

Capitalizing Kidnapping; A Panacea for Solving Crime of Kidnapping in Nigeria

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ABSTRACT

Kidnapping is an offence recognized in the Criminal Justice System in Nigeria, but it had never been seen or taken as a capital offence that should hitherto attracts capital punishment. The effect of not making kidnapping a Capital offence has made people to find it easy to commit. In which case very many of the victims of kidnapping are usually killed by the kidnappers. In the light of this if murder is a capital offence, kidnapping which some criminals had been using as means of killing should be made a Capital Offence more importantly to reduce the Crime of kidnapping. This research work using the doctrinal approach employing both primary and secondary sources therefore takes a cursory look at the offence of kidnapping, among other Offences, discusses the meaning of Capital Punishment, the attendant effects of kidnapping. It finds that capital punishment does not universally lead to lower crime rates, nor does it address the deeper socioeconomic factors that contribute to such offences. The Research work concludes and recommends that Nigeria as a Country should be encouraging Capital Punishment for Capital Offences.

KEYWORDS: KIDNAPPING, CAPITAL PUNISHMENT, CRIME

1.0 Introduction

Kidnapping is a global problem which affects countries all over the world. It has become endemic in the Nigerian society. It has now become a regular thing to hear news about the abduction of people in the Country. It is fast becoming a lucrative alternative to armed robbery offence. The gravity of kidnapping is so intense that it has virtually affected most persons in our society. The current dimension of kidnapping became alarmed in the Niger Delta region when militants (restive youths) on the 26th February, 2006 abducted some foreign oil workers, ostensibly to draw global attention to the dire situation in the oil rich Niger Delta region of the country. Since then, this deadly crime of kidnapping has spread like wild-fire in most parts of the country.

Unfortunately, the manipulation of kidnapping to enhance environmental agitations soon gave way to its use as a tool for financial exploitation¹. The targets are no longer foreigners alone; practically every Nigerian is now a target. One of the biggest cases this decade has witnessed was the kidnapping of at least 276 girls from a government secondary school on the night of 14th -15th April, 2014 in Chibok, Borno state which brought about the Bring Back our Girls Campaign.² It was the time when the whole world became alarmed about the height of insecurity in Nigeria (The Abducted School Girls, 2017).

It is a fact that almost all societies in the world agrees that if a person violates the laws, he shall be punished. However, the differences appear when it comes to what kind of punishment should be applied, especially for major crimes such as murder, terrorism kidnapping drug trafficking, e.t.c. Capital punishment, more informally known as the death penalty, remains a controversial issue after centuries of debate. While the social contract gives the state monopoly on the legitimate use of physical force, some assert that when the state kills in the name of justice it violates the proper bounds of its power.³ It is not surprisingly that philosophers consider matters of life, death, and justice deeply in the light of the execution of Socrates, who is commonly credited as progenitor of philosophy in the West. Socrates was found guilty of numerous charges trumped up by the power structure of Athens in response to what were perceived as ongoing challenges to state power. He was sentenced to death, and was made to drink a lethal dose of hemlock.⁴ Since the execution of Socrates at the hands of his fellow Athenian citizens, capital punishment presents one of the most pronounced rights-based conflicts to ever broach Western political thought and public practice.⁵

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¹D. E. Ukpong & B. B. Esu (2010). Non-compliance with NALT Referencing Guide

² Helon Habila, Bring Back Our Girls fought to keep global attention on Nigeria's stolen Chibok girls. Ten years on it is still fighting, <https://www.theguardian.com/global-development/2024/apr/17/bringbackourgirls-fought-to-keep-global-attention-on-nigerias-stolen-chibok-girls-ten-years-on-it-is-still-fighting> (accessed 10th february, 2025)

³ Social Contract, [https://link.springer.com/referenceworkentry/10.1007/978-3-031-25984-](https://link.springer.com/referenceworkentry/10.1007/978-3-031-25984-5_103#:~:text=(Wallace%202002).-,Summary,to%20modern%20social%20contract%20thinkers)

5_103#:~:text=(Wallace%202002).-,Summary,to%20modern%20social%20contract%20thinkers (accessed 10th September, 2024)

⁴ *Ibid.*

⁵ E. Asuquo, Kidnapping: A Critical Examination of its Legal Implications, 3(1), JLCJ (2009), 34-51.

