, P. and Hemmings J. D. (2015). *Re-engineering The Mutual Legal Assistance Treaty Process*. Draft for NYU Law and PLSC Conferences. (Unpublished manuscript).
- Transnational Organized Crime: *Let’s Put Them out of Business* www.unodc.org/Toc Transnational Organized Crime-The-Globalized-Illegal-Economy. www.unodc.org/toc (December 17, 2018).

- Tade, O., & Aliyu, A. (2011). Social Organization of Internet Fraud among University Undergraduates in Nigeria. *International Journal of Cyber Criminology*, 5(2), 860-875.
- The Governments of the Member States of The Economic Community of West African States. http://documentation.ecowas.int/download/en/legal_documents/protocols/Convention%20on%20Mutual%20Assistance%20in%20Criminal%20Matters.pdf (April 16, 2019).
- The 12 Types of Cyber Crime | Chapter No. 2 | Fasttrack To Cyber Crime. (n.d.). Retrieved January 14, 2019, from <https://www.digit.in/technology-guides/fasttrack-to-cyber-crime/the-12-types-of-cyber-crime.html>
- Umana, K. (2018). "Forms and Types of Cyber Crimes in Nigeria - Research Cyber." *Research Cyber*. <https://researchcyber.com/forms-types-cyber-crimes-nigeria/> (March 19, 2019).
- UNODC. (2001). *Mutual Legal Assistance Casework Best Practice*. https://www.unodc.org/pdf/lap_mlaeg_report_final.pdf (June 8, 2019).
- United Nations Office on Drugs and Crime, "*United Nations Convention against Transnational Organized Crime and the Protocols Thereto*" (New York: United Nations, 2004), 5, <http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCbook-e.pdf>. (June 3, 2019).
- UNODC. (2007). "About UNODC." *United Nations Office on Drugs and Crime*. <https://www.unodc.org/unodc/en/about-unodc/index.html> (March 21, 2019).
- UNODC. 2007. *From Crime, Drugs and Terrorism*. www.unodc.org (March 21, 2019).
- UNODC. (n.d). "Cybercrime." *United Nations Office on Drugs and Crime*. <https://www.unodc.org/unodc/en/cybercrime/index.html> (January 15, 2019).
- United Nations Office on Drugs and Crime (2010). Basic training manual on investigating and prosecuting the smuggling of migrants Module 8 International cooperation. https://www.unodc.org/documents/human-trafficking/Basic_Training_Manual_e-book_E_Module_8_10-54402_June_2010.pdf
- UNODC, 2018. Organized Crime Module 11 Key Issues: Mutual Legal Assistance [WWW Document]. e4j. URL <https://www.unodc.org/e4j/en/organized-crime/module-11/key-issues/mutual-legal-assistance.html> (accessed 6.19.19).
- UNODC, 2019. UNODC and partners release Practical Guide for Requesting Electronic Evidence Across Borders [WWW Document]. UNODC. URL <https://www.unodc.org/unodc/en/frontpage/2019/January/unodc-and-partners-release-practical-guide-for-requesting-electronic-evidence-across-boarders.html> (accessed 6.19.19).
- Van der Wilt, H., 2018. Extradition and Mutual Legal Assistance in the Draft Convention on Crimes Against Humanity. *J. Int. Crim. Justice* 16, 795–812. <https://doi.org/10.1093/jicj/mqy037>
- Walden, I. (2004). Harmonising Computer Crime Laws in Europe. *European Journal of Crime, Criminal Law and Criminal Justice*, 12(4), 321-336.
- Wang, S. (2007). Measures of Retaining Digital Evidence to Prosecute Computer-based Cyber-crimes, *Computer Standards and Interfaces*. 29, 216-223
- Westmoreland, K., & Kent, G. (2015). International Law Enforcement Access to User Data: A Survival Guide and Call for Action. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.2547289>

A Study on MLA Request Effectiveness on Cybercrime Investigation in Nigeria

2019.

Master's degree

Ajayi Betty Bukola

Department of International Studies

Advisors: Prof. James I. Joshua, Prof. Jang Yunsik

Cybercrime is a type of transnational crime which investigation is rarely straightforward because of the support it gets from the ever-developing technology. Most cybercrime somehow involves more than one country, and to come about a successful investigation, international cooperation between law enforcement agencies of the relevant countries is essential. MLA between countries is supported usually by international cooperation. INTERPOL is a communication route between law enforcement agencies in different countries, and international treaties like the Budapest Convention, UNODC and some other regional cooperation like ECOWAS bring countries together to support harmonized laws and guidelines to request for help from different countries. With these in place, MLA appears not to be very effective, and ineffectiveness of this formal cooperation is due to some challenges encountered with received requests and making requests to other countries.

