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Analysis of the Legal Strategies for Tackling the Crime of Kidnapping in the Nigeria's Oil and Gas Industry

Dr. Olusola Joshua Olujobi*

Abstract

The kidnapping of a human being is a global challenge that causes a serious threat to human's dignity. It is predominant in Nigeria, a nation endowed with massive oil and gas resources, relying on it as a source of foreign incomes. Therefore, the government bends to guarantee continuous production of oil to boost its economy. Recently, the occurrences of kidnapping in Nigeria's oil and gas industry have taken a shocking dimension for reasons not properly addressed by succeeding governments. It has dented the nation's reputation and foreign policy notwithstanding the provisions of the 1999 Constitution, the Kidnapping Abduction Act, 2017 and the Terrorism (Prevention) Act 2013 and equivalent laws in several states in Nigeria. The provisions of the United Nations Convention against Transnational Organised Crime 2000, however, these legislations appear not to have produced any substantial successes in tackling the crime. The utilisation of military force to curtail the crime has also not yielded any good outcomes. Kidnapping is an infringement of human rights and our communal values as people. Hence, the necessity for tackling the crime in the oil and gas industry. The goal of the study is to provide legal remedies to the scourge to discourage those who intend to commit the crime. The finding is weak implementation of the anti-kidnapping legislations. The prevalence of poverty, corruption and ineffective security network encourages kidnapping in the oil and gas industry. These problems must be combated devoid of delay to tackle the crime of kidnapping being a crime against humanity. Utilising the doctrinal legal research method, the study further utilises primary and secondary sources of legislation such as case laws, International Conventions, textbooks and peer-reviewed journals. Theories were also utilised as the theoretical lens to model the study. The study designs a hybrid model for tackling kidnapping in Nigeria's oil and gas industry. The study recommends upgrading surveillance networking and intelligence processes among security agencies, thorough reform of Nigeria's anti-kidnapping laws and advocates strong political will with sincere commitments being fundamental for combating crime. The study ends that regulatory bodies, regulations addressing protection, victims' needs, and the tactics for tackling the origins of the crime must be overhauled to combat the crime in Nigeria's oil and gas industry.

Keywords: Kidnapping, Oil and Gas Industry, Security, Laws, Nigeria.

1.0 Introduction

Kidnapping has become an embarrassing social problem in Nigeria, thereby constituting a threat to the peace and personal liberty of the victims. All efforts to combat the crime has proved abortive. Kidnapping is a new wave of crime that is presently ravaging the country's oil and gas

*Olusola Joshua Olujobi, Ph.D, Department of Public and International Law, Faculty of Law, Elizade , University, Ilara Mokin, Ondo State.

industry. It is a forceful taking away of a person without his consent so that he can be used to extort or bargain for a sum from those to whom the person kidnapped is of value. It is an economic and financial crime that constitutes human rights abuse. It is a means through which human traffickers or ritualists get their victims.

Kidnapping varies from country to country. However, it is an unlawful seizure and detention of a person by force against the person's will.[1] The Court of Appeal, Per Otisi JCA, in *Ememobong Edet Umoh v. The State*[2] in consideration of the Anti-kidnapping statute in Akwa-Ibom State section 16 defines kidnapping as follows:

> *"Kidnapping is the stealing and carrying away or secreting of any person of any age or either sex against the will of such a person, or if he is a minor, against the will of such a person or the will of his friends or lawful guardians."*

It is taking away or exporting of a person against the person's will to hold the person in false imprisonment or confinement without any legal authority for ransom. It is an organised and systematic crime but not as deadly as an armed robbery but profitable than the former.

The payment of huge ransom encouraged those who indulge in it due to weak enforcement of the laws prohibiting it in Nigeria.[3] It is a serious offence that deprives the victim of his liberty. For action against kidnapping to be successful, the following vital ingredients must be established. First, there must be taking or carrying away of a one-person by another. Second, the taking or carrying away must be by force or fraud. Third, it must be without the person's consent so taken or carried away without any lawful excuse.[4]

Moreover, where the allegations are kidnapping by fraud and the fraud alleged has been proved, the fraud cancels any consent of the person taken or kidnapped. However, several oil service firms from the United States and Britain were reported to have declined contracts of exploration of oil and gas resources in Nigeria due to the persistent kidnapping of their expatriate or personnel in the Niger Delta areas. Some Asian firms whose staffs were also victims of hostage-taking by militants and other criminals in the oil-producing areas are gradually restrained concerning contracts from oil-producing firms in Nigeria's oil and gas industry.[5]

Owing to this, oil and gas industries personnel move nearly in fear and anxiety, especially during the festive period in the Niger Delta and other kidnap prone zones due to the fear of being kidnapped, infliction of pains, torture and sometimes deaths of the victims'.[6] However, the current events in Nigeria have shown an astonishing variation in the forms and increase of the

[1]Ilechukwu, L.C., Rose, U., Asogwa, U., Stemming the Incidence of Kidnapping in Nigerian Society: What Religious Education Can Do? Journal of Culture and Development (2015), 12.
[2]*(2013), LPELR – 21410 (C.A).*
[3]Nwaorah, N., (2009), Are Kidnappers Worst Criminals? Vanguard 29 March, p.14.
[4]Agbonika, J.A.A., Human Trafficking & Kidnapping in Nigeria: Crimes Against Humanity, (St. Paul Publishing House, Ibadan, Oyo State, 2016), 62-88.
[5]Balouga, J., The Niger Delta: Defusing the Time Bomb, (2009), available at https://www.iaee.org/documents/newsletterarticles/109balouga.pdf (accessed 22 June 2021). 9-10.
[6]Thom Otuya, B.N., Poverty Luring People into Criminal Activities over the Globe (2010), 2(8), International Journal of Social Sciences, 107-136.

crime of kidnapping in several other regions of the country, which have continued to experience the upsurge of kidnapping activities in unequal proportions.[7]

The crime of kidnapping has threatened the Federal Government's gas enhancement and consumption objectives due to insecurity in the country. Shell Petroleum Development Company avers that the progress of the firm's gas projects depends on peace and security in the oil-producing communities in Nigeria. However, insecurity has affected the economic activities in the oil-producing communities, thereby occasioning recurrent shortfall in oil production and the steady loss of confidence of oil and gas investors in the region. The desire of the company to raise the country's aspiration in gas utilisation and investment appears far from feasible due to insecurity.

