

THE LEGAL FRAMEWORK FOR COMBATING ABDUCTION AND KIDNAPPING IN NIGERIA

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ABSTRACT

Kidnapping as a historical and persistent phenomenon in Nigeria, has become a major social vice, second perhaps only to drug trafficking among global crimes. Despite Nigeria's status as "the Giant of Africa" the government's control has been seemingly overshadowed by kidnappers, who dictate the pace of activities and perpetrate crime with impunity. This has led to a violation of the fundamental human right to freedom of movement, both as enshrined in the UN Charter and the Nigerian Constitution. The government's efforts to curb this menace have been largely ineffective, as evidenced by the continuous recurrence of abductions and the media portrayal of the country's failing state status. However, the inability of government agencies to effectively combat kidnapping has left Nigerians across all social classes living in fear and insecurity comparable to terrorist threats. The crime has had severe consequences on individuals, families, businesses, educational institutions, and government establishments, resulting in the loss of property, monetary wealth and wasted time. In an attempt to deter kidnappers, the government has imposed harsher punishments, including capital for convicted culprits. The article makes an analysis on the legal framework for combating abduction and kidnapping in Nigeria. It highlights the laws of abduction and kidnapping in contemporary Nigeria. This paper adopts qualitative research methodology.

Key words: Legal, Combating, Abduction and Kidnapping, Nigeria.

Introduction

In Nigeria, kidnapping and abduction are serious criminal offence governed by both federal and state law. The legal framework is fragmented because Nigeria operates a federal system where criminal law is largely under state jurisdiction (via the Criminal Code in the South and Penal Code in the North), but certain high-profile crimes like terrorism-related kidnapping fall under the federal laws.

The constitution provides that ‘the Federal Republic of Nigeria shall not be governed nor shall any person or group of persons take control of the government of Nigeria or any part thereof, except in accordance with the provisions of this Constitution.’¹

Today, it is predominantly driven by ransom demands, with criminal gangs (and occasionally jihadist groups like Boko Haram or ISWAP) abducting villagers, travelers, students. Clergy and high profile individuals.

The North West state of Zamfara remains the epicenter, but violence spills into Katsina, Kaduna, Niger, Kebbi and Sokoto. Kidnappers often arrive on motorcycles, raid communities at night or dawn, and retreat to forest camps spanning multiple states. Victims are held for weeks or months, subjected to torture or death if ransoms are delayed-even after payment, as seen in cases where hostages were killed despite families complying.

1.1. Laws on Abduction and Kidnapping in Nigeria

1.1 Constitution of the Federal Republic of Nigeria 1999 (as amended)

The Constitution of the Federal Republic of Nigeria 1999 (as amended), the grund norm. That is to say; it is supreme and supersedes over all other laws in the federation of Nigeria and any law with

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¹ Section 1(3) of the Constitution of the Federal Republic of Nigeria 1999(as amended)

provisions in conflict or inconsistent with the provisions of the Constitution is null and void to the extent of its inconsistency².

Furthermore, the Nigerian Constitution has declared that ‘security and welfare of the people shall be the primary duty of government³. By this provision, the primary purpose of government may seem as one but it has two interwoven limbs, namely: the security of the people and welfare of the people. The failure of government in either of the purposes will tantamount to the failure of the government because without the primary purpose, the accomplishment of every other purpose of government shall be baseless, meaningless, hindered or frustrated and over the years, the Nigeria governments have regrettably, staggered or faltered in this principal purpose culminating in violence, insurgency, banditry abductions, kidnapping, religious intolerance and increased crime rate. Lives are lost in numbers either in hands of kidnapers, bandits, terrorists, religious fanaticism and armed robbery among others and whopping sums of money is paid as ransom for kidnapping⁴.

1.1.2. Terrorism prevention (Prohibition) Act, 2023

Classifies kidnapping for ransom as an act of terrorism under section 1, especially when linked to group like Boko Haram or bandits. The jurisdiction to try offences bothering on terrorism under the Act is exclusively conferred on the Federal High Court located in any part of the country regardless of where the offence is committed.⁵ Also, only the Attorney-General of the Federation has the legal authority to prosecute terrorism related offence under the Act,⁶ but the power to prosecute under the Act can be donated to State Attorney General of State to prosecute through a fait⁷.

