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A Socio-Legal X-Ray of Banditry and Kidnapping in Nigeria

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Abstract

Two interrelated crimes that have gained sudden resurgence and prevalence in the Nigerian society in the 21st century are banditry and kidnapping for ransom. Despite the concerted efforts of Governments at every level in Nigeria to keep to its constitutional mandate, by nipping this societal menace in the bud, they have graduated and developed more terrifying mode of operations. The objective of this study is to examine the historical precursor of banditry and kidnapping in Nigeria and the existing extant laws dealing with the menace, while a comparative analysis of provisions of laws in Canada, United States of America and United Kingdom was done to improve on the existing laws in Nigeria with the aid of doctrinal research methodology. Theories of kidnapping were considered to understand the criminological perspectives to this violence crime and implications on banditry and kidnapping in Nigeria. This presupposes that historical research design is effectively utilized through relevant data derived from extant literature, i.e. secondary sources such as textbooks, journal articles, internet sources, and other relevant materials were utilized. Nigerian Government should discourage negotiation with kidnapers by enacting and passing laws that criminalized such negotiation. When citizens genuinely stop paying ransom to bandits, then the incessant kidnapping of innocent citizens by bandits will become a thing of the past. The Federal Government should accede to the yearnings of Nigerians by swiftly concluding the procedure of declaring bandits as terrorists in Nigeria to enable the possible intervention of the military in complimenting the efforts of Nigerian police.



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Keywords: Banditry, Kidnapping, theories, parental kidnapping, ransom, terrorism, crime

Introduction

Security is a concept that is prior to the state, and the state exists in order to provide that concept¹. Security is the prime responsibility of the state² and to that end the Constitution of the Federal Republic of Nigeria 1999 specifically states that ‘the security and welfare of the people shall be the primary purpose of government’³. Unfortunately, Government has failed on this constitutional responsibility to provide a secured and safe environment for lives, properties and the conduct of business and economic activities. The alarming level of insecurity in Nigeria has fueled the crime rate and kidnapping attacks in different parts of the country, leaving unpalatable consequences for the nation’s economy and its growth⁴.

Two interrelated crimes that have gained sudden resurgence and prevalence in the Nigerian society in the 21st century are banditry and kidnapping for ransom. Despite the concerted efforts of Governments at every level in Nigeria to keep to its constitutional mandate, by nipping this societal menace in the bud, it has graduated and developed more terrifying mode of operations⁵. One thing is certain, kidnapping has become a terrorist act in the country, spanning from the Niger Delta militants in Southern Nigeria to that of the BokoHaram insurgents in the Northern part of the country. The Chibok and Dapchi girls’ incident which brought the Nigerian State to the global arena cannot be easily forgotten. A malady previously unknown to the people has rapidly become domesticated. The Nigerian state no longer provides security for the Nigerian people.

¹ E Akpomera and K Omoyibo, ‘*Boko Haram* Terrorism in Nigeria: The Paradox and Challenges of Big Brother Foreign Policy’, *An International Journal of Arts and Humanities* (2013) 2(1)

² Thomas Hobbes, ‘The Law of War and the Responsibility to Protect Civilians: A Reinterpretation’ (2014) 55 *Harv Int’l LJ* 251

³ Constitution of the Federal Republic of Nigeria 1999, section 14(2) (b).

⁴ Olabanji Ewetan and Ese Urhie, ‘Insecurity and Socio-Economic Development in Nigeria’ *Journal of Sustainable Development Studies* (2014) 5(1) 40-63

⁵ Chris Ewokor, ‘Nigeria fighter plane shot down by bandits – military’, *BBC News* (Abuja, 19 July 2021) <https://www.bbc.com/news/world-africa-57893662> accessed 28 October 2021.

Nigerians have compulsorily become religious as whole families barricade themselves at night in prison-high walls and pray for God's protection. But kidnapping as a variant of armed robbery is infinitely more disturbing as it often occurs in the open among persons going about their normal business. The widening scale of insecurity in Nigeria is a cause for concern as all are affected by it. Churches, mosques, markets, schools, homes and the highway, all are susceptible to this menace. The abductees and their families are traumatized by the ordeal of kidnapping. Foreign investors are scared away from Nigeria. Nigerians are paying the price of poor governance and failures of leadership. The general state of insecurity in almost every parts of the country have no doubt reached a stage where virtually everybody is now worried the direction the region is going. Presently, hardly can people sleep because of the fear of being robbed or kidnapped, businessmen have taken flight with their businesses for fear of being kidnapped by bandits for ransom.

Statement of the Problem

The seemingly increased nature of insecurity in the country occasioned by the activities of criminal gangs, terrorist organizations, bandits, unrests from the civil society and marginalized ethnic groups, and most importantly, the designated regionalized forms of insurgencies and criminalities, and modus operandi have been the sources of concern to the government and security agencies in the country over the years. Unfortunately, the government of the federation and the security agencies seem to be overwhelmed despite the serious challenges posed by the activities of these criminal gangs, terrorists and agitators who see themselves as freedom fighters, fighting for their constitutional rights and positions in the affairs of the country, and some unknown reasons. This has no doubt complicated the fight against uprisings and insurgency in some parts of the country⁶.

It has been argued that the activities of Boko Haram in particular has created the impression that Nigeria is a safe haven for terrorist organizations and by implication brought dishonor and dented image of the country⁷. Undoubtedly, this classification has not only affected economic activities and social development in Maiduguri, Kano, Yobe and other parts of the north-east Nigeria but that of the entire nation, a situation that is quite perturbing and effected the foreign direct investments (FDI) not only in the north-east but in the entire country from inceptions. In the same manner, Amalu⁸ argued that the Nigeria's situation has become so terrible to the extent that any contemporary discourse on Nigeria is

⁶ Mevayerore Igbini, 'Insurgency in Nigeria: The Prognosis and its Effects on the Nigerian Politics, (2020) 10(1)

⁷ Chukwurah, D. C.; Eme, O. and Ogbeje, E. N., 'Implication of Boko Haram Terrorism on Northern Nigeria' *Mediterranean Journal of Social Science* (2015) 6(3), pp. 371-379

⁸ Nneka Amalu, 'Impact of Boko Haram Insurgency on Human Security in Nigeria' *Global Journal of Social Sciences* (2015) 14, 35-42

nothing without a mention of the escalating and frightening issues relating to insecurity, militancy, insurgency and terrorism. Of all these problems bedeviling the nations' socio-economic development and image abroad, religious extremism of the Islamic jihadist movement with its extreme form, terrorism, in the form of Boko Haram and ISWA on the one hand, and banditry, Fulani herdsmen attacks and other forms of attacks from criminal gangs on the other hand, have been identified as the most frightening challenges confronting the country presently. Following these upsurge of insurgency, especially in the north-east, businesses are now frizzling out, citizens displaced from their homes and unemployed, thus leaving majority of them destitute. Despite these obvious scenarios, the government and the security agencies are yet to identify those behind these nefarious behaviors. This informs the impression that the nation is at war with itself and nothing more⁹.

