



AHMADU BELLO UNIVERSITY LAW JOURNAL

FACULTY OF LAW

AHMADU BELLO UNIVERSITY, ZARIA - NIGERIA.

website: <https://abulj.org.ng> | e-mail: abulj@abu.edu.ng

A REVIEW OF THE CRIMINALIZATION OF PAYMENT FOR RANSOM IN KIDNAP CASES IN NIGERIA

By

Jumah Muhammad Abdulrahman

Nigerian Law School, Yenegoa Campus, Bayelsa State, Nigeria

Ihedoro Sylvia Ngozichukwu,

Nigerian Law School, Yenegoa Campus, Bayelsa state, Nigeria.

Elendu, , Chinenye Rachel,

Nigerian Law School, Yenegoa Campus, Bayelsa State, Nigeria

Abstract

Nigeria has been engulfed in a myriad of pressing security challenges, prominently characterized by the persistent scourge of abductions and kidnappings. In a proactive effort to combat the menace of kidnapping and address other security concerns in the nation, the Nigerian Senate passed the Terrorism (Prevention) Act 2013 (Amendment) Bill, 2022 into law on April 27, 2023. Although yet to be assented to, the amended law prohibits and criminalizes the payment of ransom to kidnappers and makes anyone who pays ransom for the release of a kidnap victim guilty of a felony and liable on conviction to a term of 15 years. The objective of this paper is to analyze the implications of this recent amendment to the terrorism act, particularly its potential effects on the lives of innocent Nigerian citizens, especially kidnap victims and their families, as well as the broader national security framework. Summarily the paper found that the amendment to the act which criminalizes the payment of ransom threatens the citizens' right to life and places on them the burden to secure themselves at their own expense, which ought to be the duty of the government. This paper recommends that rather than criminalize ransom, emphasis should be on how to beef up the law and its implementation to enhance the security of lives and properties in the country.

KEYWORDS: Kidnap, abduction, victims, ransom, insecurity, criminalization.

1.1 INTRODUCTION

Kidnapping in contemporary Nigeria dates back to the struggle by youths of the Niger Delta region to get their own shares of “the national cake” having felt marginalized in the distribution of proceeds of petroleum products, this led to pipeline vandalism, bombing of oil installations, hostage-taking, hijacking and kidnapping of the prominent workers of the oil companies¹⁴⁵. In recent years, this menace has spread like wild fire especially in the North-East¹⁴⁶, North-West¹⁴⁷, North-Central and other parts of Nigeria. This can be seen in the mass abductions and kidnappings in villages and towns; places of worship and educational institutions. In 2020, a report by SB Morgan showed that between 2011 and 2020, over \$18m (N6.9bn) was paid in ransom to kidnappers by their victims.¹⁴⁸ Out of this figure, SB Morgan stated that around \$11m (N4.2bn) was paid between 2016 and 2020, which makes it appear that kidnapping has become a business¹⁴⁹. This possibly informed the National Assembly to on **27th April 2022**, passed the **Terrorism (Prevention) Act 2013 (Amendment) Bill, 2022**, and particularly amended Section 14. The import and purport of the said amendment is that, it would become an offence for Nigerians to pay ransom to secure the release of their kidnapped family members, friends, or colleagues. In other words, after being forced to pay ransom to secure the release of kidnapped victims, their families and friends will face trial and end up in jail for 15 years for saving a life.

This paper seeks to review the constitutionality and the social effect of the said amended section. Its aim is to analyze the implications of this recent amendment to the terrorism act, particularly its potential effects on the lives of innocent Nigerian citizens, especially kidnap victims and their families, as well as the broader national security framework in Nigeria. For ease of voyage, the paper is compartmentalized

¹⁴⁵ AM Essien and EB Ema, ‘The Socio-Religious Perspective of Kidnapping and Democratic Sustainability in Akwaibom State Nigeria’ *International Journal of Humanities and Sciences* [2013] (3) 4

¹⁴⁶ Chibok school girls kidnapping of 14th April, 2014 where 200 school girls were kidnapped from Government Girls Secondary School, Chibok in Borno State; Dapchi School Girls Kidnapping of 19th February, 2018 where Boko Haram kidnapped 110 school girls from Government Girls’ Science and Technical College at Dapchi, Yunusari Local Government Area of Yobe State.