The incident of kidnapping has affected Nigeria's image as a country abroad. It has also affected Nigeria's attempt to develop a viable tourism industry as visitors are regularly warned by their countries to beware of coming to Nigeria. Many would-be investors have also stayed away for fears of being kidnapped⁶. Kidnapping is a capital offence punishable by law in Nigeria.⁷ In September 2017, the Nigerian Senate approved capital punishment for whoever engages in the act and it leads to the death of the victim, and a 30 years jail term for anybody that colludes with an abductor⁸.

Capitalization is the process of making certain offences punishable with death penalty and with the approval of the Nigerian Senate, kidnapping falls into the category of such offenses. Meanwhile, the objective of this paper is to give a socio-philosophical analysis of punishment from the ethical and moral perspectives with specific attention to capital punishment as a punitive measure in combating the menace of kidnapping in Nigeria. Contrary to the deterrent effect of capital punishment on offenders anticipated by the Nigerian government. The paper argues that the recent upsurge in kidnapping reflects the inefficacy of capital punishment (otherwise known as death penalty) to produce the anticipated deterrent effect on kidnapping in Nigeria.

2.0 Conceptual Analysis

The word kidnapping, which has become notorious and disgusting in the ears, was coined from "KID" meaning child, and "NAB" which means to snatch.⁹ Contrary to this assertion, the menace of kidnapping has completely gone beyond abduction of kids in Nigeria because successive administration has witnessed a lot of pandemonium and kidnapping of government officials, politicians, influential people, lecturers, royal families, kinsmen and even some kings were recorded to have been kidnapped from their palace¹⁰.

Asuquo noted that the term kidnapping is difficult to define with precision, because it varies from State to State and jurisdiction to jurisdiction.¹¹ It is however the forcible seizure, taking away and unlawful detention of a person against his or her will. It is a common law offence and the key part is that, it is an unwanted act on the part of the victim¹². It is a restriction of someone else's liberty which violates the provision of freedom of movement as enshrined in the constitution of the Federal Republic of Nigeria. Abraham defined kidnapping as an act of seizing, taking away and keeping a person in custody either by force or fraud¹³. However, it includes snatching and seizing of a person in order to collect a ransom in return or settle some scores of disagreement among people. Walsh and Adrian also noted that, kidnapping varies from country to country; therefore,

⁶ *Ibid.*

⁷ Section 30(1) Criminal Code Act, (1990).

⁸ Premium Times, 2017. (accessed September, 26th 2024).

⁹ Oxford dictionary, <https://languages.oup.com/google-dictionary-en> (last visited 10th of February, 2025)

¹⁰ J. C. Ngwama, Kidnapping in Nigeria: An Emerging Social Crime (2014) 4(1) IJHSS https://www.ijhssnet.com/journals/Vol_4_No_1_January_2014/15.pdf (last visited 10th of September, 2024)

¹¹ *Ibid.*

¹² S.A. Olulowo, An Examination of the Causes of Kidnapping and Its Attendant Challenges in Ogun State, Nigeria, (2021) 13 (1) JRHR <https://dx.doi.org/10.4314/jrhr.v13i1.7> (last visited 10th of September, 2024)

¹³ *Ibid.*

the term is uncertain and devoid of any straight jacket definition¹⁴. That is, it depends on who is defining it and from what perspective and for what purpose. They viewed kidnapping as unlawful seizure and detention of a person(s) by force against their will. Also, as an act of seizing a person and taking him or her to another country for involuntary servitude or the impressments of males into military or naval service by force or fraud. The further cited the view of Robertson who saw kidnapping as a crime of seizing, confirming abducting or carrying away of persons by force or fraud often subject him or her to involuntary servitude in an attempt to demand a ransom or in furtherance of another crime¹⁵. On the other hand, kidnapping is implied as robbery of the highest rank, and it is an Organized and systematic robbery which is not as deadly as armed-robbery, but more profitable than the former¹⁶. The profitability has encouraged those that indulged in it to carry on with the act although there is a law prohibiting it. In criminal law, kidnapping is defined as taking away of a person by force, threat or deceit with Intent to cause him or her to be detained against his or her will¹⁷. Whereas Kidnapping is viewed as an act of an angry man who wants to take any person of value hostage, and who could be rescued by loved ones. In most cases, victims are often released after payment of ransom¹⁸.