The lack of security situation in the region also frustrates the Federal Government's desire to raise the country's reserves to forty billion barrels and produce four million barrels of crude oil daily. It is believed that the Niger Delta issue, which is fundamentally political, must first be successfully addressed if security and stability are to be restored in the region.[8] If this is assured, attention could then be directed to increasing Nigerian assets in oil and gas reserves.

Also, a report has it that the Nigerian government earned about Thirty-Six Billion US Dollars each year from the extensive petroleum industry.[9] Notwithstanding the several Billions of Dollars generated from oil exploration and production, the Niger Delta, which made Nigeria a major world producer of crude oil, has mainly encountered poor water quality, pollution and environmental degradation of farmlands, fishing ports, destruction of wildlife and biodiversity, loss of fertile soil without adequate compensation or planned mitigation measure in place for restoration of the affected areas. The people's response in the region is in the form of protest, agitation for resources control and the crime of kidnapping of multinational oil companies' personnel to draw the attention of the Federal Government to their plights.

Besides, the institution of derivation formula was inadequate, flawed and contrary to the tenths of the true federalism, which ensure that each federating unit contributes to the national treasuries and receive equitably in return through revenues allocation to address the enormous environmental degradation resulting from the oil and gas exploration and production activities in the areas.[10]

[7]Ayuba M.R., Trajectories, Typology and Implications of Kidnapping in Nigeria, (2020), 3(2), International Journal of Management, Social Sciences, Peace and Conflict Studies,144 – 160

[8]Oshita O.O., Ikelegbe A.O., An Overview of Theoretical and Practical Issues in Internal Security Management in Nigeria. In: Oshita O., Alumona I., Onuoha F. (eds) Internal Security Management in Nigeria (Palgrave Macmillan, Singapore 2019), available at https://doi.org/10.1007/978-981-13-8215-4_2 (accessed June 26, 2021).

[9]Osuaka, A.I., Oil and Gas Revenues and Development Challenges for the Niger Delta and Nigeria Being a Paper Presented at the Export Group Meeting on the Use of Non -Renewable Resources for Sustainable Local Development, Organised by the UN Department of Economics and Social Affairs Friday 21 September 2007 UN Headquarters, New York, at www.un.org/esa/sustdev/sdissues/institutional _arrangements/egm2007/presentations/isaacOsuoka.pdf (accessed 28 June 2021).

[10]Ako, R.T., Resources Control or Revenue Allocation: A Path to Sustainable Peace in Nigeria's Oil Producing Communities, in Popoola (ed) (2008) Proceedings of the 35th and 35th Annual Conferences of the Nigerian Society of International Law 2005 & 2006, Nigerian Society of International Law,189.

Preceding, the case of *Attorney General of the Federation v. Attorney General of Abia State*[11]the oil-producing communities were not happy with the Supreme Court's decision on the on-shore/off-shore dichotomy. Therefore, to avert the protest and conflicts the judgment could have caused in the oil-producing areas, Nigeria's National Assembly enacted the Offshore or Onshore Oil Dichotomy Abolition Act which was assented to by President Obasanjo on 20 February 2004 to abolish the on-shore/off-shore oil rent dichotomy by extending the payment of the Thirteen percent oil derivation revenues to part of off-shore oil resources.

Theoretical framework on kidnapping in the oil and gas industry. The study aims to offer legal panaceas to the scourge of kidnapping in Nigeria's oil and gas industry to deter those who intend to commit the crime. The study is divided into five sections, with the introduction as the first. The next section considers the methodology, statement of problem, literature review, international legal framework against kidnapping. Section three considers the national legal framework on kidnapping to determine its effectiveness in combating the crime and some selected provisions of the Anti-kidnapping laws of some States and some selected Nigeria's oil and gas industry regulatory institutions in combating the crime. Section four discusses the factors that trigger kidnapping in Nigeria's oil and gas industry. The challenges were inhibiting efforts of the Federal Government in combating kidnapping in Nigeria's oil and gas industry.

The findings and discussion of results revealed there is weak enforcement of the laws. In addition, the prevalence of poverty, corruption[12] and inadequate security network promote kidnapping in the petroleum industry. As a contribution to knowledge, the study designed a hybrid model or strategies for combating kidnapping in Nigeria's oil and gas industry. Section five concludes with recommendations and advocates stringent anti-kidnapping laws to combat Nigeria's petroleum industry crime.

2.0 Methodology

The study investigated the need for combating kidnapping in Nigeria's oil and gas industry using current literature. The study adopts a conceptual legal research method. It applies library-based doctrinal legal research technique with primary and secondary sources of laws such as case laws, international conventions, the provisions of the United Nations Convention against Corruption, United Nations Convention Against Transnational Organised Crime 2000,the provisions of the 1999 Constitution of the Federal Republic of Nigeria (as amended) and Terrorism (Prevention) Act 2013 and the provisions of the Lagos State's Kidnapping Prohibition Law 2017 among others. This approach in legal research is coherent with the law, and it is readily available for verification. Further justification for using the method was to establish the trustworthiness of the findings on combating kidnapping in Nigeria's oil and gas industry.

The study proposed a hybrid strategy or model for combating kidnapping in Nigeria's oil and gas industry. Besides, there has been scarce research in assessing the strategies for combating kidnapping in Nigeria's petroleum industry. Therefore, the need to have a robust assessment of the strategies for tackling kidnapping in the oil and gas industry by utilising policy documents

[11]*(2002) FWLR (PT.102),1.*

[12]Olujobi, O.J., "Recouping Proceeds of Corruption: Are There Any Need to Reverse Extant Trends by Enacting Civil Forfeiture Legal Regime in Nigeria?" (2021), Journal of Money Laundering Control (In Press).

justifies the need for this study. Furthermore, the study will be of immense benefits by providing an insight into the need for the protection of lives and property in Nigeria's oil and gas industry. The author also evaluated the problems and extracted inferences that concluded in the findings of this study.