This research addressed these challenges encountered with MLA requests alongside how knowledgeable law enforcement officers are regarding MLA matters. A survey was conducted to obtain law enforcement officers' take on the subject matter. The result obtained was then used to determine the relationship between officers' knowledge of MLA request (independent variable)

and the response time of MLA requests, challenges encountered and the effectiveness of MLA (dependent variables).

The responses received were divided into two groups; the Nigerian respondents [40% (21)] and Other countries respondents [60% (31)], the two groups were analyzed separately. The results showed that 38.1% of Nigerian respondents and 45.1% of other countries respondents said their legal provision(s) in terms of requesting information from other countries are moderately effective. MLAT and Interpol were found to be the main channel for asking for assistance from countries. Bureaucracy was found to be one of the noted challenges with sending an MLA request for Nigerian respondents, and a delayed response was the significant challenge with making a request to Nigeria for respondents from other countries. Insufficient information was the noted challenge faced when a request is received from another country for all the respondents. The data revealed that it took 6-12 months on average to process an MLA request and that most of the respondents have an average knowledge on how to make an MLA request.

The correlation analysis done between variables in the study revealed that;

- The more knowledgeable law enforcement agents are with making requests, the fewer challenges they will encounter with received MLA requests from other countries.
- Increased knowledge of how to make an MLA request reduces the length of time it takes to respond to an MLA request.
- Knowledge of how to make MLA requests does not affect with regards to the effectiveness of MLA on cybercrime investigations.

Policy recommendations that can increase the effectiveness of mutual legal assistance were also explicitly discussed, how they could be carried out, and their advantages and disadvantages were also included.

Keywords: Transnational crime, Cybercrime, MLA, MLAT, Cybercrime investigations, Law enforcement.

나이지리아에서의 효과성 연구사이버범죄수사를 위한 MLA 공조요청의 효과성연구

2019.

석사학위논문

아자이 베티 부콜라

국제학과

지도교수: Joshua I. James, 장윤식

사이버 범죄는 날로 발전하는 기술의 지원 때문에 좀처럼 수사가 쉽지 않은 초국가적 범죄의 한 종류이다. 대부분의 사이버 범죄는 한 개 이상의 국가를 포함하고 있으며, 성공적인 수사를 위해서는 관련국가들의 법 집행 기관들 간의 협력이 중요하다.

이 협력은 보통 국가들 간의 MLA 를 통해 이루어진다. INTERPOL 은 다른 나라의 법 집행 기관과 부다페스트 협약, UNODC 와 같은 국제 협약 간의 협력을 지원하고 ECOWAS 와 같은 일부 다른 지역 협력은 국가들이 서로 다른 나라들로부터 도움을 요청하기 위해 일치된 법과 지침을 지원하도록 한다. 이러한 조건에서 MLA 는 그다지 효과적이지 않은 것으로 보이며, 이러한 공식 협력의 비효율성은 국가 간에 요청하고 받는 과정에서 직면하게 되는 몇 가지 문제로부터 야기된다.

본 연구는 MLA 에 관한 법률 집행 요원의 지식 수준과 함께 MLA 요청에 직면하는 이러한 과제를 제시했다. MLA 가 얼마나 효과적인지, MLA 를 요청할 때 직면하는 문제, MLA 요청이 다른 국가에서 접수될 때, MLA 요청이 처리되는 데 걸리는 시간 및 다른 국가에 MLA 를 요청할 때 담당 법 집행관이 가지는 지식 법률 집행 수준을 평가하기 위해 조사를 진행했다. 그 결과는 MLA 요청에 대한 지식(독립 변수)과 MLA 요청의

응답 소요 시간, 당면 과제 및 MLA 의 효과(종속 변수) 사이의 관계를 결정하기 위해 사용되었다.

접수된 응답은 나이지리아 국적 응답자 40%(21 명) 국가 응답자(31 명)로 두 그룹으로 나뉘었고, 각 집단의 응답을 독립적으로 분석하였다.