Several reasons have been advanced as the propelling force behind the perpetration of the crime of kidnapping such as unemployment, poverty, dissatisfaction with government policies, disaffection caused by perceived economic and environmental injustice amongst others. Although the word 'kidnap' suggests the victims of this crime as kids i.e. children only, kidnapping is far from being a target age restricted crime as perpetrators go for men and women of all ages in furtherance of the crime. The codification of this crime by Federal and States stems from a desire to preserve the rights to: dignity of the human person, life and personal liberty which are fundamental human rights. If unchecked, kidnapping could result in other crimes such as assault, rape, slave dealing, and murder amongst others.

Definition of variables

Even though words are difficult to define in law¹⁰, and often time it is safer to clarify the context in which particular words are being used, an attempt at definition of the key variables in this research work would be made to put the words in proper perspective.

Kidnapping

The word 'kidnap' means to seize and detain a person unlawfully and usually for the payment of ransom. Generally, kidnapping is the taking of a person against his or her will (or from the control of a parent or guardian) from one place to another under circumstances in which the person so taken does not have freedom of movement, will, or decision because of violence, force, threat, or intimidation¹¹. According to Black's Law Dictionary, Kidnapping is the crime of seizing or taking away a person by force or by fraud. It is the offence of unlawfully seizing a person and confining the person usually in a secret place, while attempting to extort

⁹ Ibid p. 37.

¹⁰ Jeremy Counsellor, 'Rooting for the Restyled Rules (Even Though I Oppose Them)' (2009) 78 Miss LJ 519

¹¹ Noel Out, Kidnapping: A Variant of Nigerian Advance Fee Fraudsters (419) Diversified Portfolio, International Journal of Criminal Justice Sciences (2013) 8(1).

ransom¹². Kidnapping has also been defined as false imprisonment in the sense that it involves the illegal confinement of individuals against his or her own will by another individual in such a way as to violate the confined individual's right to be free from the restraint of movement. This involves the taking away of a person against the person's will, usually to hold the person in false imprisonment or confinement without legal authority. This is often done for ransom or in furtherance of another crime¹³.

Section 23 (1) of the Prohibition of Forcible Occupation of Landed Properties, Armed Robbery, Kidnapping, Cultism and other Anti-Violence and other Related Offences Law of Ogun State 2016¹⁴ provides that any person who kidnaps or abducts or by any other means of instilling fear, or by trick, intoxication or hypnotism, takes, seizes, detains or keeps another person with intent to demand ransom, or for the purposes of performing rituals whether or not resulting in death or to not resulting in death or to compel another to do anything against his or her will commits an offence. Abduction is defined by the same law to include the unlawful removal or exportation of any person from a place where he or she is to another place from the vicinity where he or she is found or the unlawful confinement of a person in any place without his or her consent with any of the following intention or purposes;

- i. To hold for ransom, reward or other financial benefits.
- ii. Or as a shield or hostage,
- iii. Or to facilitate or aid the commission of a felony or a misdemeanor¹⁵.

Generally, in this current paper, kidnapping is said to have occurred when a person, or group of persons, without lawful authority, physically transports (i.e. moves) another person or persons without the person's or persons' consent, with the intent to use the abduction in connection with some other illegal or nefarious objectives, whether such transportation occurs within the geo-political space the kidnapping happened, or outside the space. Kidnapping is measured by abducting for a ransom or reward—whether it is economic, political or social gain so-defined.

Ransom

Ransom is defined as a consideration or gain, either in monetary or in kind, paid or demanded, in order to get a person or group of persons in captivity released. In this

¹² Bryan Garner, *Black's Law Dictionary* (9th Edition, West Publishing Co, 2009) 948.

¹³ Adeola G. and Ngwama J., 'Resource Control, Unequal Distribution of Resources: Economic and Political Implications for the Stability of Federal State of Nigeria' (2015) *IJRSS* 5(1) 2249-2496.

¹⁴ Prohibition of Forcible Occupation of Landed Properties, Armed Robbery, Kidnapping, Cultism and other Anti-Violence and other Related Offences Law of Ogun State 2016, section 23(1).

¹⁵ *Ibid* section 2.

study, we measured and gauged ransom by establishing the collection or payment of money or any other kind of gratification in kidnapping cases by bandits¹⁶.

Victim

The concept of 'victim of kidnapping' refers to a person who suffers harm or injury either directly or indirectly arising from forceful abduction and transportation, either by a person or group of persons until the demand or payment of specific ransom is met¹⁷.

Banditry

Banditry is a type of organized crime committed by outlaws typically involving the threat or use of violence¹⁸. A person who engages in banditry is known as a bandit and primarily commits crimes such as extortion, robbery, and murder, either as an individual or in groups. Banditry is a vague concept of criminality and in modern usage can be synonymous for gangsters, brigandage marauding and thievery. The term bandit introduced to English via Italian around 1590 originates with the early Germanic legal practice of outlawing criminals, termed bannan (English ban). The legal term in the Holy Roman Empire was Acht or Reichsacht, translated as "Imperial ban"¹⁹. In modern Italian the equivalent word "bandito" literally means banned or a banned person²⁰. The New English Dictionary on Historical Principles (NED) defined "bandit" in 1885 as "one who is proscribed or outlawed²¹; hence, a lawless desperate marauder, a brigand: usually applied to members of the organized gangs which infest the mountainous districts of Italy, Sicily, Spain, Greece, Iran, and Turkey.

Historical perspectives of kidnapping

¹⁶ Smart Out and Macpherson Nnam, 'Does theory matters: Constructing an integrated theoretical framework to describe kidnapping for ransom in Nigeria' *Aggression and Violent Behavior* (2018) 40, 29-38.

¹⁷ Ibid p. 31

¹⁸ John Sullivan, 'Criminal Insurgency: Narcocultura, Social Banditry, and Information Operations' *Small Wars Journal* (2012) https://www.academia.edu/2235208/Criminal_Insurgency_Narcocultura_Social_Banditry_and_Information_Operations?auto=citations&from=cover_page accessed 29 October 2021.

¹⁹ Catherine Wendy Bracewell, 'The Uskoks of Senj: Piracy, Banditry, and Holy War in the Sixteenth-Century Adriatic'(Cornell University Press, 2015)

²⁰ Claudio Minca, 'Agamben's geographies of modernity' *Political Geography*(2007) 26(1) 78-97

²¹ English Encyclopedia online <https://www.encyclo.co.uk/meaning-of-banditry> accessed 29 October 2021.