¹⁴⁷ Kankara school boys kidnapping of 11th December, 2020 where about 344 students were kidnapped in Katsina State; In 2021 April, 5 students and staff of the Greenfield University in Kaduna State were kidnapped.

¹⁴⁸ SB Morgan, Nigeria’s Kidnap Problem; The Economic of Kidnap Industry in Nigeria’ May 2020 https://www.sbmintel.com/wp-content/uploads/2020/05/202005_Nigeria-kidnap.pdf pg1 accessed on 16 October, 2023.

¹⁴⁹ *ibid*

into definition of relative concepts, examination of Section 14 of the Terrorism (Prevention) Act 2013 (Amendment) Bill 2022, effect of the criminalization of payment of ransom in kidnap cases in Nigeria.

1.2 CONCEPTUAL CLARIFICATION OF KEY TERMS

Clarification of the key terms in this paper will be of great help in having a good understanding of the paper and the impact of the arguments therein. These terms include:

1.2.1 Kidnapping

Just as most concepts, there is no universally accepted or adopted definition of kidnapping. As per the American Heritage Dictionary of the English language,¹⁵⁰ the words 'kid' and 'napper' had their origins as slang used by criminals. 'Kid,' though it still retains an informal connotation, was already somewhat informal when the term 'kidnapper' was first coined. 'Napper' is an obsolete slang term for a thief, originating from the verb 'nap,' which means to steal. The earliest recorded usage of the word 'kidnapper' dates back to 1678 when kidnappers engaged in the practice of forcibly acquiring laborers for use on plantations in colonies, including those in North America.¹⁵¹

Kidnapping is defined as the crime of seizing and taking away of a person by force or fraud.¹⁵² It is the forcible seizure, taking away and unlawful detention of a person against his/her will. It is an offence and the key part is that it is an unwanted act on the

¹⁵⁰ Kid-nap: Word history, *Kidnapper* seems to have originated among those who perpetrate this crime. We know this because *kid* and *napper*, the two parts of the compound, were slang of the sort that criminals used. *Kid*, which still has an informal air, was considered low slang when *kidnapper* was formed, and *napper* is obsolete slang for a thief, coming from the verb *nap*, "to steal." *Nap* is possibly a variant of *nab*, which also still has a slangy ring. In the second half of the 1600s, when the word *kidnapper* begins to appear in English, kidnappers plied their trade to secure laborers for plantations in colonies such as the ones in North America. The term later took on the broader sense that it has today. The verb *kidnap* begins to be attested a bit later than *kidnapper* and is possibly a back-formation from *kidnapper*—that is, the suffix *-er* was removed from *kidnapper* to create a new verb *kidnap* available at <<https://ahdictionary.com/word/search.html?q=kidnapping>> accessed on 18-10-2023.

¹⁵¹ POO Ottuh and VO. Aitufe, 'Kidnapping And Moral Society: An Ethico-Religious Evaluation of the Nigerian Experience'. *European Scientific Journal* May [2014] (10)14 ISSN: 1857 – 7881 (Print) e - ISSN 1857- 7431, 421 available at < <https://core.ac.uk/download/pdf/328024304.pdf> > accessed on 18-10-2023.

¹⁵² Blacks Law Dictionary, 8th Edition, Minnesota; Thompson Publishing 2004, 886.

part of the victim.¹⁵³ Kidnappings generally stem from a desire for financial profit or political advantages. This means that opportunistic individuals, typical criminals, or even political adversaries may engage in kidnapping to acquire unlawful economic gains or to leverage their demands. Often, kidnapping operates as an illicit business, revolving demanding ransom payments. The ransom amount sought can significantly differ based on the victim's individual social or financial standing.¹⁵⁴ Kidnapping entails the unlawful action of forcibly or deceptively taking and relocating an individual, alongside wrongfully seizing and detaining them against their will. The central motivations behind kidnapping include subjecting the victim to involuntary servitude, involving them in further criminal acts against their person, or attempting to secure a ransom for their safe release.¹⁵⁵