The Chambers 21st Century Dictionary defined kidnapping as the seizing and holding of someone prisoner illegally, usually demanding for a ransom for his or her release.¹⁹ Dode viewed kidnapping as a process of forcefully abducting a person or group of persons perceived to be the reasons behind the injustice suffered by another group.²⁰ It is low-cost, high-yield terror tactics. This was the initial case in the Niger Delta Region of Nigeria. Kidnapping as a social menace exposes the degree of insecurity in a country amongst other offenses. The level of insecurity in Nigeria has increased the crime rate in different parts of the country leaving disgusting consequences for the nation's economy and business growth. Despite government efforts to address the menace of insecurity in Nigeria, the country still ranks low in the Global Peace Index Map.

From the various definitions and conceptualizations of kidnapping above, it is easy to point out that all of them seem to be united in agreement on some key facts, that kidnapping is a forceful and criminal act which violates the rights of the victims. A more common ground among the definitions is the fact that all of them agree that it is mostly done for the purpose of ransom providing justification that socio-economic condition is the major driver of kidnapping anywhere in the world, without necessarily ruling out other contributory or intervening variables. The term insecurity refers to a condition in which people have no confidence in the institutions and leadership that should protect their lives, property and provide for their wellbeing, which

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ W.R. Ene, Kidnapping and The Nigerian Society: A Sociological Insight, 13(1) INJODEMAR, 2018

¹⁷ E. Asuquo, (n.5)

¹⁸ John, Wajim, Proliferation of Kidnapping in Nigeria: Causes and Consequences, IJRISS 4(3) 2020

¹⁹ Chambers 21st Century Dictionary by Mairi Robinson and Miranda Waller. (1996).

²⁰ A. O. Dode, Kidnapping in Nigeria: A Sociological Analysis, Journal of Sociology, 4(1), (2007), 34-43.

consequently leads their life into trauma, fear, anger, despair, suspicion and mistrust.²¹ In the same vein, Adebakin viewed security as freedom from danger or threats, and the ability of a nation to protect and develop itself, promote and cherish values and legitimate interests and enhance the well-being of its people. This can be maintained through the internal security system.²²

3. 0 Offences Generally

3.1 Definition:

An offence is an act or omission punishable by law.²³ It is an act contrary to law, punishable by the sovereign.²⁴

An offense is an act or omission that violates a law, rule, or regulation, and is punishable by the state or other authority. An offence can also be said to be, a breach of legal or regulatory requirements, warranting punitive action, an act or omission contravening established laws, rules, or norms, or seen as a violation of statutory, administrative, or common law provisions.

3.2 Classification of Crimes in Nigeria

3.2.1 Criminal Code Classification

Section 3 of the Nigerian Criminal Code classifies offences into felony, misdemeanor and simple offences.

i. Felony Offence

A felony is any offence which is declared by law to be a felony or is punishable without proof of previous conviction, with death or with imprisonment for three years or more.²⁵ Not only can the person who committed an offence be charged with felony, so also, persons who are accessory after the fact.²⁶ Felony offences incur the toughest penalties such as life imprisonment or death. As stated above, capital offences fall under felonies. Examples of felony offences are treason, manslaughter, kidnapping.

ii. Misdemeanor Offence

This is any offence which is declared by law to be a misdemeanor or is punishable by imprisonment for not less than 6 months but less than three years.²⁷ These are offences that do not rise to the severity of a felony. The distinction between misdemeanor and felonies lie with the seriousness

²¹ A. S. Deodu and Zors, Insecurity in Nigeria, Causes, Consequence and Solutions, 2024 *WISJ*, 8(2), 1–10. Retrieved from <https://wissjournals.com.ng/index.php/wiss/article/view/312> (accessed 10th, September, 2024)

²² M.A. Adebakin, and L. Raimi, National Security Challenges and Sustainable Economic Development: Evidence from Nigeria. *JSSS*, 1, 2012, 10-20

²³ Cambridge, <https://dictionary.cambridge.org/dictionary/english/offence> (accessed 10th, September, 2024)

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ An accessory after the fact is a person who receives or assists another who is, to his knowledge, guilty of an offence, in order to enable him to escape punishment.