그 결과로 나이지리아 응답자의 38.1% 다른 나라의 45.1% 다른 나라에 정보를 요청하는 경우에 그들의 법적 조항이 적당히 효과적이라고 말했다. 각국에 지원을 요청하는 주요 통로는 MLAT 과 Interpol 인 것으로 밝혀졌다. 나이지리아 응답자에게 MLA 를 요청하는 과정에서의 가장 큰 문제는 관료주의였고, 다른 나라의 응답자들이 나이지리아에 요청하는데 있어서의 가장 큰 문제는 지연된 응답이었다. 모든 응답자가 다른 나라로부터 요청을 받았을 때 직면하는 가장 큰 어려움은 불충분한 정보였다. 데이터에 따르면 MLA 요청을 처리하는 데 평균 6 개월에서 12 개월이 걸렸고 대부분의 응답자들은 MLA 요청을 하는 방법에 대해 평균적인 지식을 가지고 있다.

변수들 간의 상관관계는 다음과 같다.

- 법 집행 요원이 요청을 많이 할수록 MLA 요청을 다른 나라로부터 받았을 때 직면하게 되는 어려움은 줄어든다.
- MLA 요청을 만드는 방법에 대한 지식의 수준이 높아지면 MLA 요청에 응답하는데 걸리는 시간이 단축된다.
- MLA 요청을 하는 방법에 대한 지식은 사이버 범죄 조사에 대한 MLA 의 효과에 영향을 미치지 않는다.

상호법률지원 효과를 높이기 위한 정책 권고사항도 명시 적으로 논의하고, 어떻게 수행 할 수 있으며, 장단점을 포함시켰다.

주제어: 초국가적 범죄, 사이버 범죄, MLA, MLAT, 사이버 범죄 수사, 법 집행.

APPENDICES

Appendix 1. List of countries and agencies respondents represents

Table 7: A table showing the countries and agencies of respondents

Country	Agency	Frequency
Nigeria	Nigeria Police Force (NPF)	6
	Economic and Financial Crime Commissions (EFCC)	14
	Federal Ministry of Justice (FMOJ)	1
Finland	Southwestern -Finland Police Department	2
USA	Homeland Security Investigations	2
	Federal Bureau of Investigation	1
	United States Secret Service	1
Denmark	The National Police of Denmark Rigspolitiet	1
Singapore	Interpol	4
China	Judiciary Police- Macau	1
Hong Kong	Hong Kong Police Force	2
Belgium	Central Directorate for combating serious and organized crime (DJSOC)	1
	Federal Computer Crime Unit	1
Namibia	Namibian Police Force	1
Ethiopia	Ethiopian Federal Police Commission	1
South Africa	South African Police Service (SAPS)	2
	Commercial Crime Detective Service Head Office PTA (Cybercrime & deep web investigation)	1
	SAPS Directorate of Priority Crime investigation	1
Zimbabwe	Vandrift Security Services Zimbabwe	1
Italy	Italian Economic and Financial Police (Guardia di Finanza)	1
Japan	National Police Agency of japan	1
Austria	Central Intelligence Agency Austria	1
Eswatini	Director of Public Prosecution (DPP) Chambers	1
	Royal Eswatini Police Service	1
Botswana	Botswana Police Service	1
Germany	CID Neu-Ulm	1
Kenya	Digital Forensics Laboratory	1

Appendix 2. Respondent Categorization

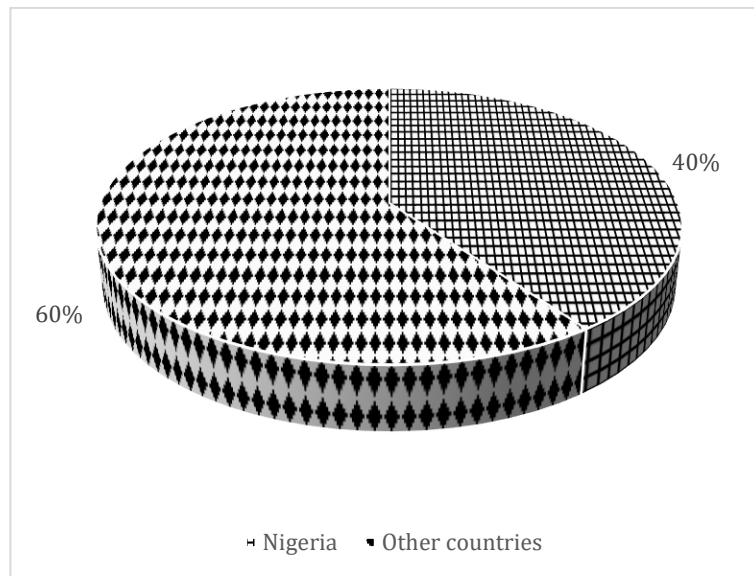


Figure 15: Pie chart showing the percentage of respondents from Nigeria and other countries