Kidnapping is often referred to as a form of extreme robbery. It is viewed as an organized and methodical crime that, while not as lethal as armed robbery, is significantly more lucrative. The financial gains associated with kidnapping have incentivized individuals engaged in this criminal activity to persist despite legal prohibitions against it.¹⁵⁶ Further, it has been defined as an illegal act characterized by forcefully taking a person or a group of individuals against their will to an undisclosed and often hostile location. This is typically done with the intention of demanding and obtaining a ransom, or as a means to settle a political score or vendetta before granting them freedom.¹⁵⁷ Kidnapping constitutes the unlawful and coercive act of seizing and confining one or more individuals against their will, typically with the intent of

¹⁵³ Bello Ibrahim And Jamilu Ibrahim Mukhtar, 'An Analysis of the Causes and Consequences of Kidnapping In Nigeria' *AFRREV* [2017] 11 (4), ISSN 1994-9057, 136 available at <https://www.academia.edu/59221817/An_Analysis_Of_The_Causes_And_Consequences_Of_Kidnapping_In_Nigeria> accessed on 18-10-2023.

¹⁵⁴ Peter C.E. and Osaat S.D. (2021), Kidnapping in Nigeria: A Social Threat to Educational Institutions, Human Existence and Unity. *British Journal of Education, Learning and Development Psychology* 4(1), 48 available at <https://www.researchgate.net/publication/351134412_Kidnapping_in_Nigeria_A_Social_Threat_to_Educational_Institutions_Human_Existence_and_Unity> on 18-10-2023.

¹⁵⁵ Britannica, 'Kidnapping', available at <<https://www.britannica.com/topic/kidnapping>> accessed on 18-10-2023.

¹⁵⁶ John Wajim, 'Proliferation of Kidnapping in Nigeria: Causes and Consequences', *International Journal of Research and Innovation in Social Science (IJRISS)* [2020] (4) 96 ISSN 2454-6186, available at <<https://www.rsisinternational.org/journals/ijriss/Digital-Library/volume-4-issue-3/95-98.pdf>> accessed on 18-10-2023.

¹⁵⁷ Nnam M Uchenna, 'Kidnapping in The Southeastern States of Contemporary Nigeria: An Empirical Investigation into The Social and Demographic Characteristics of Offenders', *International Journal of Development and Management Review (INJODEMAR)* [2014] 9(1) 63 available at <file:///C:/Users/HP/Downloads/ajol-file-journals_404_articles_104386_submission_proof_104386-4813-281731-1-10-20140618-1.pdf> accessed on 18-10-2023.

demanding a ransom or resolving personal disputes. This reprehensible act fundamentally infringes upon an individual's freedom, directly contravening the constitutional provision of freedom of movement enshrined in the Federal Republic of Nigeria's legal framework.¹⁵⁸

The Nigerian Criminal Code Act¹⁵⁹ stipulates that any person who unlawfully imprison, and take him out of Nigeria, without his consent, or unlawfully imprison any person within Nigeria in such a manner as to prevent him from applying to a court for his release or from discovering to any other 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 is guilty of a felony and is liable to imprisonment for ten years. In California, the act of kidnapping and demanding ransom is categorized as "aggravated kidnapping," and the case of *People v. Ibrahim*¹⁶⁰ provides a framework for identifying this crime through four distinct fact situations:

- i. When the primary victim is forcibly taken and detained while a ransom is demanded from a secondary victim.
- ii. When the primary kidnap victim remains in one place, but the secondary victim is moved to a different location.
- iii. When neither the primary nor secondary victim is physically relocated, but a ransom demand is made.
- iv. When the primary kidnap victim is held captive with the purpose of coercing law enforcement officers to refrain from intervening and preventing the defendant's criminal actions.