²⁷ Cambridge, (n. 3)

of the crime. In the Criminal Code, some acts of assault may carry a one-year penalty, whilst some are over 3 years.

iii. Simple offence:

All offences other than felonies and misdemeanors are simple offences.²⁸ For example, under section 88 of the Criminal Code, any person guilty of unlawful processions is liable to imprisonment for one month.²⁹ If the offender is bearing or wearing firearms, a bow and arrow spear, sword, knife or any other offensive weapon, he is liable to imprisonment for one month.³⁰

3.2.2 Types of Offences³¹:

Although there are different kinds of crimes, criminal acts can generally be divided into five primary categories: crimes against a person, crimes against property, inchoate crimes, statutory crimes, and financial crimes.

i. Crime against a Person:

Crimes against a person are those that result in physical or mental harm to another person. They can be divided into two main categories, forms of homicide and other violent crimes. Where the physical harm to another individual is so severe that it causes death, a defendant may be charged with any one of several types of homicide, including, for example, first-degree murder, voluntary manslaughter, or vehicular homicide. Conversely, violent crimes, which are also very severe, include: assault and battery, arson, child abuse, domestic abuse, kidnapping, rape and statutory rape.

ii. Crimes against Property:

Crimes against property typically involve interference with the property of another party. Although they may involve physical or mental harm to another, they primarily result in the deprivation of the use or enjoyment of property. Many property crimes are theft crimes, including burglary, larceny, robbery, auto theft, and shoplifting.

iii. Inchoate Crimes:

Inchoate crimes refer to those crimes that were initiated but not completed, and acts that assist in the commission of another crime. Inchoate crimes require more than a person simply intending or hoping to commit a crime. Rather, the individual must take a “substantial step” towards the completion of the crime in order to be found guilty. Inchoate crimes include aiding and abetting, attempt, and conspiracy. In some cases, inchoate crimes can be punished to the same degree that the underlying crime would be punished, while in other cases, the punishment might be less severe.

iv. Statutory Crime:

²⁸ *Ibid.*

²⁹ See Section 88, Criminal Code Act.

³⁰ *Ibid.*

³¹ <<https://www.justia.com/criminal/offenses/>> last accessed 2024

Statutory crime is a type of crime that is defined by law. It refers to an act that is considered illegal and punishable by law. This includes actions that violate a legal duty and are subject to criminal proceedings. For example, theft, assault, and murder are all examples of statutory crimes.

v. Traffic Offences:

Traffic Offences include crimes that may arise while an individual is driving a vehicle on public roadways. Because a (DUI/OWI/DWI)³² involves both alcohol and the use of a vehicle, it is considered both an alcohol related crime and a traffic offense. Additional traffic offenses include driving on a suspended or revoked license, driving without a license, hit-and-run accidents, reckless driving, and vehicular assault. Where a traffic offense results in death, it can be charged as a far more serious crime, such as a form of homicide.

vi. Financial and other Crimes:

Finally, Financial Crimes often involve deception or fraud for financial gain. Although white-collar crimes derive their name from the corporate officers who historically perpetrated them, anyone in any industry can commit a white-collar crime. These crimes include many types of fraud and blackmail, embezzlement and money laundering, tax evasion, and cybercrime.

4.0 Capital Punishment

In order to better understand the nature of capital punishment, it is first necessary to examine the conceptual basis of punishment before considering the relevant theory that has been explored to morally interrogate society 's infliction of capital punishment on kidnappers.

4.1 Punishment or Penalty?

One of the well-known distinctions between punishment and penalty is offered by Feinberg. Feinberg separates 'penalties' from 'punishments'. Penalties are sanctions, such as fines and warnings. Punishments are understood as 'hard treatment' and 'imprisonment'. The difference between penalties and Punishments is not simply in severity, but in character. For Feinberg, punishment as imprisonment is not only a more severe sanction than imposing a fine, but imprisonment alone expresses public censure to the criminal. But then, any sanction including fines might be said to express public censure to the criminal. Of course, a small fine cannot be said to convey the same message as a substantial prison sentence. However, the difference here is simply that one sanction is more severe or punitive than the other; it is not the case that the two are entirely different in kind. Both may arise in relation to crimes and penal sanctions are often embodied in fines and imprisonment. The view that 'penalties' and 'punishments' are different in character is then a distinction drawn too sharply that should be rejected. Response to crime may take the form of a fine, imprisonment, a written warning or other alternatives.