Appendix 3. The Greatest challenge with Sending MLA Request to Other Countries

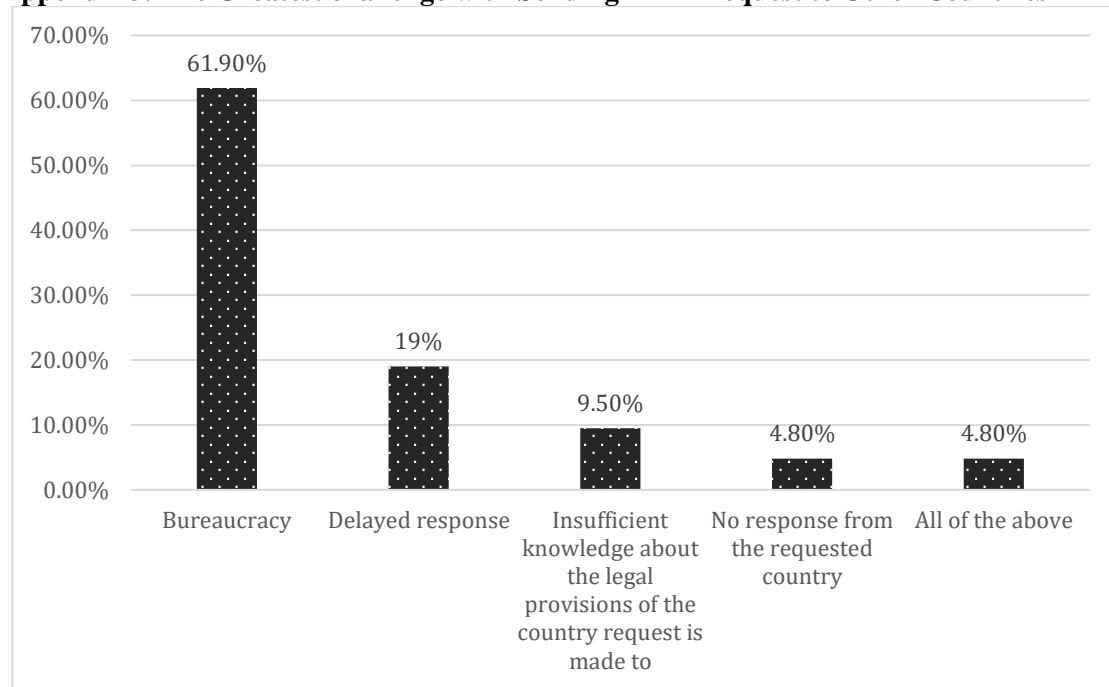


Figure 16: Graphical representation of Nigerian responses to the greatest challenge faced with sending MLA request to other countries