² Section 1(1) of the Constitution of the Federal Republic of Nigeria(as amended)

³ Section 14(1) of the Constitution of the Federal Republic of Nigeria(as amended)

⁴See the provision of Section 6(6)(c) of the Constitution of the Federal Republic of Nigeria(as amended)

⁵ Section 76 of the Act.

⁶ Section 3(1) of the Terrorism (Prevention& Prohibition) Act, 2022.

⁷ Ezekiel v Attorney-General of Fedreation(2017)

1.1.3 The Penal Code Law⁸

The offences of kidnapping and abduction have been providing for under the code.⁹ When a person is in the process of conveying another person to a territory outside the state is intersected before the crossing, he may be liable to attempt to commit kidnapping, but not guilty of committing the actual Act¹⁰. The offence of kidnapping under this section is fragmented into the following major components.

1. Taking or enticing of a minor or a person of unsound mind by a person;
2. The minor must be taken or enticed out of the keeping lawful guardian;
3. The guardian's consent must be absent.

With respect to abduction,¹¹ there are two essential elements necessary to complete the offence:

1. Compelling an individual by force or inducing by deceitful means;
2. Causing such person to go from the place to place.

Under the Penal Code, abduction is an offence, if it is done with the intention to commit murder, put the victim in danger of being killed¹², with the intention to force or seduce a girl for sexual intercourse¹³ with another person. It is also an offence under the Penal Code for any knowledge that any person has been kidnapped or abducted to conceal or confine such a person.¹⁴

It flows from the above, that abduction and kidnapping under the Penal Code are different. The differences between the two offences are as follows:

⁸CAP P38 L F N 2004

⁹ Sections 271 and 272 of the Penal Code Act.

¹⁰ Section 95 of the Penal Code Act.

¹¹ Section 272 of the Penal Code Act.

¹² Section 274 of the Penal code.

¹³ Section 275 of the Penal code.

¹⁴ Section 277 of the Penal code.

1. In kidnapping, the offence is committed against a minor or person of unsound mind. However, for abduction, there is no age limit.
2. A minor's consent is not relevant to exonerate the defendant from liability for kidnapping but in the case of abduction, the victim's consent will negate liability.
3. Kidnapping is committed when a person is taken out of the keeping of a lawful guardian. However, for the offence of abduction to be committed, any person may be moved from place to another by using force or deceitful means, only then will the offence be said committed.

1.1.4 The Criminal Code Act¹⁵

Kidnapping is a criminal offence of a serious nature. It is a felony under Criminal Code and offence against liberty¹⁶.

Kidnapping a person who:

- a. Unlawfully imprison any person;
- b. And takes him out of Nigeria without his consent;
- c. Within Nigeria in such a manner as to prevent him from applying to court for his release or from disclosing to any person the place where he is imprisoned or in such a manner as to prevent any person entitled to have access to him from discovering the place where he is imprisoned or in such a manner as to prevent any person entitled to have access to him from discovering the place.
- i. Conspires, aid or abets in committing the offence of kidnapping or abducting; or
- ii. Requests, negotiates or collects any ransom on kidnapped or abducted person;
- iii. Causes a serious injury to kidnapped or abducted person, commit an offence and is liable on conviction to life imprisonment.

¹⁵ CAP C38 LFN 2004.

¹⁶ See section 364 of the Criminal code Act.

Some states have amended the law of kidnapping. This explain why, almost all the seventeen states in southern Nigeria have repealed the Act and enacted their various anti- abduction and anti-kidnapping laws to only clearly define two offences but to provide harsher punishment to serve as deterrent to offenders.

Trafficking in Persons (Prohibition) Law and Administration Act (2015)

This is the first primary anti-trafficking legislation addresses the issue of human trafficking. The Act prohibits arrange of offences related to human trafficking including; trafficking in salves,¹⁷ exploitation of children,¹⁸ abduction,¹⁹conspiracy,²⁰ aid and abetting,²¹ foreign travel for prostitution,²² and organ harvesting²³ etc.