3.0 Statement of Problem

The crime of kidnapping has become endemic in Nigeria that the country was ranked sixth on the global kidnapping index by an online tourism site.[13] This rating put the country in a bad light among countries with serious kidnapping problems in the world.[14] Kidnapping has been a recurrent event in Nigeria, especially in Nigeria's South-South and East geo-political zones. The recorded kidnapping cases in Nigeria show that about (Three Hundred and Sixty-Five) 365 persons kidnapped in the first quarter of 2019. It was reported that between 2011 and 2020, over $18 million had been paid as ransom to kidnappers. Ransoms can range from $1,000 to $150,000, depending on the economic situation of the victim and their family's backgrounds.[15]

Apart from its impacts on the victims, kidnapping exacts enormous economic and social costs on society. It creates an ambience of fear and despair for all citizens, and it affected the economic and sustainable growth of the country's oil and gas industry.[16] Kidnapping is one of Nigeria's critical development challenges today as it derives away local, foreign and direct investments in the country's petroleum industry, thereby slowing down economic growth. It scarce tourists away from Nigeria as they are regularly warned in their countries to desist from Nigeria due to insecurity of lives and property. This has occasioned disruption in social peace and economic stability by undermining Nigerian citizens' quality of life, thereby leading to serious problems such as poor infrastructure and poor corporate image of Nigeria at the international scene or among the comity of nations.

The victims suffer psychological trauma from the loss of freedom, dignity, loss of scarce resources through payment of ransoms and sometimes their life. Several approaches have been put in place by the Federal and State governments, such as open confrontation by security personnel and the use of religious leaders to preach to their members on the need to obey the greatest commandment of God by loving one's neighbours as oneself to entrench peace and harmony in the oil and gas industry and the society at large.

Kidnapping is seen as a business venture that is regulated by laws of demand and supply. If they are deprived of their demands, then there is not going to be any supply. Therefore, it involves the

[13]Dozier, B., Impact of Security on Tourism Development in Nigeria, Available at: https://barbradozie.wordpress.com/../...(accessed 28 June 2021).
[14]Constellis, Kidnap for Ransom Risk Top 10 Countries (2017), available at www.constellis.com (accessed June 28, 2021).
[15]Campbell, J., Kidnapping in Nigeria: A Growth Industry, (2020), available at council on Foreign Relations, https://www.cfr.org/blog/kidnapping-nigeria-growth-industry (accessed 28 June 2021),
[16]Finintell, the Cost and Effects of Insecurity in Nigeria, available at www.my financial intelligence .com/..cost-and effect, (accessed 22 June 2021).

calculation of the most efficient means to the desired end.[17] Some militants use kidnapping to combat economic and environmental injustice in the Niger Delta Region of Nigeria.

Kidnapping has been quite disturbing; thus, impeding the country's economic development by depriving the country of the benefits of business opportunities and development in the oil and gas industry due to the prevalence of insecurity.[18]Multinational oil companies are beneficiaries of the crude oil extracted from the Niger Delta areas to the detriment of the host communities due to persistent marginalisation and endemic corruption. The royalties from the crude oil extracted by the oil companies are payable to the Federal Government without any proportionate developments in the Niger Delta areas producing the oil, which necessitated the crime of kidnappings of multinational oil companies' officials by the Niger Delta youths to protests harmful environmental practices by the oil companies operating in the Niger Delta areas.[19]

Furthermore, the Presidential Amnesty Programme was introduced to train repentant militants on vocational skills due to insecurity, vandalisation of crude oil pipelines, and kidnapping of oil companies' personnel in the Niger Delta areas to placate the militants to drop their arms and embrace peace. Several attacks by the military task force failed to dislodge the kidnappers. The amnesty aims to guarantee stability in the production of crude oil and gas in Nigeria.[20]

In a bid to explore the natural resources in the Niger Delta Areas, the Niger Delta's land and aquatic resources are destroyed by the oil multinationals without workable remedy, and the oil-producing communities are left with no means of survival. Hence the anger, kidnapping, deprivation and poverty becomes endemic in the areas. The financial benefits of petroleum exploration accrue to the country as a whole, but the negative consequences of oil exploration and production activities are left for the host communities to put up with. Kidnapping appears to be the reaction of some youths in oil-producing communities in response to environmental degradation suffered by the people (as earlier mentioned).

The prevalence of kidnapping cases reported in Nigeria create a bad reputation for the country's citizens, tourists, researcher and crude oil investors and students who may wish to undertakes the studies in the country will be scared away due to the prevalence of kidnapping.

There are various categories of kidnapping techniques; economic kidnapping is one of the growing crimes in the petroleum industry globally as a study has shown that kidnappers globally take home the sum of $500 Million as ransom payments each year. It is also estimated that about 10,000 kidnappings occur each year. This has impacted negatively on Nigeria's corporate image and foreign policy. Similarly, there is high network individual kidnapping; this involves studying a particular individual for a long time to know his habits and schedules by allowing perpetrators to gather intelligence reports on the victim, family, and personnel before taking the

[17]Tzandelll, R., Capitalising on Value Towards Sociological Understanding of Kidnapping, (2006), Sociology, 929-947.
[18]Anyio, S.F., Illegal Oil Bunkering and Oil Theft in Nigeria: Impact on the National Economy and the Way Forward, (2015), 1(1), Ilimi Journal of Arts and Social Sciences, 2.
[19]Olujobi, O.J., Oyewunmi, O.A, Oyewunmi, A.E., Oil Spillage in Nigeria's Upstream Petroleum Sector: Beyond the Legal Frameworks, (2018), 8(1), International Journal of Energy Economics and Policy, 220-226.
[20]Olujobi, O.J., and Oyewunmi, O.A., Annulment of Oil Licences in Nigeria's Upstream Petroleum Sector: A Legal Critique of the Costs and Benefits (2017),7(3), International Journal of Energy Economics and Policy,364-369.

victim forcefully. The aim is to get paid by those family members because of the importance of such victims to the family.

Furthermore, there is tiger kidnapping; this is hostage-taking to force the victim to assist in the theft or release of criminals. This often happened on the drilling and exploration sites. The victims are held in handcuffs until the required things are done. Virtual kidnapping is a rip-off rather than an actual kidnapping. The perpetrators usually wait until their target is unreachable, especially when the target is in an oil exploration site, oil rig or another place out of internet coverage or cellular, and then the kidnapper contacts the family for a ransom and claims that they have kidnapped the victim.