Kidnapping is a crime that is probably as old as the world itself²². The crime of kidnapping has been recorded in the annals of criminal law for about three thousand years, the ancient Hebrew law of kidnapping provides that he that stealeth a man, and selleth him, or if he is found in his hand, he shall surely be put to death²³. The unfriendly world has been used to the practice of stealing of children for use as servants or labourers in the American colonies since 1673²⁴. In the 17th century, children were stolen from their families and exported to North American colonies as servants and labourers, hence, 'kid' meaning 'child' and 'nap' or 'nab' meaning 'to snatch'²⁵. Kidnapping was therefore connected to the stealing of children but the word has come to be used interchangeably with both children and adults. Past accounts of kidnapping revealed that death penalty was ordered as a punishment for kidnapping in ancient Rome when Emperor Constantine (AD 315) became so alarmed by the incidence of the crime²⁶.

It has been argued that kidnapping is a sad renaissance of the obnoxious slave trade when our helpless ancestors were captured by fellow blacks, through organized raids and orchestrated tribal warfare, and sold into white slavery²⁷. Kidnapping and slave trade can therefore be viewed as two sides of a coin with the difference emanating from who the abducted persons are sold to. While the slave traders sold their victims to foreigners in often faraway lands, kidnappers sold theirs to their own people for negotiated prices.

In early Nigerian societies however, people were kidnapped for ritual purposes. Human beings were kidnapped to be offered as sacrifices to the gods or for money rituals. Kidnapping was mainly for the purpose of sacrifice either to appease the gods or for the burial of a prominent chief or warrior²⁸. To carry out a successful burial of important people like chiefs and prominent warriors, human heads were required and so warriors engaged themselves in search of victims to be kidnapped. Furthermore, spinsters were sometimes kidnapped against their will into pre-arranged marriages or to fulfill betrothal pledges. Unfortunately, kidnapping increased in Nigeria after the civil war in 1970 being that the youth were already exposed to criminality²⁹.

²² Melburn N Washburn, 'Kidnapping as a Military Offense' (1963) 21 Mil L Rev 1.

²³ King James Version of the Holy Bible, Exodus 21:16.

²⁴ Ngwama J.C., 'Kidnapping in Nigeria: An emerging Social crime and Implications for the Labour Market', International Journal of Humanities and Social Science (2015) 4(1)

²⁵ Alexander, D. A. and Klein, S., 'Kidnapping and hostage-taking': A review of effects, coping and resilience". Journal of the Royal Society of Medicine (2009) 102, 1 16-21.

²⁶ Akpan N.S., 'Kidnapping in Nigeria's Niger Delta: An Exploratory Study', Journal of Social Sciences (2010) 24 (1) 33-42.

²⁷ Umukoro, M. 'From kidnapping to 'adult napping' *The Guardian*, (22 July 2010) p. 75.

²⁸ Ugwuoke, C. U., '*Criminology: explaining crime in the Nigerian context*', (Great AP Express Publishers Ltd, Nsuka, 2010).

²⁹ Nwadiorah, C. E. and Nkwocha, I. B., "Kidnapping for ransom: a prevalent urban pandemic in Nigeria", Research Journal of Peace and Conflict Studies (2011) I (1) 172-185.

Theoretical Framework

The study examined Frustration-Aggression, Rational choice/deterrence theory, Social learning and social contagious theories, Anomie/end-mean theory, Conflict theory/political economy theory and Victimology framework to analyzed the reasons why people take to kidnapping or otherwise the causes of kidnapping, especially in Nigeria. Some scholars have argued that some individuals or group of individuals take to crime registered their grievances either against the society or government of the state while some do so selfish gains or greed. For this reasons, some scholars trace marginalization, deprivation of social need, poor leadership and bad governance, and ethno-religious division as the major reasons for insurgency in Nigeria. This study, therefore, adopted these theories to examine the extent to which these factors, particularly social deprivation, political marginalization, ethno-religious differences and religious extremism could lead to frustration which its extreme end is aggressive behavior.

Frustration-Aggression Theory

Frustration-aggression theory was proposed by Dollard and others in 1939 to explain the reason why people behave aggressively especially when their expected goals are thwarted³⁰. The principal hypothesis which was proposed by Dollard and his colleagues were that, 'frustration often leads to aggressive behavior'. This implies that frustration possibly leads to aggressive behavior which in turn leads to resistance or rather an attempt to block the source of frustration³¹. This is what they interpreted as responds to vices thwarting ones expected goal. Dollard³² in their hypothesis see the motivational strength of aggression as a function: the reinforcement value of the frustrated goal response, the degree of frustration of this response, and the number of frustrated response sequences. Apparently, aggressive drive resulting from frustration, in one way or the other, is maintained within the individual or group of individuals and may lead to intolerable frustration which may provoke aggressive behavior(s). They argued that, "the strength of any hostile or aggressive reaction against the source of frustration depends on the level, extent or amount of the residual instigation from previous source(s) of Frustration.

This theory, therefore, explains the reason or otherwise principal causes of banditry and kidnapping particularly in the North-East of Nigeria in which the Fulani nomadic people of the region were frustrated to the extent that they took to violence to registered their frustration occasioned by underdevelopment and neglect by the

³⁰ Dollard, J., Miller, N. E., Doob, L. W., Mowrer, O. H., & Sears, R. R. (1939). Frustration and aggression. New Haven, (CT: Yale University Press, 1939)

³¹ Breuer, J., & Elson, M. (2017). Frustration-Aggression Theory. In P. Sturme (Ed.), *The Wiley Handbook of Violence and Aggression* (pp. 1-

12) Chichester: Wiley Blackwell <https://doi.org/10.1002/9781119057574.whbva040> accessed 29 October 2021.

³² *Supra* n. 20 p.1.

Federal government to establish cattle ranches; lack of education and political marginalization. On the other hand, the South East region sees unrest or threat from IPOB whose grievances is marginalization of the Igbo ethnic nationality in the political affairs of the Federal. They feel that for decades the Nigerian government has marginalized them by systematically favoring the other major ethnic groups, particularly the Hausa-Fulani extraction at their detriment. In recent times, the desire for independence fueled several military actions such as the launching of operation Python Dance to quash IPOB secession campaign by the Federal government of Nigeria³³.

Rational choice/deterrence theory

The emphasis of rational theories is that criminals are rational beings (*Econs*) who make calculated decisions either to commit crime or desist from it. This decision is based on careful analysis of the costs and benefits which are involved in the process of crime commission. At the heart of rational/economic/deterrence theory is the notion that individuals are *Econs*, who make calculative decision to deviate in ways which resemble their decisions made about other non-criminal activities³⁴.