1.2 Legislation on Abduction and Kidnapping in Other Jurisdiction

In England, abduction and kidnapping are criminal offences but have not been codified. They are crimes under the common law of England and Wales. If a person takes another by coercion or fraud without consent of the person taken away and without lawful consent of the person without full excuse is kidnapping and unlawful²⁴. It is misdemeanor at Common law. Kidnapping in England is punishable with imprisonment or a fine at the discretion of court²⁵.

In the United States, Federal kidnapping Act authorizes federal authorities to pursue kidnappers once they cross state lines with the victim. The law provides that if the victim is not released within 24 hours after the kidnap, a court may believe that the he was transport outside the lines which may be rebutted with strong and cogent

¹⁷ Section 25 of the Act.

¹⁸ Section 23 of the Act.

¹⁹ Section 13(2) of the Act.

²⁰ Section 27 of the Act

²¹ Section of the Act

²² Section 18 of the Act

²³ Ibid

²⁴ R v Wade (1984) Ac 778

²⁵ Ibid.

evidence²⁶. Several States implement their anti-kidnapping laws. For instance, New York has a concise and detailed anti-kidnapping law that bases its definition on the first degree of kidnapping and the period and goal²⁷.

In South Africa, the element of kidnapping comprises of the unlawfully and intentionally depriving another person of his or her freedom of movement, and if that person is a child, the custodian has a control over the child. Aggressive control is not a requirement as the removal may be effected by sly trick²⁸. The offence can be committed without moving the victim from the position he or she is in, provided that the victim is concealed or hidden where he or she is. The sanction for kidnapping or abduction in South Africa is life imprisonment²⁹.

1.3 Investigation of Abduction and Kidnapping in Nigeria

In Nigeria, the power to investigate crimes is vested in various law enforcement agencies. Abduction and kidnapping are criminal offences punishable in Nigeria as crime against the State.

This informs the reason for the investigation into these allegations by the government agency empowered, equipped and funded for investigation.³⁰

Investigation when, objectively and sincerely done enhances the criminal justice delivery.

However, the power of investigation envisaged under this segment is the investigation of the crimes of abduction and kidnapping provided for under the various anti-kidnapping anti-abduction laws in Nigeria; when a complaint is made or there exists a suspicion concerning the commission of the offence, the police is duty bound to investigate and

²⁶ Fawei PJ 'The Legal Frame Work on the Crime of Kidnapping in Nigeria. A Comparative Study (2017), 111(i), ABU, Journal of Public and International Law, 236.

²⁷ Ibid.

²⁸ State v Levy (1967)1, SA351.

²⁹ ibid

³⁰ LILokai: Preliminary Investigation by a Public Prosecution in Nigeria. Obstacle and Challenges in Brining a Change Against Individual Due to their Social or Ethnic Origin. Nomose Library.de/105771/6262-2018-1-4 pdf 30th October, 2025.

citizens are under the obligation to provide useful information on the investigation³¹. This power has been held to be wide³² since they can search premises, question any body and seize any property which may provide useful information on the investigation³³.

Some of the statutory duties and responsibilities conferred on the police and other security agencies to investigate the crimes of abduction and kidnapping in Nigeria have been discussed below:

Duty to give Information

In order to ensure that the police or any agency government investigating the crime of abduction and kidnapping obtains the required information, the law has imposed a duty on all citizens of Nigeria to avail them with required information. The law provides that any person who is aware of the commission of or the manifest intention to commit the offence of kidnapping should promptly inform the police. The failure to give such information to security agencies or any related authority of such commission or manifest intention is an offence and is liable to a conviction³⁴.

It is very unfortunate that in developing countries like Nigeria, the effective administration of criminal justice is hampered by detection and investigation of crime due to poor level of technological advancement³⁵. The duty to detect crime, complaints, crime because detection refers to the investigatory power of the police to discover the commission of crime and identify persons involved while prevention expresses the mode of discovering the crime and preventing it from happening³⁶.

³¹ See Section 116 Administration of Criminal Justice Act, 2015.

³² *Offorlette v The State* (2000) 12 NWLR(pt6811)414.SC

³³ See *Joshua v The State*(2009) LPELR8189CA

³⁴ See *Project Arcado Ltd & Anor v. IGP* (2022) LPELR59127CA. 13th December, 2022. See Section 13 of the Nasarawa State Anti-kidnapping (Prohibition) Law, 2020.