These four scenarios outlined in *People v. Ibrahim* help clarify the elements and circumstances that constitute aggravated kidnapping under California law.¹⁶¹

¹⁵⁸ Segun Ayotunde Olulowo, Solomon Taiwo Babawale and Kehinde Michael Anani, 'An Examination of the Causes of Kidnapping and its Attendant Challenges in Ogun State, Nigeria', *Journal of Religion and Human Relations*, [2021] 13(1) 138 available at <file:///C:/Users/HP/Downloads/ajol-file-journals_497_articles_211099_submissi_on_proof_211099-5869-523103-1-10-20210722.pdf> accessed on 18-10-2023.

¹⁵⁹ Section 364.

¹⁶⁰ 19 Cal.App.4th 1692, 24 Cal. Rptr. 2d 269 (Cal. Ct. App. 1993)

¹⁶¹ Legal Information Institute, 'ransom' available at <<https://www.law.cornell.edu/wex/ransom>> accessed on 18-10-2023.

1.2.2 Ransom

Ransom is a form of payment or other consideration that is given to or requested by someone in return for the release of a kidnapped individual or stolen property. It can also refer to the action of demanding or making the payment to secure the release of the kidnapped person or property.¹⁶² It refers to the transfer of money, property, assets, or even virtual currency, or any part thereof, that has ever been given as ransom¹⁶³ Generally, a ransom is a sum of money or some form of compensation that is demanded or paid to secure the release of a person, property, data, or any valuable asset that has been taken or held by someone against their will. Ransoms are often demanded by criminals, kidnappers, or hackers in exchange for returning what they have taken or for freeing a hostage. Ransom can also be a broader term, including any type of payment or consideration made to meet the demands of a captor, extortionist, or cybercriminal¹⁶⁴. It is an illegal or unethical act intended to force individuals or entities to comply with the demands of those who have control over the subject of the ransom. Specifically, as it relates to this research, a ransom is the payment of money in exchange for the release of a kidnapped victim.¹⁶⁵

The following are the ingredients of a ransom.

- i. **Demand:** A ransom begins with a clear and direct demand from the party holding something or someone hostage. This demand outlines what is required in exchange for the release of the hostage or the return of the stolen item.
- ii. **Hostage or Stolen Property:** The object or individual being held against their will or the property that has been taken is the focal point of the ransom.
- iii. **Payment:** Ransom usually involves a specific form of payment, which can be in the form of money (cash or crypto currency), assets, or some other valuable consideration that the captor requires to fulfill their demand.
- iv. **Negotiation:** In some cases, there may be a negotiation phase, where the captor and the party paying the ransom communicate and reach an agreement on the terms, amount, or process of payment.

¹⁶² *Ibid.*

¹⁶³ Available at <https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=6-USC4736776773531969&term_occur=999&term_src=title:6:chapter:1:subchapter:XVIII:part:D:section:681> on 18-10-2023.

¹⁶⁴ Merriam-webster

<https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.merriam-webster.com/dictionary/ransom> accessed 18-10-2023

¹⁶⁵ This is the opinion and views of the researchers.

- v. **Communication:** The captor typically communicates their demands and instructions to the party that needs to fulfill the ransom. This communication can occur through various means, including written messages, phone calls, or digital communication.
- vi. **Timeframe:** Ransom demands often come with a specific timeframe for compliance. Failure to meet the deadline may lead to negative consequences.
- vii. **Secrecy:** Both parties involved in a ransom situation often desire secrecy to avoid detection by law enforcement. This can involve the use of encrypted communication and discreet transfer methods.

1.3 PAYMENT OF RANSOM UNDER SECTION 14 OF THE TERRORISM (PREVENTION) ACT 2013 (AMENDMENT) BILL 2023

It is indisputable that the National Assembly is empowered to make laws for the peace, order and good government of the Federation or any part thereof with respect to any matter included in the Exclusive or Concurrent Legislative List set out in Parts I and II of the Second Schedule to the Constitution.¹⁶⁶ However, such law must bear human face, feelings and driven by morality in some instances¹⁶⁷. Similarly, it must accord with the spirit and letters of constitution which, as an embodiment of the collective will and social contract of the people, governs all persons and institutions in the state. It is the supreme law which imparts validity to all other laws. Any law that is inconsistent with it is, to the extent of the inconsistency, null and void¹⁶⁸. In view of this, what then is the position of the provision of the Act when brought face to face with the provision of the CFRN, 1999 (as amended)?