Rational choice/deterrence/economic theory recognizes that individuals in the society have freewill so that criminal decision making process is essentially based on this freewill. Making decision involves careful observation and taking advantage of the opportunities, circumstances and situations which could affect the successful perpetration of the planned crime³⁵. The rational decision making process also entails decision on who to rob (target), how to rob (method of approach and modus operandi), where and when to commit the crime (time and place), and what to do afterwards i.e., reaping the gain and disposal of crime appurtenances to avoid detection³⁶.

By and large, rational or deterrent like its sister economic theory holds that the criminal violates the law he even subscribes to once he perceives the benefits from the crime to outweigh the possibility of being apprehended, prosecuted and incurring costs³⁷.

Social learning and social contagious theories

³³ Tayo, S. and Mba, F., 'Calls for Biafran Independence Return in South East Nigeria' (November 2017), *Chatham House* <https://www.chathamhouse.org/expert/comment/calls-biafra-independence-return-south-east-nigeria> accessed 29 October 2021.

³⁴ A.D. Witte, R. Witt, 'Crime causation: Economic theories Encyclopaedia of crime and justice, (1st ed. Macmillan, New York, 2002), pp. 302-308.

³⁵ M. Lanier and S. Henry, *Essential criminology* (2nd ed. Westview, Boulder CO 2004).

³⁶ S.E. Out, 'Decision-Making practices in armed robbery among armed robbers in Nigeria, *International Journal of Research in Arts and Social Sciences* (2010) 2 371-391

³⁷ M. Persson and C.H. Siven, 'The Becker paradox and type I versus type II errors in the economics of crime', *International Economic Review* (2007) 48 (1) 211-233.

The emphasis of social learning-theory is the mutual-interactions between factors which are determinants of behavioral-change. Social-learning-theory, also known as the social cognitive-theory, holds that behavioral-change is determined by environmental, personal, and behavioral-elements. Each of these determinants affects the others in a push-pull manner. For example, in analogy with the principles of self-efficacy, it is argued that while an individual's thoughts affect his-behavior, an individual's characteristics elicit certain behavioral responses from the social-environment. In the same vain, an individual's environment tends to affect the development of personal-characteristics as well as the person's behavior, while the later may certainly change their-environment as well as the way the individual thinks or feels. One of the leading proponent of social learning theory, posited that learning is a cognitive-process and is social-context-based³⁸. At the same time, it can occur purely either through observation or direct-instruction, even in the absence of motor-reproduction or direct reinforcement. Behavior learning, through observation, also presupposes both learning and observing the twin elements of rewards and punishments, a process known as 'vicarious-reinforcement'.

These theorists proclaimed five key-principles of social learning as follows:

1. Learning is not purely-behavioral; it is a cognitive-process that takes place in a social-context.
2. Learning can occur by observing a behavior and by observing the consequences of the behavior (vicarious reinforcement).
3. Learning involves observation, extraction of information from those-observations, and making decisions about the performance of the behavior (observational learning or modelling). Thus, learning can occur without an observable-change in behavior.
4. Reinforcement plays a role in learning, but is not entirely-responsible for learning, and
5. The learner is not a passive-recipient of information. Cognition, environment, and behavior all mutually influence each-other (reciprocal determinism).

Anomie/end-mean theory

Anomie and end-means theories suggest that every society creates its own brand of crimes and criminals. Every society prescribes ideal goals, standards, and values, while setting the rules or norms which supposedly, guide the pursuit of these goals

³⁸ A. Bandura, 'Self-efficacy: Toward a unifying theory of behavioral change', Psychological Review (1977) 84 191-215.

and values³⁹. However, since man by nature is selfish, acquisitive and lustful, man will stretch the limit of the norms to achieve these goals⁴⁰. This behavior of man is not helped by the limited opportunities which are available to achieve these goals, and the disjuncture caused by the unequal attentions given to both the goals and institutionalized norms. This best explains the Nigerian situation where Government officials negotiate with bandits and even placed some bandits on payroll of the states with uncalculated beliefs that those actions would encouraged the bandits to stop their criminal activities of kidnapping, but has only led to increase in spite of kidnapping especially in North-East Nigeria⁴¹.

Conflict theory/political economy

Conflict theory explains crime and deviant behavior as a function of the nature, form and process of the social relations arising from the political, social and economic order of a society. That is, the political economy of any one society is a determinant in itself; it defines and determines, in broad terms, the nature, trends and patterns of criminal behavior among other social events and institutions prevalence in any one particular society. So it is the type of socioeconomic order and the resultant politics operative in Nigeria that strongly holds key to explaining the intractable kidnapping for ransom, particularly by bandits in Nigeria.

Conflict-political economy theory takes very seriously, power and inequality and their interconnectedness to criminality. Both factors are particularly pronounced in a capitalist socio-economy and political order, and are predictors and risk factors which put pressure on individuals to engage in crime. For crime to occur, there ought to exist unequal power differences between the criminal and the victim who are engaged in a kind of transaction⁴². They explained that power and inequality reproduce the social position, psychological wellbeing, self-realization and actualization which facilitate the commission of crime. It is power and inequality which influence the freewill to approach and engage potential victim based on the lifestyle personality and situation of the victim. With little or no knowledge of victims' lifestyle and socioeconomic status, criminals will find it difficult to outwit the victims.

Nigeria's political economy is basically capitalist-biased, predicated on primitive capital accumulation, and deeply enmeshed in antagonistic class-conflict between the have and have-nots. This endemic class conflict is deepened on account of Nigerian political economy being a pseudo-capitalist in nature, and characterized by

³⁹ E. Durkheim, 'Suicide: A study in sociology, (Free Press, New York 1897) (Translated by J. A. Spaulding & G. Simpson in 1951)

⁴⁰ R. Merton, 'Social structure and anomie' *American Sociological Review*, (1938) 3 672-682.

⁴¹ NAN, 'Tegina abduction: Government negotiating with bandits — official' (The Guardian, 2 June 2021) <https://guardian.ng/news/tegina-abduction-government-negotiating-with-bandits-official/> accessed 30 October 2021.

⁴² M. Lanier, S. Henry, *Essential criminology* (3rd ed. Westview Publishers, New York 2010).

crude and excessive greed for material wealth, power and prestige⁴³. One of the theorists explained that Nigeria's political economy creates unhealthy class competition, rivalry and conflict such that everyone scrambles to make it: ride the best cars, build uninhabited homes, dress in the best apparels that money can purchase, and donate huge sums of money on events⁴⁴. The resultant effect is that people engage in all manners of unethical/illegal hustling, including taking another person in a commodity-like-manner for ransom payment, to achieve the much vaunted success goal of the society. Perhaps, this partly explains why kidnapping is not only a problem of the people in high social classes but all strata of the Nigerian society.