³⁵ A M Adebayo, 'Administration of Criminal Justice Act 2015, Annotated with Cases and Comprehensive Notes (Princeton Publishing, 2016), 10

³⁶ *Ibid.*

Power to Obtain Information in Nigeria

In Nigeria, the security agencies make arrests either in response to a complaint lodged to them, or on a tip-off about the commission of abduction and kidnapping. The wisdom behind this provision is that abductors or kidnappers live in affluence through moneys collected from the families of their victims and many times, invest them into properties. It is reported that kidnappers received the sum of N1.048 billion in ransom between July 2023 and June 2024 in Nigeria³⁷. During the course of investigation, the law empowers the police to demand for information from kidnapping, suspects, their moveable and immovable property and the dates they were acquired and all money or property paid for or deposited by them during a specified period.

Power to Arrest without Warrant

Primarily, arrests are made by law enforcement agencies when a person is suspected to have committed an offence³⁸ by the use of a warrant of arrest. This is an order, issued by a judge or Magistrate on behalf of the State, which authorizes the arrest and detention of an individual, or the search and seizure of an individual's property.

In view of the prevalence of the offence of abduction and kidnapping in Nigeria, the law has placed the offences in category of such offences where the need for a warrant of arrest has been dispensed with authorizing a police officer to make arrests without the need to obtain a warrant of arrest³⁹.

Forfeiture of Property

Forfeiture happens when either the State or Federal government seizes a property and wishes to permanently deprive a person of ownership right to it. Under both states and federal laws, the government may seize property in good faith or belief that the property was used to commit criminal activity or alternatively, the property was acquired with proceeds generated from criminal activity. The various anti-

³⁷ [Businessday.ng/life/article/over-nib-ransom-paid-to-kidnaper-in-one-year-accessed-30th-October-2024](https://businessday.ng/life/article/over-nib-ransom-paid-to-kidnaper-in-one-year-accessed-30th-October-2024).

³⁸ Section 4 of the Police Act.

³⁹ See Section 17 of the Nasarawa State Anti-Kidnapping (Prohibition) Law, 2020.

Kidnapping and anti-abduction laws in Nigeria have provided for the forfeiture of properties used by kidnappers or abductors to perpetrate the crime or were acquired from the proceeds from kidnapping or abduction⁴⁰.

Section 38 and 39 of the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2015, provides as follows:

(a) Whether real or personal, which represent the gross receipt which a person obtains directly as a result of the violation of this Act or which is traceable to such gross receipt;

(b) Within Nigeria which represent the proceeds of an offence under the law of a foreign Country within whose jurisdiction such offence or activity would be punishable by imprisonment for a term exceeding one year which would be punishable by imprisonment under this Act if such act or activity had occurred within Nigeria, subject to forfeiture to the victim Trafficking Trust Fund.

The Act provides that where a person is arrested for an offence under the Act, the agency shall immediately tract and attach all the assets and properties of the person acquired as a result of such illegal act and shall thereafter cause to obtained an intern attachment order by the Court⁴¹.

Duration to Keep Suspects in Custody

The Constitution of Federal Republic of Nigeria 1999(as mended) has provided for the right to personal liberty as a fundamental human right⁴². This right protects an individual's physical freedom and prevents the government from infringing on it. This includes the right not to be arrested or detained without legal jurisdiction. No one can be deprived of their liberty unless it is in accordance with the law. Consequently, any person arrested and detained by the police on allegations of having committed a criminal offence must be arraigned in Court within 48 hours of his arrest⁴³. The Courts have held in a

⁴⁰ See Section 16 of Nasarawa State Anti- Kidnapping (Prohibition) Law, 2020.

⁴¹ See Section 41 Trafficking In Persons (Prohibition) Law Enforcement and Administration) Act 2015.

⁴² See Section 35 of the 1999 Constitution(as amended)

⁴³ See Section 35(1)(c) of the 1999 Constitution (as amended)

plethora of cases that there is from the constitutional provision, no room for any arbitrary arrest or detention of any person in Nigeria.⁴⁴

From the above provision of the law, a person can be detained by the police or other security agencies for a maximum period of forty-five (45) days provided that the order of Court is sought and obtained. This is meant to ensure that the Constitutional provision is not breached while investigating the offence of abduction and kidnapping in State⁴⁵.