³² Driving Under the Influence, Operating while Intoxicated and Driving while Intoxicated.

What is ‘punishment’?

Punishment may be defined in the following ways:³³

- a.) Punishment must be for breaking the law
- b.) Punishment must be of a person for breaking the law.
- c.) Punishment must be administered and imposed intentionally by an authority with a legal system.
- d.) Punishment must involve a loss (on the part of the offender).

Any punishment must satisfy all four parts of this definition to count as ‘punishment’. Therefore, if someone was ‘punished’ for breaking a law and the penalty was not imposed by a legal authority, then no punishment has taken place. The above definitional analysis of punishment can be summarized in the view of who maintains that capital punishment is the legal process whereby violators of criminal law are condemned and sanctioned in accordance with specified legal categories and procedures.³⁴

The term ‘capital punishment’ more informally known as death penalty or execution is derived etymologically from the Latin *capitalis*, meaning ‘head.’ It originally referred to death by decapitation (execution by beheading), but now applies generally to state sanctioned executions.³⁵ The sentence that an offender be punished in such a manner is referred to as a death sentence, whereas the act of carrying out the sentence is known as execution. Crimes that are punishable by death are known as capital crimes, capital offences or capital felonies. They commonly include serious offences such as murder, aggravated cases of rape, child rape, child sexual abuse, terrorism, treason, kidnapping, offences against the State, such as attempting to overthrow government, drug trafficking, war crimes, crimes against humanity and Genocide. Still, depending on a country, they may include a wide range of offences³⁶. Many countries today are considered by Amnesty International to be abolitionists, which has advocated for the United Nations (UN) to promote abolition of capital punishment with the alternative sanction of life imprisonment. Around 150 countries out of the 193 UN member states have either abolished the use of capital punishment or no longer use it in practice. Amnesty International in 2014 found that executions took place in 22 countries throughout the world out of the 195 sovereign countries recognized by UN. Despite the success of this movement in many countries, more than 60% of the world’s population lives in countries where capital punishment is administered, because the four most populous countries of the world, namely China, India, the United States, and Indonesia, largely employ capital punishment.³⁷

4.2 Capital punishment in Nigeria:

³³ <https://dictionary.cambridge.org/dictionary/english/punishment> (accessed On 10th September 2024)

³⁴ H. A. Bedau, *The Death Penalty in America*. (New York: Oxford University Press, 1982).

³⁵ *Ibid.*

³⁶ M. Kronenwetter, *Capital Punishment: A Reference Handbook*. Santa Barbara, California. (2001)

³⁷ Amnesty International. *Death Penalty Statistics*. (2009)

During the Nigerian military juntas of 1966–79 and 1983–98, the government employed capital punishment against political opponents, most infamously when General Sani Abacha ordered the execution of the Ogoni Nine by hanging in 1995.

Since the transition to democracy, executions have become rare; no executions occurred between 2006 and 2013, when four prisoners were awaiting execution. After that, there were no further executions until 2016, when Nigeria hanged three men for murder and armed robbery.

These executions remain the latest to date in Nigeria. The use of capital punishment in Nigeria has sparked varied opinions among the populace. In October 2014, former Governor of Delta state, Emmanuel Uduaghan, pardoned three inmates on death row, following the recommendations of the State Advisory Council on Prerogative of M

5.0. Kidnapping and its Causes

Many reasons are given by researchers for the probable causes of kidnapping in Nigeria. This section inexhaustibly considers below some of the causal factors implicated in the literature. Iyang cited the problem of unemployment as one of the reasons why kidnapping in Nigeria is rampant. He used the widely acknowledged adage, which says that an idle man is the devil's workshop to present the situation of unemployment in Nigeria. He noted that there are uncountable able-bodied men and women in Nigeria roaming the streets in search of non-existing jobs.³⁸ Out of frustration together with mounting responsibilities to tackle, many idle young persons have ventured into criminal activities including kidnapping. Ogabido agreed that the issue of poverty and unemployment of youths as well as social injustice and unfair distribution of the nation's resources are potent causes of kidnapping in Nigeria³⁹.