Victimology framework

There are certain concepts within the victimology paradigm which explain why certain individuals or groups might possess greater risk of being victimized (kidnapped) than others. Victim-offender interaction, repeat victimization, absence of guardianship and lifestyle are factors in crime victimization, and they are key factors describing the nature of victimization of kidnapping for ransom. The relationships and interactions between kidnappers and victims, lifestyles and number of times a kidnapped victim have faced risk of been abducted, molested, or threatened, form an essential part of the process of kidnapping for ransom.

Lifestyle activities such as flamboyant display of wealth, careless and absent-minded attitude, unguarded discussions, and lack of effective guardianship are some key factors which explain kidnapping of many Nigerians and foreigners for ransom in contemporary Nigeria. It is possible that kidnappers, drawn into the kidnapping ring, know victims whose lifestyles and theirs interface instead of selecting victims from unfamiliar places. Such victims could least likely report the perpetrators to the authorities, thus rendering themselves easy prey to kidnapping⁴⁵. In summary, the victim's vulnerability to kidnapping for ransom is created by victim-offender interaction, repeat victimization, and lifestyle pursued by the victim and offender alike. In this regard, victim vulnerability is the variable selected to construct the integrated framework for explaining kidnapping for ransom in contemporary Nigeria.

Banditry, a crime?

⁴³ F. Odekunle, 'Illustrations of types, patterns and avenues of corruption in Nigeria: P.B. Ajibola (Ed.), Perspectives on corruption and other economic crimes in Nigeria', Nigerian Federal Ministry of Justice, Lagos (1991), pp. 83-96.

⁴⁴ S.E. Otu, 'Armed robbery in the southeastern states of contemporary Nigeria: A criminological analysis' (A Doctoral thesis submitted to the department of criminology) University of South Africa, Pretoria, South Africa (2003).

⁴⁵A. Van den Hoven and A. Maree 'victim profiling: L. Davis, R. Snyman (Eds.), Victimology in South Africa, Pretoria, Van Schaik Publishers (2005), pp. 55-71.

An offence is defined in the Criminal Code Act as an act or omission which renders the person doing the act or making the omission liable to punishment under this code, or under any Act, or Law⁴⁶. This section emphasized the age long principle which stipulates that where there is no law, there is no sin and where there is no sin, there cannot be punishment. Thus, for an act to constitute an offence, it must be so defined and the punishment prescribed by a written Law⁴⁷. By Section 36 (12) of the Constitution of the Federal Republic of Nigeria 1999⁴⁸, a person shall not be convicted of a criminal offence unless that offence is defined and the penalty therefore is prescribed in a written law; and in this subsection, a written law refers to an Act of the National Assembly or Law of a State, any subsidiary legislation or instrument under the provisions of a law⁴⁹. There is no state in Nigeria that has been proactive enough to define banditry as an offence with prescribed punishment despite the incessant cases of banditry and associated crimes in Nigeria.

However, since bandits operate in twos or more to commit the offence of kidnapping and other felonies, that may constitute conspiracy to commit an offence under section 516 of the Criminal Code⁵⁰ but not crime of banditry, since such crime is unknown to law. Despite this regrettable situation, there has been serious debate in Nigeria in recent time than ever before on the urgent need to criminalized banditry or with an option to declare bandits as terrorists and be treated as such.

A case for categorization of banditry as Terrorism

The meaning ascribed to the word 'terrorism' reflects a person's perspectives, background and philosophy. The definitional ambiguities embedded in the word 'terrorism' are encapsulated in the popular cliché; one man's terrorist is another man's freedom fighter, which immediately suggests the lack of consensus in determining who should be designated a terrorist or what should be considered terrorist acts. Agreed that there is no globally accepted definition of terrorism, it is to be stated that many countries have proceeded to provide definition in their Statutes. The Terrorism (Prevention) (Amendment) Act 2013 carefully avoids the definition of terrorism but rather, it defines 'acts of terrorism' as an act which is deliberately done with malice aforethought and which may seriously harm or damage a country or an international organization⁵¹.

Any act also amounts to terrorism when it is done deliberately with malice aforethought and is intended to unduly compel a government or international organization to perform or abstain from performing any act. A terrorist act is committed when done with the requisite intent; it seriously destabilizes or destroys

⁴⁶ Criminal Code Act, section 2.

⁴⁷ Interpretation Act, section 18.

⁴⁸ Constitution of the Federal Republic of Nigeria 1999, section 36(12).

⁴⁹ *Aoko v Fagbemi* (1961) 1 All NLR 400; *Attorney-General of Federation v Clement Isong* (1986) 1 WLRN 75.

⁵⁰ Criminal Code Act, section 516.

⁵¹ The Terrorism Prevention (Amendment) Act 2013, section 1(3).

the fundamental political, constitutional, economic or social structure of a country or international organization by intimidation or coercion. It also amounts to a terrorist act where it involves or causes an attack upon a person's life that possibly results in serious bodily harm or death. Intimidating or coercing a government or international organization is a terrorist act where it involves or causes: the kidnapping of a person, or destruction of a government public facility, or private property amongst others. This is particularly so where the act is likely to endanger human life or result in major economic loss⁵².

Terrorism Offences

The following offences have been created under the TPA (as amended):

- a. murder, kidnapping and other attacks on a person or liberty of an internationally protected person⁵³.
- b. Terrorist meetings⁵⁴, soliciting and giving support to terrorist groups for the commission of a terrorist act, harboring terrorists or hindering the arrest of a terrorist, provision of training and instruction to terrorist group or terrorist, concealment of information about acts of terrorism, provision of devices to a terrorist, recruitment of persons to be members of terrorist groups or to participate in terrorist acts. Incitement, promotion or solicitation of property for the commission of terrorists acts, provision of facilities in support of terrorist acts, financing of terrorism, dealing in terrorist property, hostage taking, membership of a terrorist group or proscribed organization, conspiracy to commit terrorist acts, aiding and abetting terrorist acts, escape or aiding and abetting escape, attempt to commit an offence under the Act, preparation to commit terrorist acts, unlawful assumption of character of officers of any law enforcement or security, tampering with evidence and witness, obstruction of any officer of a law enforcement or security agency amongst others.

Types of Terrorism

From the definition of what constitutes terrorism, it is apt to state the different forms in which terrorism can manifest. Thus, the following are types of terrorism: though the list is not exhaustive: State Terrorism This is defined as terrorism used by states for repression of their own citizens, political opponents, and minorities, as well as against conquered people and enemies in war. It can equally be defined as the use of violence by states in the furtherance of political ends. State agencies, just as much as secret societies or dissident groups commit terrorist acts to produce or maintain political objectives. An example is the Odi

⁵² E U Egeh, A I Bappah and Yusuf Dankofa, 'Nature of Terrorism and Anti-Terrorism Laws in Nigeria' (2019) 10 Nnamdi Azikiwe U J Int'l L & Juris 186 [190].