1.4 Offences under the Anti-Kidnapping Laws in Nigeria

The various laws enacted by the Federal and State governments to combat the abduction and kidnapping in Nigeria have created some special offences, some of which are:

Conspiracy to Kidnap

Conspiracy is generally known in law to be when two or more persons have reached an agreement to carry out what is lawful but unlawful manner.⁴⁶

In Nigeria, conspiracy is generally regarded as an inchoate offence that involves an agreement between two or more persons to commit an illegal act, or use of an illegal means to commit an act that is not illegal. The punishment for conspiracy is imprisonment and the length of sentence depends on the offence⁴⁷.

The Penal Code Law of Kaduna State has provided that where two or more persons conspire to commit kidnapping and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be guilty of conspiracy to commit kidnapping and liable on conviction to life imprisonment⁴⁸. While the Nasarawa State Law provides for twenty (20) years imprisonment for conspiracy to commit

⁴⁴ SCC Nigeria Ltd & Anor v George & Anor(2019) LPELR 46963 CA, Per Adah JCA.

⁴⁵ See Section 19, Nasarawa State Anti-kidnapping (prohibition) Law 2020.

⁴⁶ See Section 58 of the Penal Code Law of Kaduna State 2017(as amended)

⁴⁷ Section 59 of the Penal Code Law of Kaduna State 2017 (as amended)

⁴⁸ Section 247(1) of the Penal Code Law of Kaduna 2017 as amended.

Kidnapping, the Kaduna State Law provides for life imprisonment for the same offence.

Attempt to Kidnap

When a person intending to commit an offence begins to put his intention into execution by means adapted to its fulfillment and manifests his intention by overact, but does not fulfill his intention to such an extent as to commit the offence, he is said to have committed the offence and this has been recognized under the Nigerian Law⁴⁹.

Attempt to commit an offence is generally recognized under the law, even before the coming into effect of anti-kidnapping and anti-abduction laws in the same states. Anyone who attempts to commit the offence is liable for punishment provided for under various laws⁵⁰.

Fake Kidnapping

Fake kidnapping, also known as self-kidnapping is when a victim stages their own kidnapping⁵¹. There is also virtual kidnapping which is a type of fraud where a victim is contacted by phone and told that family member being held captive. The caller may provide instructions on how to safely return their family member, such as wiring money. The caller may claim that they have not received the money demand more⁵².

The various kidnapping and anti-abduction laws in Nigeria have prohibited fake kidnapping, also self-kidnapping in Nigeria⁵³.

Nigeria has today witnessed many incidences where people have stage-managed their kidnapping or abduction in order to obtain ransom or some other benefits. The Nigeria force recently raised the alarm over the disturbing cases of self-kidnapping in some parts of the Country, warning the members of the public against the trend. In a statement made available to the public in Abuja by Force public Relations (FPR).

⁴⁹ See Section 4 of the Criminal Code and Section 95 of the Penal Code Act.

⁵⁰ See Sections 57 of the Criminal Code Act and Section 96(1) & (2) of the Penal Code Act.

⁵¹ See Section 6(1) Kidnapping (Prohibition) Law, Lagos State, 2017.

⁵² See [bbc.com/news/world-us-canada-68632189](https://www.bbc.com/news/world-us-canada-68632189) accessed 31st January, 2025.

⁵³ See the Case of Babatunde v. Lagos State (2023) LPELR 61117.CA.

Assistant Commissioner of Police (ACP) Olumayiwa Adejobi, the police described self-kidnapping as a punishable offence under the laws of the land⁵⁴.

Fake Representation to Release a Kidnapped Person

The law on kidnapping and abduction in Nigeria has made unlawful any representation falsely made for the release of kidnapped person.⁵⁵

Section 7(1) of the Nasarawa State Anti-Kidnapping Prohibition Law, 2010 provides as follows:

- (i) Be the person kidnapped or abducted;
- (ii) Have influence power or ability to obtaining any ransom or reward;
or
- (iii) Extorts or extracts from another person anything of value to effect the release of a kidnapped person, commits an offence and liable on conviction to Twenty (20) years imprisonment.

The law however provides that nothing shall prohibit a person who in good faith, believes that he or she can rescue or obtain the release of a person who has been kidnapped or abducted, provided that the person has no part in or connection with the commission of the offence⁵⁶.