For deep appreciation of the discussion under this subhead, it is paramount to reproduce section 14 which reads: ‘Anyone who transfers funds, makes payment or colludes with an abductor, kidnapper or terrorist to receive any ransom for the release of any person who has been wrongfully confined, imprisoned or kidnapped is guilty of a felony and is liable on conviction to a term of imprisonment of not less than 15 years.’

Agreed that the amended provision of the law was duly passed having been debated and passed by the legislative procedure as laid down by the constitution. In fact,

¹⁶⁶ Section 4(2) and (4) (a) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) CFRN

¹⁶⁷ BO Okere ‘The Relationship of Law and Morality or Complementarity’ *Nigerian Juridical Review* [2002-2010] (9) 1

¹⁶⁸ Section 1(3), CFRN 1999

Senator Ezenwa Onyewuchi, the sponsor of the bill highlighted the mischief the amendment sought to cure, he by observing that kidnapping had become ‘the most virulent form of banditry in Nigeria and the most pervasive and intractable violent crime in the country’¹⁶⁹. He explained further that Families of kidnapped victims often sell their property, take loans from banks and crowd fund to raise the ransom. Those who do not pay are sometimes killed, and there have been reported cases of kidnappers removing human organs from their victims to sell.¹⁷⁰ Onyewuchi also argued further that the amendment essentially seeks to substitute for section 14 of the Principal Act, a new section and anyone who transfers funds, makes payment, or colludes with an abductor, kidnapper or terrorist to receive any ransom for the release of any person who has been wrongfully confined, imprisoned or kidnapped is guilty of a felony and is liable on conviction to a term of imprisonment of not less than 15 years. Concurring with his argument Senator Opeyemi Bamidele argued that this bill would discourage the rising spate of kidnapping and abduction for ransom In Nigeria, which is fast spreading across the country. He argues further that the amendment to the Terrorism Act would set standards and regulatory systems intended to prevent terrorist groups from laundering money through the banking system and other financial networks¹⁷¹.

In fairness to the law makers, their intention is laudable and commendable to a larger extent; it is however the writers’ humble view that the amended provision is unnecessary and uncalled for without addressing the root causes of kidnapping which according to Nwaechefu and Kalama¹⁷² include: proliferation of small arms and light weapons, unemployment cum poverty, Corruption and inept leadership in Nigeria, uncontrolled desire for quick wealth among the youths etc.¹⁷³ Should this amended provision becomes law, it will greatly infringe on the rights of citizens. Firstly, the constitution unequivocally proclaimed that the security and welfare of the people shall be the primary purpose of government,¹⁷⁴ even though this provision belongs to the

¹⁶⁹ ‘Senate proposes 15 years imprisonment for anyone who pays ransom to kidnappers’ Vanguard Newspaper May 19, 2021 <https://www.vanguardngr.com/2021/05/senate-proposes-15-years-imprisonment-for-anyone-who-pays-ransom-to-kidnappers/> accessed 7th July 2022

¹⁷⁰ *ibid*

¹⁷¹ *ibid*

¹⁷² Hilary Nwaechefu and Stephen T Kalama, ‘Current Wave of Kidnapping in Nigeria: A Breach of Rights of the Victims?’ *IJOCLLEP* [2019] (3) 1 available at <https://www.nigerianjournalonline.com/index.php/IJOCLLEP/article/download/1099/1083?__cf_chl_tk=3CjkrdFHnAbHSbznpHsesa2Z4jisJjGXBIO.K0q4Y-1698099598-0-gaNycGzND-U> accessed on 23 October 2023

¹⁷³ *ibid*

¹⁷⁴ Section 14 (2) (b) CFRN 1999

second generation of rights,¹⁷⁵ right to life,¹⁷⁶ respect for human dignity¹⁷⁷ are rights provided for in Chapter four of the constitution which are justiciable. Towing this line of argument, Olakunle Moroundiya maintains that criminalizing payment of ransom is tantamount to a death sentence to all victims who are kidnapped if the people adhere to it. Moroundiya argued further that this section of the Terrorism Act engages Section 33 of the constitution which guarantees right to life.¹⁷⁸ It is also against sections 34, 35, & 37 which guarantee rights to dignity of human person, right to personal liberty and right to private and family life¹⁷⁹.