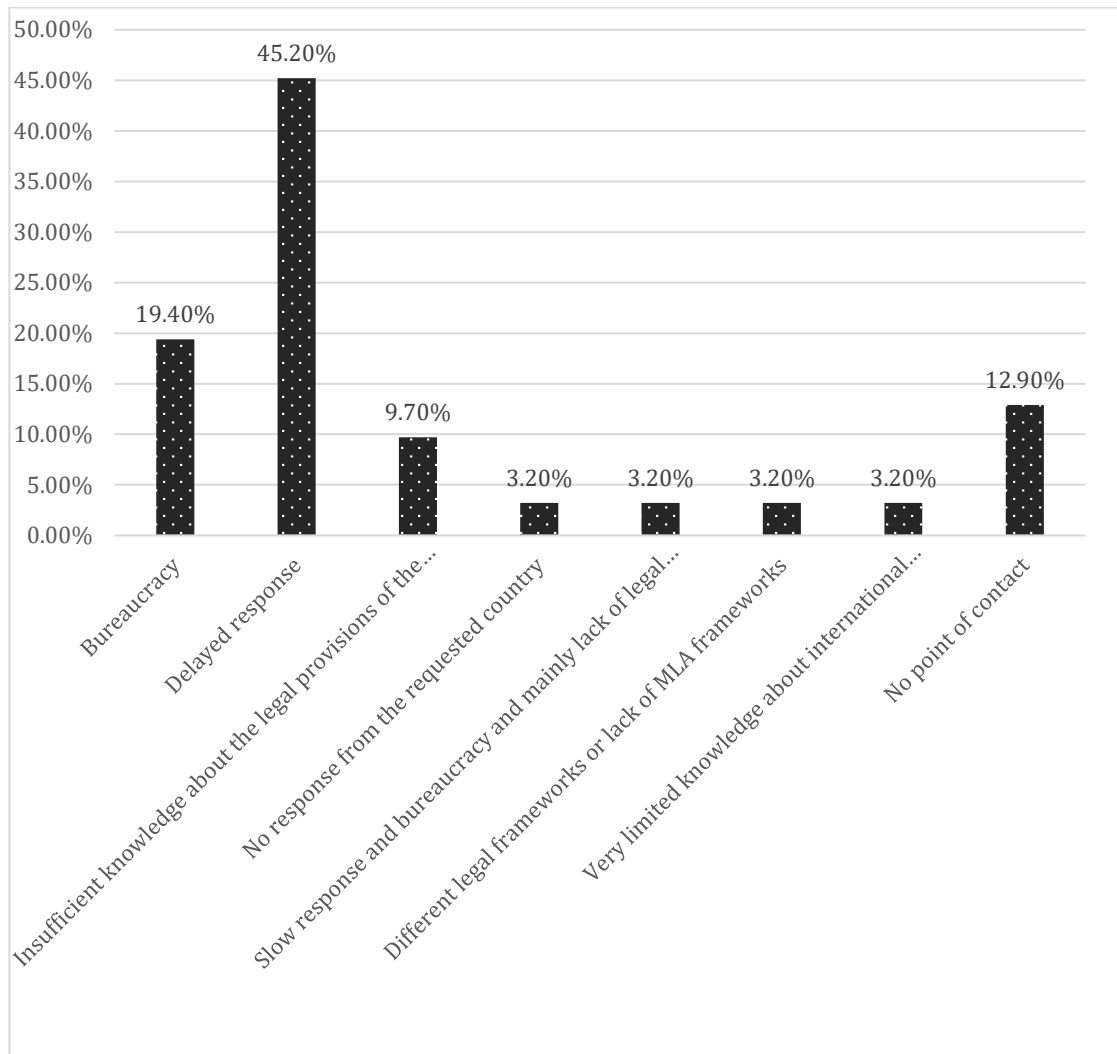


Figure 17: Graphical representation of the greatest challenge faced with sending MLA request to other countries by respondents from other countries.

Appendix 4. Challenges Faced with Received MLA Requests

#	AWA.FIELD	SIMPLETABLEWIDGET.CHOICE_COUNT
1	Internal logistic issues	19.0% 4
2	Insufficient information	28.6% 6
3	Vague request	4.8% 1
4	Trust issues	9.5% 2
5	None	4.8% 1
6	Internal logistic issues;Insufficient information;Language barrier;Out of date request	9.5% 2
7	Insufficient information;Vague request;Language barrier;Trust issues;Out of date request	4.8% 1
8	Internal logistic issues;Insufficient information;Out of date request	4.8% 1
9	Internal logistic issues;Insufficient information;Trust issues;Out of date request	4.8% 1
10	Internal logistic issues;Insufficient information;Language barrier	4.8% 1
11	Insufficient information;Vague request;Out of date request	4.8% 1
		21

Figure 18: Nigeria responses to challenges faced with received MLA requests.

#	AWA.FIELD	SIMPLETABLEWIDGET.CHOICE_COUNT
1	Internal logistic issues	3.2% 1
2	Insufficient information	35.5% 11
3	Vague request	9.7% 3
4	Trust issues	3.2% 1
5	Out of date request	6.5% 2
6	None	12.9% 4
7	Insufficient information;Vague request;Trust issues	9.7% 3
8	Internal logistic issues;Vague request	3.2% 1
9	Insufficient information;Vague request;Out of date request	3.2% 1
10	Insufficient information;Trust issues;Out of date request	3.2% 1
11	Internal logistic issues;Insufficient information	3.2% 1
12	Insufficient information;Trust issues	3.2% 1
13	Insufficient information;Out of date request	3.2% 1
		31

Figure 19: Responses from other countries regarding challenges faced with received MLA requests.