Aiding and Abating Kidnapping or Assisting the Escape of Offenders

Under the Nigerian Law, abetment generally refers to the act of assisting another person to commit an offence⁵⁷. If an offence is committed as a result of abetment, the abettor will be punished with the same punishment as the offence⁵⁸.

⁵⁴ Agambu C, 'Kidnapping, Threat to National Security. The Tribune, 10th August, 2010. http://www.Tribune.com.ng/index.php/news/9666_kidnapping-threat-to-national-security.igp, accessed 9th August, 2023.

⁵⁵ See Section 14 of the Penal Code Law of Kaduna State, 2017(as amended).

⁵⁶ Ibid.

⁵⁷ See Section 85 of the Penal Code Act.

⁵⁸ See section 248(1) of the Penal Code Law of Kaduna State, 2017 (as amended). In *Sani buje vs. State* (1991) 4 NWLR(pt185)at 288, the court held that when any person

Concealment

It is an offence under the anti-abduction and kidnapping laws in Nigeria for a person who knows that a person has been abducted or kidnapped and he concealed such information or confines such a person.

Harboring and Sheltering

Generally, a person commits a crime of harboring if the person provides help or shelter to an offender⁵⁹. This means it is the act of hiding a criminal or suspected criminal⁶⁰. When another person provides harbor or shelter to a kidnapper, he will commit the offence under the law in Nigeria.

In *R v Mathew*,⁶¹ it was held that the accused who allowed an offender wanted by the police to stay in his flat for about a month committed an offence.⁶²

Ingredient of Abduction and Kidnapping

The ingredients of the offence of abduction and kidnapping as with every other offence, simply refers to essential elements of the offence which if proved shall ground the conviction of the person charged with the offence. The ingredients of the offence of abduction and kidnapping. The Court of Appeal in the Case of *Erujere v The State*⁶³ outlined the following conditions which must be fulfilled in order to establish a case of kidnapping against an accused person as follows⁶⁴:

- i. That the victim was seized;
- ii. That the victim was taken away or carried away by the accused person;

aids commission of an offence by being present at the scene not as a mere on looker but with the purpose of aiding and assisting any other person or persons committing the offence, he is equally guilty of committing the offence.

⁵⁹ See Section 40 of the Penal Code Act.

⁶⁰ See Section 5, of Terrorism (Prohibition) Act, 2022.

⁶¹ (1982) 4 Cr Appeal Report.233.

⁶² See Section 4 (1) of the Criminal Code Act 1967.

⁶³ (2017) LPELR-43403 CA 24, Paras G-C

⁶⁴ See Section 364 of the Criminal Code Act

- iii. That the victim was taken away without lawful excuse;
- iv. That the victim was unlawfully detained or taken away.

While the above constitute the most crucial elements of the offences, they are not exclusive because variations certainly exist as some legislation have stipulated other ingredients such as the age of the victim and intent to demand for ransom or kill the victim in addition to other general elements established by case laws considered below:

Seizing and Taking Away

Under the various anti-kidnapping and anti-abduction laws in Nigeria, it must be established that the defendant seized the victim and took him away to another location⁶⁵. The taking or carrying away of one person by another is the principal conduct element of the offence. In the case of *Ewugba v The State*⁶⁶, the Supreme court per Rhodes Vivours JSC considering Section 364(2) of the Criminal Code Act, stated that the offence of kidnapping was proved beyond reasonable doubt when the 1st appellant and his co-accused persons bound and blindfolded the respondent and dumped her in the back seat of her car and drove to another location.

The requirement for carrying away of the victim to another location raises two questions.

- i. Whether it is always necessary that the victim be made to go from one place to another and if stationary, taking capture is sufficient to constitute the offence of abduction and kidnapping.
- ii. Whether the defendant must accompany victim from one place to another.

In the English case of *D67*, the Court stated that some degree of movement remains necessary for the offence of abduction and

⁶⁵ See Section 1, Kwara State Anti-Kidnapping Law, 2010.

⁶⁶ (2017) LPELR-43833SC. Paras B-C

⁶⁷ (1984) 2 WLR 112.

kidnapping. It was held an English case⁶⁸ that there must be a movement no matter how minimal.