⁵³ The Terrorism (Prevention) (Amendment) Act 2013, section 3 (b).

⁵⁴ Ibid section 4(c).

massacre of 20th November 1999 when the Nigerian Military opened fire on defenseless and unarmed civilians in Odi, a village in Bayelsa state.

State Sponsored Terrorism

These are acts of terrorism sponsored and launched by one country against another using violence and lethal force with a view to achieving long term political or strategic objective. The aim of the country, which sponsors and abets terrorism and insurgency, can range from destabilization and weakening of a government or central authority to the break-up of the existing social and political order, in the targeted country⁵⁵.

Nationalist Terrorism

Nationalist terrorist seeks to form a separate state for their own national group, often by drawing attention to a fight for 'national liberation' that they think the leading government has ignored. Nationalist terrorism is quite difficult to define; this is because most groups agitating for one thing or the other insist that they are not terrorist⁵⁶. Examples of Nationalist terrorist are the pro-Biafara Separatist group known as the Indigenous People of Biafara (IPOB) which is a proscribed terrorist organization in Nigeria.

Religious terrorism

These terrorists seek to use violence to further what they see as divinely commanded purpose, often targeting broad categories of foes to bring about sweeping changes. Religious terrorism is characterized by compliance with belief⁵⁷. Example of religious terrorism in Nigeria is Boko Haram.

Anarchist Terrorism

This is terrorism aimed at the production of limited change, designed to force the government to change its policy on issues. These are revolutionaries seeking to overthrow established governments⁵⁸.

Suicide Terrorism

⁵⁵ John Alan Cohan, 'Formulation of a State's Response to Terrorism and State-Sponsored Terrorism' (2002) 14 Pace Int'l L Rev 77

⁵⁶ Meeting the Challenge of White Nationalist Terrorism at Home & Abroad: Joint Hearing before the Subcommittee on the Middle East, North Africa, & Intl Terrorism of the Committee on Foreign Affairs, with the Subcommittee on Intelligence & Counterterrorism of the Committee on Home & Security, House of Representatives (2019) available at <http://www.govinfo.gov> accessed 1 November 2021.

⁵⁷ Mark Juergensmeyer, 'Responding to Religious Terrorism' (2000) 1 Geo J Int'l Aff 27

⁵⁸ Madison, Charles A. Critics and Crusaders. New York, Henry Holt and Company
file:///C:/Users/USER/Downloads/1CharlesAMadisonCriticsan.pdf accessed 1 November 2021.

It is defined as a politically motivated violent attack perpetrated by a self-aware individual who actively and purposely cause their own death through blowing himself along with his chosen target⁵⁹.

Nuclear Terrorism

This is the use, or threat of use, of nuclear power plant for causing extensive and / or irreversible environmental damage. Under this form of terrorism, terrorist organizations use nuclear devices (chemical/biological) weapons to cause mass murder and devastation⁶⁰.

Cyber Terrorism

It is defined as the use of computing resources to intimidate or coerce others⁶¹. An example of cyber terrorism could be hacking into a hospital computer system and changing someone's medicine prescription to lethal dosage as an act of revenge.

Ethno-nationalism

This is another form of terrorism within the broader context of terrorism. It is said that 'unlike other terrorist, ethnic terrorists focus on forging distinct ethnic identity and fostering mobilization. The reception of this form of terrorism is a manifestation of how most African countries have used 'ethno -nationalist' terrorism to liberate themselves from colonial powers⁶².

Kidnapping is the major modus operandi of bandits in Nigeria in recent years, which forms one of the terrorism offences enumerated under the TPA i.e. hostage taking, it is high time the Federal Government of Nigeria calls a spade what it is by declaring bandits as terrorists. Even though banditry is not a crime as at present in Nigeria, the offence of kidnapping has been codified in most states of the Federation, and each states has its own law against kidnapping. Notably, the laws are similar across states except with minor differences on the imposed punishments. A brief analysis of the law against kidnapping provision laws of selected states are undertaken below:

Analysis of kidnapping Laws in Nigeria

The Bayelsa State Kidnapping and Allied Offences Law was enacted in 2013 while the Oyo State Kidnapping (Prohibition) Law, 2016 was enacted and signed into law in April, 2016. According to the Oyo State Kidnapping (Prohibition) Law, 2016⁶³,

⁵⁹ S Y Surendra Kumar, 'Suicide Terrorism and International Criminal Court' (2008) 8 ISIL YB Int'l Human & Refugee L 194.

⁶⁰ Dale Watson, 'Preventing Nuclear Terrorism' (2005) 19 Notre Dame JL Ethics & Pub Pol'y 333.

⁶¹ Enes Bezdob, 'Cyber Terrorism' (2019) 2019 Crim Just Issues 217.

⁶² Alan B Anderson, 'The Roots of Catalan Identity and Ethno-Nationalism' (2017) 16 JEMIE 55

⁶³ Kidnapping (Prohibition) Law Oyo State 2016, section 3(1) and (2).

“kidnapping” includes the unlawful removal or exportation of any person from where he is, to another place away from the vicinity where he is found, or unlawful confinement of the person in any place without his consent, either by physical force or hypnotizing, with the following intentions, to hold for ransom or reward; or hold as a shield or hostage; or facilitate the commission of a felony; or inflict bodily injury on or terrorize the victim or another; or give ransom or anything of value; or interfere with the performance of any governmental or political function; or interfere with the business of the person or with the business of another; or restrain or keep back; or falsely imprison for payment of ransom or doing of an act by another; or use for ritual purposes

Similarly, the Bayelsa State Kidnapping and other Allied Offences Law 2013⁶⁴, provides that any person who takes away a person against his/her will either by force or deception with the intent to demand ransom or any other unlawful consideration or demand, is guilty of the offense of Kidnapping under this law. The Supreme Court in *Bello Okashetu v The State*⁶⁵ held that in order for the prosecution to succeed in an offence of kidnapping, it has to prove the following facts beyond reasonable doubt:

- i. that the victim was seized, and taken away by the accused person.
- ii. That the victim was taken away against his consent.
- iii. That the victim was taken away without lawful excuse.