Inyang also believed that, the proliferation of arms as a result of political patronage of miscreant who were dumped after elections may indirectly encourage and enhance kidnapping. He likened present day kidnapping situation to the scourge of armed robbery in the early eighties where many young able-bodied men who fought during the Nigerian civil war were discharged and sent home with nothing. Meanwhile since the Schools they left behind were destroyed and there were no jobs to engage them and keep them busy. Many of them consequently took to armed robbery, since as ex-soldiers they were armed with weapons, having acquired the skills and guns during the war. The story is almost the same today as politicians employ idle youths as political thugs and later dump them after elections. Therefore, the youths (thugs) who have been abandoned by their masters after winning elections are now busy kidnapping innocent persons. Moral decadence and the get-rich-quick syndrome have been identified as some of the causative factors of kidnapping. Inyang confirmed these in his proposition that in Nigeria, nobody asks questions on how people make their wealth. According to him, a poor person today can show up with an expensive car tomorrow and nobody dares to question the sudden wealth. Also, people who have donated money

³⁸ B. J. Iyang, Youth Empowerment and Kidnapping in Nigeria: A Study of the Niger Delta Region. *Journal of Social Sciences*, (2009).

³⁹ C. O. Ogabido, Kidnapping in Nigeria: Causes, Consequences and possible solutions. *Journal of Humanities and social sciences*, (2009).

to develop their communities and religious institutions are rewarded with chieftaincy and religious titles thereby creating a wrong impression in the minds of Nigerian youths who thereafter take to kidnapping.

The level of insecurity in Nigeria has increased the crime rate in different parts of the country leaving disgusting consequences for the nation's economy and business growth. As a result of insecurity, vices such as insurgence, theft, kidnapping, abduction are handled in Nigeria with lukewarm attitude which channel transformation and structural development to no avail. This is because when there is security threat in the country, money meant for such developments are often diverted into fighting these threats. At present, no part of the country is fully secure as different part of the country is faced with one form of insecurity or the other. Nwaorah noted that in a situation where government officials, especially top ranking persons in civil services who are custodians of government resources loot the treasury openly without fear, it could automatically encourage few of the dissatisfied persons to vent their anger on them and their relatives⁴⁰. In the same vein, Danesy argues that, parental neglect, lack of proper counseling, poor skill acquisition and drop-out of school syndrome by youths have led many youths to migrate from rural areas to cities to meander around major roads where they have been seduced with cash benefit and conscripted into various types of gangs or secret cults where they have been trained as ethnic militia to unleash terror on other innocent people of their sponsors in the society⁴¹.

Political authorities also use the tactics of kidnapping to intimidate or shut other groups up. This tactic is most common in urban areas where local authorities can feel that they are kings. Also, many people today who are desperate in economic and social needs are often the ones who commit kidnappings. So where the gap between the rich and the poor is constantly widening and where the possibilities to earn money in an honest way are often difficult to attain, kidnapping turns out to be a lucrative means to fall back on and to draw attention to what is considered an intolerable situation.

6.0 Kidnapping: A Threat to National Security

There is no doubt that Nigeria is to day one of the major kidnapping capitals of the world. This has obvious implications for investments, development and even the quality of governance. The factors occasioning kidnapping already discussed in this work, appear to be mere symptoms of a larger malaise. Pervasive kidnapping, is one of the major symptoms of both 'failed' and 'failing' states. Most of the countries where kidnapping has been pervasive have been either failed or failing states—Baghdad after the 2003 invasion of Iraq, Columbia from the 1970s until about 2001, and Mexico, between 2003 and 2007.⁴²

Kidnapping constitutes a veritable threat to Nigeria's sustainable development and security in the light of the following:

⁴⁰ P. U, Nwaorah, *Kidnapping in Nigeria: An Examination of the causes and Consequences*. Journal of social science and public policy, (2009).

⁴¹ C, Danesy, *Youth Restiveness and Violence in Nigeria: Causes, Consequences and Remedies*. Journals of Social Science and Public Policy, (2011).