To have a panoramic view of what this infringement entails, suffice to highlight one out of numerous incidences of kidnap cases where ransoms were not paid and the victims spending months without food, shelter, and killed in some occasions by their captives. In 2021 April, 5 students and staff of the Greenfield University in Kaduna State, who were in the den of kidnappers, were shot dead because their people could not meet up with the immediate demands of the kidnappers¹⁸⁰. The writers submit that if this amendment stands, the consequence will be infringement of citizens' rights as guaranteed by the constitution.

1.4 THE EFFECT OF THE CRIMINALIZATION OF PAYMENT OF RANSOM IN KIDNAP CASES IN NIGERIA

The proposed bill by the National Assembly to criminalize the payment of ransom to kidnappers is one that cuts across as very insensitive and unfair to the security plight of the Nigerian people. Although yet to be assented to by the executive arm of government, the bill in clear and unequivocal terms seeks to prohibit and criminalize the payment of ransom to kidnappers and make anyone who pays for the release of a kidnap liable on conviction to a jail term of 15 years.

The submissions alluded to the Senate in the presentations of the committee report that led to the amendment bill is quite unfortunate and reveals that the life and safety of the

¹⁷⁵ The Fundamental Objectives and Directive Principles of State Policy contained in Chapter II of the constitution in which by section 6(6)(c) are not justiciable.

¹⁷⁶ Section 33 (1) CFRN 1999

¹⁷⁷ Section 34 (1) CFRN 1999

¹⁷⁸ A. Onanuga, Ransom payment: Jail or death? The Nation Newspaper 10th May 2022 <<https://thenationonline.net/ransom-payment-jail-or-death/>>accessed 7th July 20202

¹⁷⁹ *ibid*

¹⁸⁰ BREAKING: Two more Greenfield University students killed n Kaduna' available at <https://www.vanguardngr.com/2021/04/breaking-two-more-greenfield-university-students-killed-in-kaduna/> accessed on 18 October 2023

Nigerian citizens were downplayed in the considerations towards the passage of the bill and rather priority was given to the international ratings and economy of the country, nothing in the statements shows any empathy to the plight of kidnap victims and how to better secure the country rather¹⁸¹. It is therefore without doubt that the criminalization of payment of ransom will come with grave consequences for every Nigerian Citizen, kidnap victims, their families and the country as a whole if it is assented to by the executive and this article will proceed to consider these effects:

1.4.1 A Death Sentence on Kidnap Victims

One of the grave effects of the criminalization of the payment of ransom for kidnap victims is that it would invariably amount to a “death sentence” on the kidnap victims and their families if it is enforced and it irks of inhumanity for the government to seek to punish innocent citizens who are doing everything to ensure the release of their loved ones from the den of kidnappers. These kidnap victims and their families are sufferers of the failure of the government to adequately protect their citizens and rather than bow their heads in shame for their failure, the government boldly aims at punishing innocent citizens who are suffering from its failure. The proposed bill seeks to criminalize the legitimate and one of the most human instincts which is the desire of everyone not to allow their loved ones go through pain, suffering or untimely death and it is unreasonable and immoral of a government which has failed to deliver on protecting the lives and properties of Nigerian households all over the country to foreclose its citizens from helping themselves. When these abductions and kidnappings happen, the victims with their families are left helpless. There is no encouraging history of the police and security operatives rescuing kidnap victims in the past and present and therefore the citizens can only resort to self-help which is negotiating with the kidnappers and bandits for the purpose of releasing their loved ones; this is the reality of Nigeria today. Thus, to criminalize self-help without providing security and other alternative help to the citizenry is not only insensitive but highly irresponsible of any arm of government, particularly the National Assembly at this point and amounts to a double jeopardy for the citizenry¹⁸².