Political kidnapping extorts political concessions from government or security agencies to get ransom or negotiate certain federal or State government benefits. This type of kidnapping is being utilised as an instrument of political *vendetta* or for settling political scores. The operation is targeted at key politicians or oil companies' contractors. Once the victim is kidnapped, a high level of negotiations is often deployed which ultimately lead to a huge ransom to further political goal or to cripple political aspiration of the victim. According to Turner perspective, it is "Money and Politics" is Kidnapping with a political motive.[21] For instance, the former Governor of Anambra State was kidnapped on 10 July 2003 by his fellow political party members who were having some political disagreements.[22]

There is also child-kidnapping; it is kidnapping of a minor, especially the children of oil companies' staff. This often occurs without the element of force or fraud. This is also called child stealing. Finally, parental kidnapping is kidnapping a child in violation of the other parent's custody or visitation right. These are series of crimes of kidnapping, among others taking place in Nigeria's oil and gas industry.

4.0 Literature Review

The crime of kidnapping is relatively new to the African continent. However, kidnapping for ransom is a common occurrence in certain cities and countries. In explaining the term kidnapping, Garner opined that the crime is labelled abduction when the victim is a woman, kidnapping or abduction when a child. The emergence of kidnapping has been blamed on many factors, such as the government's failure to combat the root causes of dissatisfaction, anger and unending agitations among various ethnics' groups in the country. Also, Fage and Alabi maintain that kidnapping is a forceful or fraudulent abduction of an individual or group for economic, political, religious, or self-determination.[23] The recent emergence of kidnapping is traceable to the dissatisfaction of the Niger Delta militants, mass poverty in the country, and social deprivation and mass unemployment. Poor political leadership and poor attention of the Federal Government to other factors that promote enabling environment for security to thrive in the

[21]Turner, M., Kidnapping and Politics, (1998),26, International Journal of Sociology of Law, 145-160.
[22]Emewu, I., and Anyanwu, G., Anambra Kidnap Drama: Force Play in Fierce Gubercontest, Daily Sun, 31 October, 11-12.
[23]Fage and Alabi, Nigeria Government and Politics (Basfa Global Concept Ltd, Abuja, 2017), 289.

society.[24] The study fails to emphasise the need for stringent enforcement of anti-kidnapping laws. The gaps which the current study intended to fill.

According to Adebowale in his article titled "The Mystery of Fatal Attraction of Terrorism in the Oil and Gas Industry in Nigeria."[25] Kidnapping and hostage-taking are terrorist acts commonly perpetrated by militants in Nigeria, and the expatriates in the petroleum industry are usually the victims of kidnapping and hostage-taking for ransom. However, there were constant threats by multinational oil companies to pull out of the Niger Delta region because of kidnapping and hostage-taking.[26] About ₦1.02 trillion was lost annually as a result of insecurity in Nigeria.[27] Another report state that Nigeria's daily crude oil loss rose to 631.000 barrels per day following an attack on the Agip oil company's pipeline installations.[28] In 2006 Nigeria was reported to have lost $4.4billion in oil revenues due to kidnappers, militants and other criminals in the oil sector.[29]

It was reported that the militants were behind a wave of oil production disruption that pushes the country into its first recession in Twenty-Five years.[30] Kidnapping constitutes a veritable threat to Nigeria's oil and gas industry sustainability and development. It often leads to loss of life, a threat to public safety, sabotages of economic growth and development by promoting capital investment flight. The negative perception of Nigeria in the international scene thereby discouraged foreign direct investment in the petroleum sector.[31]The study also fails to highlight the need for strict implementation of anti-kidnapping statutes. The gaps which the current study intended to fill.

Nwaechefu & Kalama, in their article titled "Current Wave of Kidnapping in Nigeria: A Breach of Rights of the Victims? Reiterated that kidnapping is due to the struggle to get a fair and larger share of petroleum and other natural resources endowed by nature in the Niger Delta region of Nigeria.[32] The youths felt marginalised in distributing oil deposits in their land, indulging in hostage-taking and kidnapping oil workers to drive home the agitation for resources control. However, the study fails to emphasise the need to enact the Whistleblowers Protection Act as a vital mechanism for combating kidnapping. The current study's gaps intend to fill by urging the National Assembly to pass the pending Whistleblowers Protection bill into law, being a tool

[24]Albert, I.O, Danjibo, N., Albert, O., Back to the Past: Evolution of Kidnapping and Hostage Taking in the Niger Delta, Nigeria, (2020), 11, Beijing Law Review, 211-226.
[25]Adebowale, H.I., The Mystery of Fatal Attraction of Terrorism in the Oil and Gas Industry in Nigeria, (2019), 9, University of Ibadan Journal of Public and International Law, 260-277.
[26]Paratheasarthy, R., Economics Consequences of Terrorism (2018), available at http://www.hindugroupment.com, (accessed 18 June 2021).
[27]Omonobi, K., Nigeria Navy and the Challenges of Keeping the Economy Afloat, available at: https//2www.vanguardngr.com (accessed 18 June 2021).
[28]Adelakun, T., History of Terrorism and Kidnapping in Nigeria, available at http://www.heliom.com, (accessed 18 June 2021).
[29]Omonobi, K., *Op. Cit*.
[30]Asu, F., Niger Delta Militants Vow to Stop Oil Flows, Cripple Economy. The Punch, 15 February 2019.
[31]umego, CDCD, Offence of Kidnapping: A Counter to National Security and Development, available at file:///c:/users/dr.%20olujobi%20olusola/downloads/ssrn-id3337745.pdf (accessed 18 June 2021),1-13.
[32]Nwaechefu, H., & Kalama, S.T., Current Wave of Kidnapping in Nigeria: A Breach of Rights of the Victims? (2019), 1(3), International Journal of Comparative Law and Legal Philosophy, 133-139.

recognised globally for unveiling kidnapping and other illicit activities in the oil and gas industry.[33]

Ogonda also affirms in work titled "Amnesty for Perpetrators of Kidnapping and Other Crimes in the Niger Delta Region; Emerging Concerns."[34] That Nigeria's legislative provisions such as the Land Use Act 1978, the Petroleum Act 1969 (as amended), the Exclusive Economic Zone Act and other dispossessory legislations which ensured that the Federal Government automatically appropriates all the resources in Niger Delta Areas without any consideration for the economic and other rights of indigenous people of the areas are which are the bane of the high rate of insecurity in the Niger Delta Areas. However, the study fails to offer strategies that will not burden the national budget as it is currently experienced in Nigeria.