In other words, the offence of kidnapping is complete when the victim is carried away against his/her wish⁶⁶. From the premise that he who asserts must prove⁶⁷, these elements must be proven beyond reasonable doubt by the prosecution, before a defendant can be found guilty of the crime of kidnapping⁶⁸. In the celebrated case of *Umoh v State*⁶⁹, the appellant was convicted and sentenced to death for aiding commission of the offence of kidnapping. One ground for appeal amongst others was whether the High Court below was not wrong in finding the appellant guilty of aiding commission of offence and sentencing her to death for same when the offence she was said to have aided was neither established nor proved. In fact, the first accused in the case had been discharged and acquitted at the trial court for the failure by the prosecution to prove the crime of kidnapping according to the Akwa Ibom Internal Security and Enforcement Law 2009. Under that law⁷⁰, the word ‘kidnap’ is defined as to seize and take away a person by force or fraud, with or without a demand for ransom.

⁶⁴ Bayelsa State Kidnapping and other Allied Offences Law 2013, section 1.

⁶⁵ *Bello Okashetu v The State* (2016) 15 NWLR (Pt. 1523) 126 [148-149], per Ogunbiyi, JSC.

⁶⁶ See also *R. v Cort* (2004) 4 All ER 137.

⁶⁷ The Evidence Act 2011, section 131(1).

⁶⁸ *Ibid*, section 135(2); *Laoye v The State* (1985) LPELR-1754 SC.

⁶⁹ *Umoh v State* (2013) LCN/6374 (CA).

⁷⁰ Akwa Ibom Internal Security and Enforcement Law 2009, section 16.

However, the Oyo State Kidnapping law definition is more encompassing because it includes all the types of kidnapping obtainable in Nigeria such as ransom or economic, political, hostage taking and ritual kidnappings. This will prevent a circumvention of the substance of the law by defendants relying on non-inclusion of their type of kidnapping and ensure justice is better served.

Punishment

The Oyo State Kidnapping (Prohibition) Law 2016⁷¹, provides that any person who kidnaps another any person who contravenes the provisions of the law where life of the person kidnapped, restrained or seized is lost in the process, is liable on conviction to be sentenced to death. Where life is not lost in the process kidnapping, but he is released upon payment of a ransom or performance of a ransom act, the kidnapper is liable on conviction to repay the sum he received as ransom and to imprisonment for life⁷².

Under the Bayelsa State Kidnapping Law, any person who commits the offence of kidnapping shall, upon trial and conviction, be sentenced to death which may be executed by hanging the offender by the neck till he is dead or by causing such offender to suffer death by firing squad as the Governor may direct⁷³.

Kidnapping Laws in USA

In the United States of America, kidnapping is a serious crime that is prohibited by both federal and state laws. It is commonly defined as the taking of a person against his or her will, or restricting that person to a confined space⁷⁴. Although kidnapping is a crime that frequently receives a great deal of media attention, relatively few stereotypical kidnappings involving abductions by strangers take place each year. Most abductions are the result of conduct by family members or friends. Although kidnapping of adults may also occur, there are no current statistics on the number of adult abductions that happen each year. Some states add an additional requirement that the perpetrator of the kidnapping must have had an unlawful motive for the crime, such as for extortion or ransom, to facilitate a crime, or to avoid an ongoing legal issue, such as in the case of a custody dispute⁷⁵.

Federal Kidnapping Act

In swift response to the high-profile kidnapping of the son of Charles Lindbergh, one of the famous first air pilots⁷⁶, the United States adopted the Federal

⁷¹ Oyo State Kidnapping (Prohibition) Law 2016, section 4

⁷² See also Prohibition of Forcible Occupation of Landed Properties, Armed Robbery, Kidnapping, Cultism and other Anti-Violence and other Related Offences Law of Ogun State 2016, section 24 (1) and (2).

⁷³ Bayelsa State Kidnapping and other Allied Offences Law 2013, section 2(1).

⁷⁴ Federal Kidnapping Act 18 US Code, s 1201.

⁷⁵ California Penal Code, s 207.

⁷⁶ Sullivan, Harold W. Trial by Newspaper. Hyannis, Mass, Patriot Press. 105.

Kidnapping Act in order to improve the federal response to the crime of kidnapping. This Act was passed to improve federal investigation and enforcement of kidnappings once an abduction has crossed state lines⁷⁷. Under the Act, the Federal Bureau of Investigation (FBI) is charged with investigating and stopping kidnapping in the United States. The Act makes kidnapping a very serious felony, with jail term of up to 20 years or more⁷⁸. It also allows for the prosecution of parents who kidnap their children by taking them abroad without the permission of a spouse or other guardian⁷⁹.

The Act provides that if the victim is not released within twenty-four hours after being kidnapped, there is a rebuttable presumption that he or she has been transported in interstate or foreign commerce. Federal Kidnapping Act authorizes the jury to recommend death penalty⁸⁰. "Provided that the kidnapped person has been liberated unharmed". Federal Kidnapping Act was the first statute to include "liberated unharmed". The statute does not define the word unharmed. Generally, the courts concede some injuries as trifle in nature to preclude death penalty. A provision of the law provides exception for parents who abduct their own minor children⁸¹.

Federal Parental Kidnapping Prevention Act

Kidnapping by parents encompasses the taking, retention or concealment of a child by a parent, other family member, or their agent, in derogation of the custody rights, including visitation rights, of another parent or family member. Because of the harmful effects on children, parental kidnapping has been characterized as a form of child abuse⁸².

Congress has enacted civil and criminal laws to address parental kidnapping and interstate and international child custody and visitation disputes. In 1980, Congress enacted the Federal Parental Kidnapping Prevention Act (PKPA) to resolve persistent problems in interstate child custody practice, and to address the growing problem of parental kidnapping. The PKPA governs the interstate effect that must be given to child custody determinations made by state courts that

⁷⁷ Brigitte M Bodenheimer, 'The International Kidnapping of Children: The United States Approach' (1977) 11 Fam LQ 83.

⁷⁸ Janet L Freeman, 'State v. Goodwin: Defining Serious Bodily Injury in Aggravated Assault and Kidnapping Cases' (1987) 48 Mont L Rev 179.

⁷⁹ Catherine Klein, Leslye Orloff and Hema Sarangapani, 'Border Crossings: Understanding the Civil, Criminal, and Immigration Implications for Battered Women Fleeing across State Lines with Their Children' (2005) 39 Fam LQ 109.

⁸⁰ Raoul G Cantero and Robert M Kline, 'Death is Different: The Need for Jury Unanimity in Death Penalty Cases' (2009) 22 St Thomas L Rev 4.

⁸¹ Marie A Failinger, 'Islam in the Mind of American State Courts: 1960 to 2001' (2019) 28 S Cal Rev L & Soc Just 21.

⁸² Sara E Reynolds, 'International Parental Child Abduction: Why We Need to Expand Custody Rights Protected Under the Child Abduction Convention' (2006) 44 Fam Ct Rev 464.

exercise jurisdiction consistently with its terms. Specifically, such custody determinations are entitled to full faith and credit in all states. Under the PKPA, once a 'home state' court enters a custody order, that state retains exclusive continuing jurisdiction to modify its order even if the custodial parent and child no longer live in the state, provided there is a basis under state law for custody jurisdiction⁸³. The PKPA does not apply in international cases⁸⁴.