⁴² P.U. Nwaorah (n.40)

1. It often leads to loss of life, thus, threat to public safety.
2. It sabotages economic growth and development by way of capital and Investment flight.
3. It results in negative perception of Nigeria on international scene, with its negative consequences on trade, tourism and Foreign Direct investment (FDI).
4. It creates an atmosphere of public insecurity, there by endangering the prospects of societal progress.
5. It has often led to loss of investment capital, closure of businesses, and Unemployment etc.

In sum, the rising trend of kidnapping in Nigeria has, more than anything else, created security and economic climate that impede sustainable national development.

In the midst of all these, the Nigerian economy is the ultimate victim. The country bears the greatest brunt of the whole saga. This include poor and negative image at the international scene, increase in unemployment, risk of a possible slide to a pariah State, huge loss from sources of resources from taxes, tourism, etc. The greater risk however is the continued spread and degeneration of kidnapping activities across Nigeria.

The adoption of kidnapping an instrument for terrorist political vendetta has since complicated the awry scenario. This trend poses the question as to whether Nigeria is relapsing into the 'failed state' syndrome. Worse still, public security agencies in Nigeria have so far seemed critically ill-equipped to combat the crime. Consequently, in its apparent dynamics of degeneration, kidnapping is fast becoming one of the most dreadful organized crime in contemporary Nigeria. It has so far taken a great toll on the high and low of society and, indeed, it is becoming rather endemic and intractable by the day.

Kidnapping has graduated to an act of terrorism with the Chibok and Dapchi Girls incident, perpetrated by the Boko Haram insurgents. These two incidents, particularly gave away the Nigerian Security system as a failed one.

7.0 Legality of Death Penalty for Kidnapping Offence

A pertinent question arises as to whether the imposition of death penalty for the offence of kidnapping is lawful, considering international best practices. The safeguard for the imposition of death penalty include a reduction in scope and non-extension of the existing scope of capital offence.

The problem arises as to what constitutes a serious crime. It has been posited that the first attempt at this definition was in 1984, when the Economic and Social Council of the United Nations, adopted by resolution, the safeguards for the protection of those facing death penalty.⁴³ The first safeguard stipulates that the scope should not go beyond intentional crimes with lethal or other extreme consequences. This safeguard should be construed to depict that the offences should lead to loss of life or be life threatening in the sense that death could be a likely consequence of the action.

⁴³ *Ibid.*

The UN Commission on Human Rights, in its Resolutions 1991/61 and 2004/67 urges all states that still retain death penalty to ensure that it is not imposed for non-violent financial crimes or non-violent religious practices or expression of conscience. It has also been stipulated that death penalty should not be imposed for political reasons. It is therefore clear, from the above provisions that death penalty for kidnapping offence is lawful and deserving. This is simply because it falls within the meaning of ‘serious crime,’ to which death is a probable consequence. However, it is the opinion of these researchers that the death penalty should only be imposed, if a kidnapping operation results to the death of any person.

8.0 Effects of Capitalizing Kidnapping

Death penalty is one of the most controversial forms of punishment in criminal justice systems worldwide. When applied to serious crimes such as murder, terrorism, and kidnapping, its deterrent effect, morality, and efficacy often come under scrutiny. Specifically, for the offence of kidnapping, death penalty raises significant questions about justice, deterrence, human rights, and the long-term effects on criminal behavior. This section examines how death penalty affects the offence of kidnapping, considering both deterrent and societal perspectives, as well as its ethical implications.

The following are the effects capital punishment has on kidnapping;

i. Deterrence and Crime Reduction:

The primary argument in favor of death penalty particularly for heinous crimes like kidnapping, is its potential deterrent effect. Proponents argue that the threat of capital punishment may dissuade potential kidnappers from committing the crime. Kidnapping, particularly when it involves harm or potential death to the victim, can be seen as one of the most grievous offences against personal freedom and safety. In some legal systems, where kidnapping for ransom or political purposes is common, death penalty is viewed as a necessary tool to combat this severe crime.