Ibitamuno and Aminigo, in their article titled "Environmental Injustice and Human Rights in the Niger Delta: The Etche Experience."[35] The financial benefits of petroleum exploration accrue to the country as a whole, but the negative consequences of exploration and production are left for the host communities to bear, which the study did not address thoroughly. The issue of kidnapping appears to be the reaction of some segment of the Niger Delta community in response to the environmental, economic and perceived social injustice suffered by the people due to long neglect by the Federal Government.

5.0 Theoretical Framework for Tackling Kidnapping in Nigeria's Oil and Gas Industry

The sociological theory of law by Eugen Ehrlich in 1862-1922. opined that law should be enacted not only for the need of today but also of future needs as the law is a social phenomenon that exists for the needs of human beings that are organised and embody within its fundamental rules, which are the fundamental principles and values of the society.

The essence of law and the principal duty of a government is protecting lives, property, and society's interests or its citizens from attacks from internal and external aggressors or kidnappers. Thus, ring posited that the law is to guide and protect the interests of society. The norms, laws, values, way of life are what determines the do or do not do of a society. Therefore, if the society anti-kidnapping law is stringent and strictly enforce, it will combat kidnapping in Nigeria. However, that social norms, ethical values, or living laws are not static. However, they are constantly changing, and laws need to be constantly reformed to reflect and meet Nigeria's oil and gas industry's ever-changing needs to combat new anti-social behaviour in the petroleum sector, such as kidnapping.

The sociological theory of law argues that legislating the do's and do not of society into law will not guarantee good laws because not all ethics and values of society are good and legal. The theory failed to tell us to what extent positive law shapes society's conduct as society's conduct is

[33]Olujobi, O.J., Whistleblowers Protection Act: A Legal Approach to Combat Corruption in the Upstream Petroleum Industry, (2021), Achievers University Law Journal Maiden Edition (In Press).
[34]Ogonda, B.H., Amnesty for Perpetrators of Kidnapping and Other Crimes in the Niger Delta Region; Emerging Concerns, (2020), 13(1), Journal of Jurisprudence, International Law and Contemporary Issues,168-180.
[35]Ibitamuno, M., Aminigo*et al*., Environmental Injustice and Human Rights in the Niger Delta: Etche Experience, (2008), 2 Rivers State University Journal of Public Law, 221.

always ahead of the law, and it is arguable what the conduct of society will be. Some critics argued that positive law has no creative force to determine the dos and don'ts of a society.

Natural theory of law by Aristotle in 384-322 and St. Thomas Aquinas in 1225-1274. It is based on principles discovered by reason and truth. The theory emphasised that for any positive law to be valid, it must conform with natural law. It is the law that never errs, which is based on right reason, which is in agreement with nature for the common good, made by him charged with the care of the community. It is universal and distinct from a law enacted by a mortal, which is vulnerable to corruption.

The criticisms of natural law school are: That natural law uses the law of God as a measurement to test the validity of man-made or positive law, thereby render many laws invalid and ineffective. The argument is that since nature does not permit one person or group to dominate the other by kidnapping, such crime, if not combated, could lead to anarchy, destruction of the natural order and violation of the victim's Constitutional rights. The law is deriving from God, the ultimate lawmaker that controls all creations.

Since natural law is based on what is fair and just and how do we determine what is fair and just? Is it according to one person's conscience or according to the public's conscience, thereby raising the question of which of the conscience or assessment should prevail? Another criticism is that what is right, fair, just, moral and good in the assessment of another may not be right, fair, just or morally right to another person, thereby leading to confusion of law with moral and religious issues on the crime of kidnapping.

The Utilitarian Theory of law or Utility theory of law by Jeremy Bentham in 1748-1832 opined that life is full of pain and pleasure, and the law should be used as a tool of social re-engineering to increase human happiness to minimise pain. He postulated that law should be enacted to secure or to ensure the happiness of the greatest possible number of people. He emphasized that the aim of the law should be to maximise human happiness by securing the greatest happiness of the greatest number of people. He described natural law theory as nonsensical.

The current author avers that every person should be allowed to freely move and pursue businesses without the fear of being kidnapped in the oil and gas industry. The theory advances personal liberty and a free-market economy. The theory advocates that all existing laws and regulatory institutions in the oil and gas industry should be reformed to secure the greatest happiness possible for the populace through the security of lives, property and liberty in the country.

The criticisms of the utilitarian theory are: The argument that law should be used to increase the happiness of the citizens, but he failed to state how effective this can be attained. Second, the argument that things which are necessary but are ordinarily wronged may be necessary to avoid the worse evil or greater loss to the society, such as the enactment of the death penalty as a sanction for kidnapping, may be necessary to serve as deterrence to others who have the intention of committing the crime of kidnapping. Third, critics say many things one can pursue in life that cannot be called pleasure. That is, all pursuits cannot be classified as pain and pleasure.

5.1 International Legal Regime on Ownership of Land and Natural Resources

The International Labour Organisation (ILO) Convention (No 107 and 169) is a clear manifestation of the growing concern of the body concerning indigenous people worldwide. They represent the only binding international legal instrument concerning indigenous people. The aim is to integrate and assimilate the indigenous people. The Convention makes provision for compensation where the government takes the land for development. International Labour Organisation (ILO 169) contains the basic right of indigenous people to live and develop their own identities, language and religion as distinct communities.

Article 15(1) of the above Convention states that the rights of the people on their natural resources about their land shall be safeguarded and the right of these peoples to participate in the use, management and conservation of these resources. The Convention has been criticised for not allowing indigenous people to participate in the drafting stage of the Convention; it was ratified only by a small number of states. The absence of the term self-determination and other qualifications hampers its practical effectiveness. Despite this flaw, the spirit of consultation and participation make it mandatory for indigenous people to participate in the exploration activities on their land and to partake in the benefits of such exploration and production activities.