1.4.2 Unenforceability of the Law

¹⁸¹ A. Onireti, “The Criminalization of Payment of Ransom to Kidnappers in Nigeria: A Step in the Wrong Direction” *African Journal of Criminal Law and Jurisprudence* [2022] 7 AFJCLJ 46 < <https://heinonline.org/HOL/LandingPage?handle=hein.journals/afcjlocil7&div=11&id=&page=> > accessed 27 October 2023

¹⁸² *ibid*

Some laws may be seen to be a good idea, but if a law cannot be enforced then it would be inoperable. An effective law must be enforceable; law enforcers must be able to catch those who break the law and bring them to justice. The characteristics that make up a good and effective law includes:

1. It is known to the public
2. It is acceptable in the community
3. It is enforceable
4. It is stable
5. It is able to be changed
6. It is applied consistently
7. It is able to resolve disputes¹⁸³

In this light, the proposed bill to criminalize the payment of ransom for kidnap victims in Nigeria does not constitute an operable law in the sense that it lacks the element of “enforceability”. Even if the said bill is assented to and comes into force it will be very impracticable and difficult to enforce. One of the reasons is that the criminal jurisprudence in Nigeria hovers around the two main pillars of Mens Rea (intent) and Actus Reus (the physical act). These core elements of an offence will definitely be lacking if the payment of ransom to secure the release of a kidnapped victim is successfully made an offence, especially where the ransom is paid in cash and without any trace and the perpetrators cannot be apprehended. It will therefore be difficult for the law enforcement agencies and the eventual prosecutor(s) to prove the offence in a court of law. To determine and prove the payment of ransom will require a kidnapper to come and confirm that he collected ransom which we definitely know will be impracticable and will frustrate the bid to prove the crime beyond reasonable doubt. This glaringly shows that the proposed bill will be very difficult to prove which will make it unenforceable and useless if passed into law, thus it is unwise to waste scarce resources on a venture that will serve no worthy cause at the end of the day.

1.4.3 The Potential Loss of Future Generation

Previously, high-profile Nigerians used to be the target of kidnappers but this has changed in recent times as highways and roads now the hunting ground for kidnappers and ordinary Nigerian have become prey. The people in low and middle-income classes are increasingly becoming targets especially school children and public institutions. Recent years have recorded that armed groups seeking ransom have kidnapped nearly 1,000 students and pupils from boarding schools and other

¹⁸³ The Law Society of Western Austria, “Characteristics of an Effective Law” <<https://www.lawsocietywa.asn.au/wp-content/uploads/2015/09/2015-FBLEP-Characteristics-of-an-Effective-Law.pdf>> accessed 27 October 2023

educational facilities in at least six separate incidents across northern Nigeria. These incidents occurred mainly in Kaduna, Zamfara, Katsina, Borno, Yobe, Benue with Niger State being the most recent where about 200 children were kidnapped from an Islamic school. The parents of such students were left to pay ransom to the kidnappers for the release of their children. Also, some twenty students of [Greenfield University](#) were kidnaped and freed after 40 days in captivity, their parents reportedly paid over N100 million to the kidnappers who demanded more money. This reveals that young ones in schools and educational institutions are increasingly becoming the target of these kidnappers, the failure of the government to secure the lives of these young ones and at the same time criminalizing the payment of ransom for their release will amount to an indirect genocide of an upcoming generation who ought to be the leaders of tomorrow¹⁸⁴.