Several studies suggest that the death penalty can have a limited but measurable deterrent effect on crime.⁴⁴ A study published in the “American Law and Economics Review” found some evidence that capital punishment may deter specific violent crimes, including kidnapping that leads to murder. However, critics argue that while the death penalty might provide short-term fear of legal consequences, the overall effectiveness in reducing crime rates remains inconclusive. Many kidnappers, especially those driven by financial desperation or ideological motives, may not consider the consequences in the heat of the moment, thus limiting the death penalty’s effectiveness as a deterrent.

ii. Ethical Concerns and Human Rights:

One of the major criticisms against the death penalty for kidnapping is the potential violation of human rights and ethical considerations. International organizations such as the United Nations and Amnesty International have consistently argued against the use of capital punishment, citing the risk of wrongful convictions, unequal application of the law, and the inherent inhumanity of

⁴⁴ C. O. Ogabido (n. 39)

taking a life as punishment.⁴⁵ The International Covenant on Civil and Political Rights (ICCPR) has encouraged states to abolish the death penalty, especially in cases where the crime does not directly lead to loss of life, as is often the case with kidnapping. For instance, there have been documented cases where individuals were executed for crimes like kidnapping, only for evidence to later emerge suggesting their innocence or disproving their involvement. This raises significant concerns about the irreversible nature of the death penalty and the justice system's ability to apply such a sentence fairly. Moreover, the ethical debate centers around whether it is morally acceptable for the state to take a life in response to a crime, even one as serious as kidnapping.

iii. Impact on Criminal Behavior and Recidivism:

The use of the death penalty for kidnapping can also have an impact on the behavior of offenders. Some criminologists argue that the existence of such a harsh penalty might lead to unintended consequences. For example, a kidnapper who fears execution might be more likely to kill the victim in order to eliminate witnesses or increase bargaining power with authorities. This “escalation effect” can undermine the intended deterrent purpose of the death penalty, making the crime more violent or severe. On the other hand, in countries where the death penalty is actively enforced, some reports indicate a reduction in kidnappings, particularly those motivated by financial gain. In the case of countries like China and Saudi Arabia, where capital punishment is used for a variety of crimes including kidnapping, authorities claim that the fear of execution has contributed to lower rates of violent crime. However, the difficulty of measuring these results accurately, coupled with a lack of transparency in the judicial processes of such countries, makes it challenging to definitively attribute crime reduction to death penalty alone.

iv. Case Studies and Global Perspectives

The effects of the death penalty on kidnapping vary significantly across regions. In the United States, for instance, the federal death penalty is applicable in cases of kidnapping where the victim is killed. However, relatively few individuals have been sentenced to death solely for kidnapping. A prominent example is the federal case of Gary Lee Sampson, who was sentenced to death in 2003 for carjacking and kidnapping that resulted in murder.⁴⁶ However, cases like Sampson's highlight the complexity of applying the death penalty and the lengthy appeals process that often follows. In contrast, countries such as Iran and North Korea frequently use capital punishment for a broader range of offenses, including kidnapping. In these countries, the death penalty is a significant part of the criminal justice system's approach to maintaining order, though human rights groups have criticized the methods of trial and execution used in these contexts. In countries where kidnapping is politically motivated or tied to insurgencies, the death penalty might be seen as a tool to suppress dissent rather than a means of deterring crime.

8.0 Conclusion

The death penalty's effect on kidnapping is a complex issue that intertwines legal, ethical, and social considerations. While the potential for deterrence exists, its effectiveness remains debated

⁴⁵ *Ibid.*

⁴⁶ US v Sampson <https://casetext.com/case/us-v-sampson-23> (last accessed, 10th day of September, 2025)

and uncertain. Ethical concerns about the morality of capital punishment, particularly for crimes that do not directly involve murder, add another layer of complexity. Moreover, the risk of wrongful conviction and the uneven application of the death penalty raises questions about its fairness as a punitive measure.

Ultimately, while the death penalty might offer a sense of justice or retribution for serious crimes like kidnapping, it does not universally lead to lower crime rates, nor does it address the deeper socioeconomic factors that contribute to such offenses. As more countries reconsider the use of capital punishment, it is crucial to explore alternative approaches that balances justice, deterrence, and human rights.

9.0 Recommendation

Having considered the rationality of making a kidnapping offence to be attracting capital punishment and the attendant effects being considered, it is necessary to have the following recommendations and suggestions:

- e.) Nigeria as a Country should be encouraging Capital Punishment i.e Death Penalty for Capital Offences.
- f.) States of the Federation should have a review of their respective Laws in making sure that few States are being emulated in Capitalizing Kidnapping as Offence.