The African Charter on Human and Peoples 'Rights was adopted in 1981 but came into force on 21 October 1986. It guarantees both individual and collective rights. Article 21(1) provide that all people shall freely dispose of their wealth and natural resources. Article 21(2) states that the dispossessed people shall have the right to the lawful recovery of their property and adequate compensation, but the reverse is the case in Nigeria. In the significant case of *the Social and Economic Rights Action Centre and the Centre for Economic and Social Rights v. Nigeria.*[36] The African Commission on Human and Peoples' Rights recognised that the Ogoni people, one of the constituent peoples of Nigeria, are entitled to this right concerning the natural resources within their territory. Articles 20,21,22, and 24 states that all people have the right to existence, their natural resources, property, and the right to their economic, social, and cultural development.

Another convention is the Convention on Biological Diversity (CBD), a fundamental legal framework for biodiversity conservation, and it is legally binding on party members. It was one of the agreements adopted at the Rio Earth Summit of 1992. It came into force on December 29, 1993, and Nigeria ratified it on August 8, 1994. The Convention afford some protection to the indigenous people who had often been marginalised in earlier efforts to conserve biodiversity. The Convention's objectives are conservation of biodiversity, sustainable use of biodiversity, fair and equitable sharing of benefits arising from the commercial and other utilisation of genetic resources. It also provides for indirect protection to the indigenous and local communities. Even though the Convention was drafted without the participation of indigenous people and so is deficient in some respect concerning the rights of the indigenous peoples to natural resources, it nonetheless provides support for the participation, consultation and compensation of rights of indigenous people in connection with their native knowledge and natural resources.

[36]Communication 155/96, available athttps://www.escr-net.org/caselaw/2006/social-and-economic-rights-action-center-center-economic-and-social-rights-v-nigeria (accessed June 30, 2021).

Furthermore, the United Nations Declaration on the Rights of Indigenous peoples was formulated on September 13, 2007, being a landmark international legal instrument on indigenous rights with remedies for injustices in respect of dispossession, marginalisation and neglect; however, without any legally binding effect but it offers a framework for adoption by states to strengthen their relationship with indigenous people through their national laws.[37] The Convention addresses issues of economic rights and rights of indigenous people to their land and natural resources.

The current author contends that the laws relating to ownership of land and natural resources in Nigeria are incompatible with the various international standards and Conventions on indigenous peoples' right to land and natural resources. Thereby the laws interfere with their ability to protect their territories from environmental degradation occasioned by oil exploration and production activities. Therefore, amendment of these laws in conformity with the emerging international standards and Conventions can be a major vehicle in the movement for the transformational change that the oil-producing communities of Nigeria need to combat the crime of kidnapping and other oil-related crimes in the oil and gas industry to promote peace, security and sustainability of the extractive resources.

5.2 The Municipal Legal Regime for Tackling Kidnapping in Nigeria's Oil and Gas Industry

There is a need for critical examination of the offence of kidnapping under Nigeria's law and the punishments imposed. The national legal regime for combating kidnapping in Nigeria are: The 1999 Constitution of the Federal Republic of Nigeria (as amended), being the basic law or the *grundnorm* of all other laws in Nigeria. Section 35 of the Constitution provide that every person shall be entitled to his liberty, and no one shall be deprived of such liberty save in a manner permitted by law. Therefore, any attempt by any person to forcibly or without force took away a human being from his lawful abode and deprived such a person of his liberty violated the Constitution, thereby committing the offence of kidnapping. Furthermore, section 34 of the Constitution prohibit inhuman, degrading treatment, torture, servitude and forced labour. Also, man's first right is to the environment, without which man cannot claim other rights such as social, political or economic.

The right to a healthy environment should be entrenched in chapter IV of the Constitution to provide individuals and communities with judicial remedies and processes through which they may seek legal redress where the environment has been degraded, especially now that the National Assembly is considering the amendment of the 1999 Constitution they should delete the provisions of section 6(6)(c) of the Constitution which hinders the implementation of the right to the environment and other socio-economic rights to activities in Nigeria's oil and gas industry.

Also, the Terrorism Prevention (Amendment) Act 2013 section 15(1) provides as follows any person who knowingly seizes, detains or attempt to seize or detain, threatens to kill, injures or continues to detain another person in order to compel a third party to do or abstain from doing an act gives a clear condition for the release of the person held hostage commits an offence and is

[37]Ban Ki-moon, Protect, Promote, Endangered Language, Secretary-General Urges in Message for International Day of World's Indigenous People, sg/sm/11715, hr/4957,obv/711.

liable on conviction to life imprisonment. The offence of kidnapping was classified under terrorism, but the Act did not specifically use the word kidnapping.

The Criminal Code sections 364 and 365 provides that any person who unlawfully imprisons any person and takes him out of Nigeria without his consent or who unlawfully imprisons any person within Nigerian in such a manner as to prevent him from applying to a court for his release or from disclosing 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 or from discovering the place where he is imprisoned is guilty of a felony and is liable on conviction to imprisonment for ten (10) years.

Similarly, the Penal Code[38] Sections 271 and 272 of the Penal Code provide that whoever takes or entices a person under the age of Fourteen (14) years if a male or under Sixteen (16) years if female or any person of unsound mind out of the keeping of the lawful guardian of such person without the consent of such guardian or conveys that person beyond the limits of the FCT Abuja, without the consent of someone legally authorised to consent to such removal is said to kidnap such person.

Section 273 of the Penal Code further provides the punishment that whoever kidnaps or abducts a person shall be punished with imprisonment for a term that may extend to ten (10) years and be liable to a fine. In *Okashetuv. State,*[39] where the Supreme Court set aside an appeal and establish the elements of the offence of kidnapping, which the prosecution beyond a reasonable doubt must prove to secure the conviction of kidnappers such as: That the victim was seized and taken away by the accused person, that the victim was taken away without his consent, that the victim was taken away devoid of lawful justification. According to the court, kidnapping is complete when the victim is carried away against his desire.

The Kidnapping Abduction Act, 2017 provides for a thirty (30) year term of imprisonment for anyone caught colluding with an abductor to receive ransom for any person wrongfully confined. The Act equally provided a death sentence for anyone whose kidnapping activities led to the death of any person.