1.4.4 Double Standard

The onset of the menace of kidnapping in Nigeria witnessed cases where the government itself negotiated with some terror groups and paid ransom even though they always denied such transaction. For instance, on December 11, 2020, more than 300 boys were abducted from their boarding school in the town of Kankara, Katsina State. Boko Haram claimed responsibility and the boys were released after six days following reported negotiation with the authorities, but the government typically denied any ransom was paid. Many criticized the various governments for negotiating with bandits and introducing amnesty schemes, saying such negotiations embolden criminal activities as perpetrators know they can at least negotiate conditions for safety or even get paid huge ransoms. While alluding that negotiating with armed groups is not the solution, it will however, amount double standard for the same government that has paid ransom to kidnappers at certain times to now turn around to criminalize the payment for ransom to kidnappers.

1.4.5 Risk of Underreporting

Majority of kidnap incidents are generally underreported in Nigeria, thus the criminalization of payment for ransom will further result in a lack of official crime data as many people would rather keep the negotiation with the kidnappers secret than involve security agents for fear of jeopardizing the chances of their loved ones' freedom.

1.4.6 Negative Effect on Businesses and the Economy

Nigeria is a business hub that has the potential to give a high returns on their investments which is an attraction to potential investors, but unfortunately the upsurge

¹⁸⁴ Analysis: Can Criminalization of Ransom Payment Stop Kidnapping in Nigeria, supra

in the negative trend of kidnapping for ransom in the country presents the risk of kidnapping investors for ransom which is sufficient to discourage foreign investors who may want to invest in Nigeria. More so the fact that where an investor is kidnapped they risk losing their lives as they are not sure of being rescued by the security operatives in Nigeria and their families will also be unable to secure their release through the payment of ransom. This makes foreign investors in Nigeria susceptible to victimization by kidnapers in Nigeria and indirect victimization by the government who will have made it impossible for them to secure their own release through the payment of ransom, thus portending a negative outlook that can reduce the number of foreign investors that will be willing to come into Nigeria to do business and this will have associated implications on businesses and the economy¹⁸⁵.

1.5 CONCLUSION

The Nigerian State, including the National Assembly, as the second arm of government are responsible for developing measures to promote, protect, and fulfill the right to life of its citizens. This entails taking practical steps to prevent arbitrary deprivations of life. These provisions obligate Nigeria as a state to conduct prompt, thorough, and transparent investigations into such deprivations, holding perpetrators accountable and providing effective remedies for victims. However, recent amendments to the Terrorism Act have put families who have taken on the role of the state in saving the lives of their loved ones in a precarious situation, which is seen as a travesty of justice. It is hoped that the National Assembly and the executive arm of government will take decisive action to ensure the safety of citizens and their property rather than plunging Nigerian citizens into the trauma of being held guilty of committing a crime for saving the life of their loved ones.

It is true that the demand for ransom is one of the drivers of kidnapping, however it is not the 'key driver'. The government should concentrate on the structural, economic, political and social drivers of the problem of kidnapping rather than focusing on innocent Nigerians trying to secure the freedom of their loved ones. The potential effect of criminalizing the payment of ransom for kidnap should not be under looked. The way out is for the security, intelligence and military forces to confront kidnapers and their sponsors headlong, they should comb and hit the forest hideouts of these kidnapers continually until they could no longer feel safe or use the forest as bases. This article strongly suggests specially equipped tactical ghost teams to do the hunting, backed by actionable intelligence operations. Rather than criminalize the payment of ransom, the government should fund special tactical teams with logistics,

¹⁸⁵ M.O Paul, U.C Osisiogu and S.Y Sabo, "Implications of Kidnapping for Ransom on Foreign Investment in Nigeria." (2022), *African Journal of Sociological & Psychological Studies (AJOSAPS)* 2.2 < https://hdl.handle.net/10520/ejc-aa_ajosaps_v2_n2_a2> accessed 27 October 2023

the team should be made of highly motivated officers with guarantee to fully support their families should they be killed in action. The government should arise and address the security challenges rather than seek to punish innocent citizens trying to secure the lives of their loved ones. They should not adopt this imbalance strategy to shy away from their primary duties of securing lives and properties of the citizens.

This article wraps up with a call to the executive arm of government not to assent to the bill seeking to criminalize the payment of ransom as it would amount to a double jeopardy for innocent citizens, they should rather channel adequate resources to beef up security in the country and combat the menace of kidnapping.