Use of Force or Fraud

The requirement that the taking and carrying away of the victim by the defendant must be by force or fraud as contained in the various anti-kidnapping laws is satisfied by any deception sufficient to cause the victim to accompany the defendant on a journey. Any degree of force is sufficient to cause the victim would not have accompanied the defendant but for the force or fraud.

It is very common that the offence of abduction and kidnapping is carried out by force or threats on the victims who are adults and of sound mind and who may not be willing to obey the commands or other tricks of their offenders.⁶⁹

The importance of the element of force as an ingredient of the offence of abduction and kidnapping was demonstrated in the case of *Emenobong v The State*⁷⁰ where the Court of Appeal per Otisi JCA set aside the conviction of the appellant for aiding the commission of the offence of kidnapping. When evidence clearly showed that the victim was not taken by force, but was rather, a willing aide or accomplice to a grand design to extort money from her hopeless employers and benefactors, holding that the offence of kidnapping was not proved.

Lack of Consent of the Victim

The offence of abduction and kidnapping include a requirement that the defendant acted without the consent of the person so taken away. Since the offence comprises more than, taking or carrying away, being subjected to force or fraud, loss of liberty must be established with the evidence that the victim never consented to all of them under the law. In all cases of abduction and kidnapping, the offence could be construed to require an absence of consent to being taken away⁷¹, the absence of consent of being taken or carried away by force, and the

⁶⁸ *Smith vs. Hogan* (2003) EWCA. Crime 2149(2018)QB57

⁶⁹ *Olaoluwa v. State* (2018) LPELR36436.CA.

⁷⁰ (2013)LPELR-21410.CA13,para C-G

⁷¹ *Cort* (2003)ECWA Crim (2004) QB 3 at19

absence of consent to the loss of liberty⁷². This is because, while the use of force implies the lack of consent of the victim, the lack of consent of the victim or guardian does not necessarily involve the use of any force by the offender⁷³

Demand for Ransom

Ransom is generally defined as a large amount of money demanded in exchange for someone who has been taken prisoner or hostage⁷⁴. The demand for ransom is a new element introduced by the anti-kidnapping and anti-abduction laws in Nigeria and a prominent element that distinguishes kidnapping from abduction. It must be established that the defendant demanded for ransom as condition for the release of a kidnapped victim⁷⁵.

In the case of *Orogbenu v State*⁷⁶, the appellant was charged at the trial court with the offence of kidnapping and murder⁷⁷. In proof of the offence appellant was charged with, prosecution called seven witnesses and tendered exhibits to prove that the appellant demanded and collected ransom for the release of the victim.

The legal landscaping surrounding kidnappings for ransom is meticulously provided for under the Indian Penal Code⁷⁸, which was applied in the landmark judgment in *Netra v The State of NCT of Delhi*⁷⁹, adjudicated by the Delhi High Court on March 9th, 2001 provides critical insight into the indispensability of communication in establishing a kidnapping for ransom case under the Code. The Court meticulously dissected by Section 364, emphasizing that a demand for ransom must be explicit, involving direct communication, be it through letters, telephone conversation, or other means that clearly informs the victim of the ransom requirement.

⁷² Hendy v freegaid(2007) Criminal Law Review 1988.

⁷³ See Section 271 of the Penal Code Act.

⁷⁴ <https://dictionary.cambridge.org>, accessed 1st January, 2025.

⁷⁵ See Section 2(1) of the Kidnapping (Prohibition) Law of Edo State, 2009.

⁷⁶ (2022) LPELR 58179. CA

⁷⁷ See section 3 of the Anti-kidnapping and Anti-Abduction Law of Ondo State 2006.

⁷⁸ See Section 364 of the Indian Penal Code.

⁷⁹ <https://www.courtktchery.com>. accessed 8th July, 2025.

Intent to Cause the Death of the Victim

Death may result during the process of kidnapping or abduction fewer than two major circumstances.

- i. The kidnapers or abductors from the outset intended to murder their victim;
- ii. Though the kidnapers or abductors may have harboured no intention of murdering their victim, death may accidentally occur in the process of the operation, or due to the failure to collect ransom from the victim's family, they decided to murder their victim⁸⁰.