The nation's legislative provisions such as the Land Use Act, Petroleum Act, the Exclusive Economic Zone Act and other legislation which ensured that the Federal Government appropriates all the resources in Nigeria without any consideration for the economic and other rights of the indigenous people of the oil-producing areas should be overhauled to give them participatory right or sense of belonging in respect of oil licence or other natural resources being exploited or produce in their domains.[40]

The following states in Nigeria have enacted capital offence or the death penalty as a sanction for the crime of kidnapping: Anambra, Enugu, Abia, AkwaIbom, Imo, Bayelsa, Bauchi, Cross River Ebonyi, Kogi, Rivers, Lagos, Ogun, Ondo and the Oyo States among others.

[38]Penal Code Law, Cap. 89, Laws of Northern Nigeria, 1963.
[39]*(2016) ALL FWLR (Pt.861) 1262 S.C*
[40]Ibitamuno, M.A., *et al*, Environmental Injustice and Human Rights in the Niger Delta: The Etche Experience, (2008), 2, Rivers State University Journal of Public Law, 221.

5.3 Provisions of the Anti-Kidnapping Laws of Some States

Most of the states in Nigeria, particularly in the Southern part of the country, have enacted stringent laws to combat kidnapping. The study examines some of the laws to ascertain their effectiveness in combating the scourge. The provisions of some States Anti-Kidnapping Laws in Nigeria are:

S/N	Some States that enacted Anti-Kidnapping Laws in Nigeria	Laws	Year	Provisions of the Laws	Flaws/ Remarks
1.	**Lagos State**	The Criminal Law of Lagos State 2011.It came into effect on 8th August 2011. Kidnapping Prohibition Law	2011 2017	The criminal law of Lagos State 2011section 269(3) provides that where a ransom is demanded the release of the person detained, the offender is guilty of a felony and is liable to imprisonment for Twenty-One years. The law stipulates death sentences for kidnappers whose victims die in custody and life imprisonment for those whose victims do not die in their custody and anyone who attempts to kidnap another person. Twenty-Five (25) years imprisonment for anyone found guilty of threatening to kidnap another person through a phone call, email, text message, or other means of communication. Fourteen (14) years imprisonment for any person who knowingly or willfully allows or presents his premises, building or a place of belonging to which he has control of to be used to keep a victim kidnapping.	Lagos State is the only State that provides a lesser punishment for kidnapping than other States under consideration. Thus, the law helps the State to combat this societal anomaly.

2.	**Anambra State**	Kidnapping Prohibition Law	2009	The law provides for the death penalty as a punishment for kidnapping. The houses built with the proceeds of kidnapping or those used as refuges are to be demolished by the state government as a sanction for kidnapping to deter those who may have the intention of committing the same offence.	The stringent law helped the State to a great extent in combating this anti-social behaviour in the State.
3.	**Ogun State**	Ogun State Anti-Kidnapping Law	2016	The law provides that any kidnapper whose victim or victims die while in captivity will be liable to capital punishment, while a convicted offender whose victim is released or rescued unhurt upon the payment of ransom will be liable to life imprisonment and will also be compelled to pay back the ransom.The law equally prescribes punishments for anyone who threatens to kill, maim or cause bodily harm in order to compel another person, corporate body or organisation to prevent from doing any act as a condition for the release of the victim. Any person who makes an attempt to kidnap, aids or abets kidnapping will be sentenced to not less than Fifteen (15) years imprisonment.	The crime of kidnapping in this State is not rampant like in other states in Nigeria.
4.	**Rivers State**	Rivers State Kidnapping (Prohibition) (amendment) Law	2018	The law prohibits kidnapping and provides capital offence as a sanction for kidnapping to deter people from committing the offence.	Weak enforcement has been the challenge that impedes the efficiency of the law due to unnecessary political interference in police

					investigations, arrests and possible prosecution of kidnappers.
5.	**Abia State**	Criminal Code Law of Abia State of Nigeria No:9 of 2008 and the Revised Criminal Procedure Law	2008	The law prohibits kidnapping and hostage-taking with capital punishment as a sanction. In addition, the properties of kidnappers and their accomplices are to be confiscated and forfeited to the government being the proceeds of crime.[41]	The stringent law helped the State to a great extent in combating this anti-social behaviour in the State.
6.	**AkwaIbom State**	The AkwaIbom State Internal Security and Enforceme nt Law	2009	The anti-kidnapping law provided for life imprisonment for any person who attempts to kidnap somebody with Twenty-One years imprisonment as punishment who assists the escape of a kidnapper or terrorist. Furthermore, any premises where a person is held hostage shall become the government's property and shall be sealed up by the Governor or his Representatives.	The law fails to crimininalise an attempt to kidnap or abduct.
7.	**Imo State**	Imo State Prohibition and Hostage-Taking and Other Related Offences Law, No.4.	2009	The law makes it an offence for anybody to be involved in kidnapping or hostage-taking; the sanction is the death penalty. Life imprisonment for an accomplice in a case of kidnapping and unlawful imprisonment. It criminalised aiding and assisting kidnapping and fake kidnap to fleece friends and relatives of their hard-earned money.	The law fails to criminalise or punish attempted kidnap.
8.	**Edo State**	Edo State Kidnapping Law is cited as "A law to	2011	The law punishes the act of kidnapping in whatever guise. Corporate bodies which aid and abet kidnapping or facilitate the crime shall pay a fine of not less than Fifty	The stringent law helps the State to combat this societal

[41]Olujobi, O.J., Olujobi, O.M., "Re-Thinking and Optimising Nigeria's Anti-Corruption Legal Framework: Upstream Petroleum Sector Corruption Evaluation", (2020), 8, Journal of International and Comparative Law University of Ilorin, Department of Jurisprudence and International Law,79-105.