Kidnapping Laws in Canada

In Canada, kidnapping that does not result in a homicide is a hybrid offence that comes with a maximum possible penalty of life imprisonment and 18 months if tried summarily⁸⁵. A murder that results from kidnapping is classified as 1st-degree, with a sentence of life imprisonment that results from conviction which is the mandatory penalty for murder under Canadian law⁸⁶. For the offence of kidnapping, the crown must prove that the accused took the victim from one place to another without consent. This is the key distinction between confinement and kidnapping. Confinement is the deprivation of a person's liberty to move, while kidnapping is the moving of a person. All kidnappings are confinements but not all confinements are kidnapping⁸⁷.

An interesting case that analyzed the distinction between the offence of confinement and kidnapping in Canada is *R v Sam Tuan Vu*⁸⁸, where M was abducted and held for eight days in three different houses. There was circumstantial evidence which connected the appellant V to all three houses where M was confined, but based on the trial judge's findings, it is accepted that V neither participated in M's initial taking nor knew of it at the time it occurred. At trial, the appellant was convicted of unlawful confinement and acquitted of kidnapping. The Court of Appeal held that the appellant was liable as a party to kidnapping under s. 21(1) of the Criminal Code and substituted a conviction for that offence. According to the Supreme Court of Canada, Kidnapping is a continuing offence that includes the victim's ensuing confinement. So long as the victim of the kidnapping remains unlawfully confined, the crime of kidnapping continues. Here, M's unlawful confinement following the taking continued for the next eight days. The kidnapping came to an end only when M was set free by the police. Parliament has never defined the word 'kidnapping' in the Criminal Code. There is nothing in the legislative history to suggest that Parliament intended to abandon the common law definition of kidnapping which remained an aggravated form of unlawful

⁸³ Ann T Wilson, 'The Parental Kidnapping Prevention Act: Is There an Enforcement Role for the Federal Courts' (1987) 62 Wash L Rev 841.

⁸⁴ Keelikolani Lee Ho, 'The Need for Concentrated Jurisdiction in Handling Parental Child Abduction Cases in the United States' (2016) 14 Santa Clara J Int'l L 596.

⁸⁵ Criminal Code (RSC 1985, c. C-46) s 279.

⁸⁶ Isabel Grant, 'Sentencing for Murder in Canada' (1997) 9 Fed Sent'g Rep 266.

⁸⁷ Wade MacLaughlan, 'The Explosive Combination of Forcible Confinement and Constructive Murder: What Are Its Proper Confines' (1983) 21 Osgoode Hall L J 701.

⁸⁸ *R v Sam Tuan Vu* (2012) 2 SCR 411.

confinement. It was aggravated by the additional element of movement, which increased the risk of harm to the victim by isolating him or her from a place where detection and rescue were more likely. It is the element of movement that differentiated kidnapping from the lesser included offence of false imprisonment and made kidnapping an aggravated form of false.

Kidnapping Law in England and Wales

Kidnapping and false imprisonment involve the unlawful and intentional or reckless detention of a victim against his or her will. Often the crime takes place with the purpose of committing another offence, such as assault⁸⁹. The offence of kidnapping involves four elements:

1. A person is taken away by another person.
2. The person being taken is taken away by force or fraud.
3. The person being taken does not consent to being taken.
4. You have no lawful excuse to take that person.

The law in England and Wales treats kidnapping seriously, and defendants will normally be charged with kidnapping in addition to any other offences involved. Those found guilty of kidnapping/false imprisonment can face anywhere from 12 months to 12 year's imprisonment. There is also a separate offence of child abduction, which may be relevant if the victim or alleged victim is under 16⁹⁰. No prosecution may be instituted, except by or with the consent of the Director of Public Prosecutions⁹¹, for an offence of kidnapping if it was committed against a child under the age of sixteen and by a person connected with the child, within the meaning of section 1 of the Child Abduction Act 1984. Kidnapping is an indictable only offence⁹². Kidnapping is punishable with imprisonment or fine at the discretion of the court⁹³. There is no limit on the fine or the term of imprisonment that may be imposed provided the sentence is not inordinate. A parent should only be prosecuted for kidnapping their own child "in exceptional cases, where the conduct of the

⁸⁹ Graham McBain, 'False Imprisonment & Refusing to Assist a Police Officer – The Need for Statutory Offences' *Journal of Politics & Law* (2015) 8 (3) 51

⁹⁰ The Child Abduction Act 1984

⁹¹ *Ibid* s 5.

⁹² James Durant II, Frank Anechiarico and Stephen Lockwood, 'An Accountability Cometh: Amend 42 USC Section 1983 and 18 USC Sections 241, 242, Thereby Initiating a Path to Re-Imaging Peace Officers Acting under the Color of State Law' (2021) 14 *DePaul J Soc Just* 1.

⁹³ John Lambert, 'Kidnapping and False Imprisonment at Common Law' (1979) 10 *Cambrian L Rev* 20

parent concerned is so bad that an ordinary right-thinking person would immediately and without hesitation regard it as criminal in nature⁹⁴.

Conclusion

Indeed, a society creates its own crime and criminals, banditry came into existence in Nigeria as a result of selfish interests of politicians and socio-economy failure of the country. While the Southern States in Nigeria with no reported cases of banditry and arguably lesser reported cases of kidnapping compared to their Northern counterparts have made efforts to pass laws against kidnapping, it is surprising that the Northern States with prevalence of these menaces are sitting on the fence regarding passing of laws to regulate the twin-menaces of banditry and kidnapping.

Recommendations

It is strongly recommended that the extant laws on kidnapping in Nigeria, particularly in Northern States be revised and amended to ensure that all previously unforeseen exigencies are brought within the purview of the law so as to give no room to perpetrators of the crime who might seek to exonerate themselves by exploiting the loopholes in the law.

Again, no reasonable country or Government negotiate with terrorists. Nigerian Government should discourage negotiation with kidnapers by enacting and passing laws that criminalized such negotiation. When citizens genuinely stop paying ransom to bandits, then the incessant kidnapping of innocent citizens will become a thing of the past in no time.

Government at all levels through its various arms and organs must embark on an aggressive enforcement of the extant laws as an unenforced law is a dead letter law. The police must ensure that victims are not only rescued but perpetrators of the crime are brought to book and punished appropriately through the aid of technology.

Finally, the Federal Government should immediately conclude the procedure of declaring bandits as terrorists in Nigeria to enable the possible intervention of the military in curbing and complimenting the efforts of Nigerian police.

⁹⁴ *R v D* [1984] AC 778 [HL].