According to Lagos State anti-Kidnapping Law, 2017,⁸¹ any person who forcibly takes, holds, abducts, detains or captures, instils fear in another for the purpose of kidnapping through coercion, or by any other means against that persons will intent to demand for ransom, commits an offence and is liable on conviction to life imprisonment and where death occurs as a result of the commission of kidnapping, the offenders shall be liable on conviction to death sentence.⁸²

Conveyance beyond the Limits of Nigeria

The Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2015 provides that any person who takes away or entice any person under eighteen (18) years of age or any person of unsound mind out of the custody of the lawful guardian of such person without consent of the guardian or conveys any such person beyond limits of Nigeria without the consent of someone legally authorized to give such removal, commits an offence of abduction⁸³.

The proof of the ingredient is essential and comes to bear in circumstance where the victim is traded beyond the shores of Nigeria for the purpose of forced labour, sexual slavery, or commercial sexual exploitation for the trafficker. However, the proof that the victim was

⁸⁰ See Section 19 of the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2015.

⁸¹ See Section 1 of the Lagos State Anti-kidnapping Law, 2017.

⁸² *ibid*

⁸³ See Section 19 of the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2015.

moved beyond the limits of Nigeria or a State is not mandatory where other ingredients of the offence of the kidnapping have been proved⁸⁴. This is because, this element inputted into the Act is disjunctive in form, hence, the mere proof that the offender conveyed the minor beyond the limits of Nigeria or a State without the consent of someone legally authorized to give such consent constitutes the required ingredients which if satisfied shall ground conviction of the offence under the section.

1.5 Recommendations

Having analysis the legal framework for combating abduction and kidnapping in Nigeria. it is imperative to recommend the following:

1. Adequate Funding of Security Agencies

The government has a lot of work to do in other to redeem the image of Nigeria security agencies. The most important is the provision necessary equipment's to work well and efficiently (sophisticated weapons and ammunition). Their salaries and allowance should be enhanced and paid as when due in order to avoid corrupt practiced by them especially in the areas of being kidnapppers informant. Many of our society are on the pay roll of this kidnap kingpin. For instance, An Army Captain, Musa Balarbe who ordered the shooting of the police officers in Taraba is reported to be on pay roll of notorious kidnap kingpin, Alhaji Hamisu wadume.

2. Deployment of Technology

There is a need for Nigeria to copy technological advancement of developed countries of the world in the installation of closed-circuit television cameras in all the nooks and crannies of our country. It is essential for the detection of crime. For instance, if not for installation of closed –circuit television cameras in the hotel in Rivers State where the serial killer was operating; his arrest would not have been possible.

⁸⁴ See Section 272 of the Penal Code Law.

3. Creating efficient Database

There is need for the creation of data based for people living in the country in a central location and not depends on data base of some agencies (Federal Road Safety Corps) to harness information. Rather, there is need for the National Security Agencies' (NSA) to develop a finger print and visual recognition.

4. Imposition of Stricter Penalties

It is suggested that stricter penalties should be imposed on kidnappers should be imposed on kidnappers should be sentenced to life imprisonment and death sentence should be imposed, if the victim dies in the kidnappers din.

Kidnapping (Prohibition) Law of Lagos State 2017 provide that “ any person who instils fear in another for the purpose of kidnapping through coercion or by any other means against that person’s will with intent to demand ransom, commit an offence, and is liable on conviction to life imprisonment.” On the other hand Section 2(2) provides that when death occurs as a result of the commission of the offence of kidnapping, the offenders shall be liable on conviction to death sentence. Furthermore, a part from the above listed states, many other states in Nigeria have made kidnapping a capital offence.

4. Anti-Corruption War

There is a need for declaration of war against corruption in Nigeria. The fight against corruption should be intensified most especially amidst our security agencies. This war has been declared and the trial of some senior military or officers in the security agencies are ongoing. Examples of this officers include but not limited to Dasuki, Bاده.

1.6 Conclusion

Kidnapping is an outright violation of the fundamental rights of citizens in Nigeria. The issue of kidnapping has spread across all states in Nigeria. This paper has analyst the legal framework for abduction and kidnapping in Nigeria. The activity of kidnapping has brought to the fore the in efficiency of our government and security outfits in Nigeria as a result of their in ability to curb the activities of kidnappers which obviously has led to loss of lives of many citizens.