		prohibit the act of kidnapping and committing of any act as an explicit or implicit condition for the release of a person kidnapped in Edo State and for other matters connected to it."		Million Naira, and where the officers of the company acted in their individual capacity and are convicted, they shall be punished with life imprisonment without option of fine section 5(2)(a)(i)(ii). Where the victim is found alive, the punishment is life imprisonment section 3(2). An employee or individuals who are arranging his or her kidnap in order to extract ransom shall be liable to imprisonment for life under section 6 of the law and where a person makes a representation that he has the power to influence the release of a victim of kidnap in order to extort ransom is liable to seven years imprisonment under section 10 of the same law. Furthermore, property and premises used in furtherance of kidnapping shall be forfeited to the State under section 11 of the law.	anomaly.
9.	**Rivers State**	Rivers State Kidnap (Prohibition) Amendment Law 2015. It is the law against Kidnapping. It is cited as a law to prohibit kidnapping in Rivers State and the committing any act as an explicit or implicit condition for the	2015	Kidnapping is punishable with life imprisonment without the option of a fine. Its provisions are at par with all the provisions in Edo State Anti-Kidnapping law, except it further criminalises the ransom to kidnappers with three years imprisonment under section 6(2) of theKidnap (Prohibition) Amendment Law 2015.	Imposition of sanction for ransom payment by the victim's family to kidnapper would amount to double jeopardy. Therefore, the provision of the Rivers State Law criminalising the payment of ransom needs to be reviewed.

		release of a person kidnapped and for matters related to it.			

Sources: The Author Created the Table.

5.4 Anti-Kidnapping Laws of Other Jurisdictions

In England, kidnapping is a crime, but it is not codified. It is a crime under the common law of England and Wales. In the case of *R .V.D*[42]A person takes another person away by coercion or fraud without the consent of the person taken and without lawful consent of the person, or lawful excuse is kidnapping and unlawful. It is a misdemeanour at common law. Kidnapping in England is punishable with imprisonment or a fine at the discretion of the court.[43]

The United States was placed in the sixth position globally in respect of kidnapping for ransom after Colombia, Italy, Lebanon, Peru, the Philippines and Phoenix. The Federal Kidnapping Act authorises federal authorities to pursue kidnappers once they cross the state lines with the victim. The law provides that if a victim is not released within twenty-four hours after the kidnap, a court may believe that the victim was transported outside state lines which may be rebutted with strong and cogent evidence. Several states in the United States implement their anti-Kidnapping laws. For instance, New York has a concise and detailed anti-kidnapping law that bases its definition on first-degree kidnapping on the period and goal.[44]

In South Africa, the element of kidnapping comprises of unlawfully and intentionally depriving another person of his or her freedom of movement, and if that person is a child, the custodian has control over the child. Aggressive removal is not a requirement as the removal may be effected by sly or trick. 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.[45] The sanction for kidnapping or abduction in South Africa is life imprisonment.

5.5 What Causes Kidnapping in Nigeria's Oil and Gas Industry?

Many reasons have been adduced as the factors for kidnapping in Nigeria's oil and gas industry, such as militancy in the Niger Delta region of Nigeria by the militant groups such as the Emancipation of the Niger Delta (MEND) kidnapping of multinational oil companies' expatriates as vengeance for the degradation of their environment due to oil exploration and production activities and due to the various conflicts in the areas. This has threatened the operations of the oil companies and exerted immense pressure on the Nigerian economy.[46]

[42]*(1984) AC 778.*
[43]*R V. Morris (1951) 1 KB 394, CR APP R201. CCA.*
[44]Fawei, P.J., The Legal and Policy Frameworks on the Crime of Kidnapping in Nigeria: A Comparative Study (2017), III (1), ABUAD Journal of Public and International Law, 236.
[45]*State v. Levy (1967) 1 SA 351.*
[46]*Ibid*, note 9.

The proliferation of firearms and military uniforms is another reason adduced. The proliferation of arms utilised during political campaigns as political tugs and conflicts in some crises ridden or troubled African countries enhance or encouraged kidnapping as some are discharged after the election or war without any benefits. Since an idle mind, they say, is the devil's playground, some took to kidnapping and used the gun to execute their kidnapping operations in the oil and gas industry.

Weak enforcement of the laws, police lacks the required training and resources to cope with kidnapping activities in the oil industry. In addition, corruption within law enforcement impedes serious efforts to combat the offence of kidnapping. There is also law enforcement and inadequate control of our sea territorial jurisdiction. The Nigerian Navy does not have enough functional equipment to monitor and secure our waterways, creeks to prevent kidnapping activities that are endemic in the oil industry.

Also, there is a problem of corruption and the absence of good governance. This has eroded the State's institutional and administrative capacities to combat kidnapping by implementing its law and decisions without fear or favour, provoking ethnic and sectional interests in the kidnapping.[47] Youths unemployment, many non-disabled men and women willing to work but with no job available have ventured into kidnapping out of frustration for survival and vengeance for environmental degradation occasioned by oil exploration activities. Moreover, moral decadence is a problem due to the decline in society's moral values as nobody asks questions on how people make their wealth. Rather they are rewarded with titles in the communities, thereby promoting get rich quick syndrome thus, creating wrong impressions in the minds of the youths on diligence and patience.[48]

Greed is one factor that causes kidnapping in Nigeria's oil and gas industry. It is greed that causes kidnappers to brutalise and torture their victims and put their families through the cruel ordeal for weeks, months, years and occasionally eternally. Some citizens had taken kidnapping as a career and as a permanent means of livelihood, such as Chukwudi Dumeme Onwuamadike, popularly called Evans, who started his kidnapping business in 2012 before being arrested by police in 2018. He is currently facing criminal charges at the Lagos State High Court, Nigeria.

Kidnapping often occasioned torture and death of victims by inflicting pains such as emotional torture, which was the case of One Hundred and Ten (110) students of Government Technical Science College, Dapchi in Yobe State who were abducted by the Boko Haram Islamic Insurgent on 19 February 2018 due to torture five (5) of the students were reported dead.[49] After negotiations and ransom paid, the students were released, but one student was kept behind named Lear Sharibu.

[47]Thom-Otuya, B.E.N., Kidnapping: A Challenge to Nigerian Security System, (2010), 2(8), International Journal of Social Science, 107-116.
[48]Bello I., An Analysis of the Causes and Consequences of Kidnapping in Nigeria (2017), 11(4), African Researchers and Review,134-143.
[49]Boko Haram Released Chibok School Girls', The Punch Newspaper (Lagos 28 October 2018), 2.

6.0 Findings and Discussion of Results

a) Findings in the literature shown that harsh socio-economic conditions caused by poor governance breed frustration, depression and aggression, which are some of the causes of the crime of kidnapping in Nigeria's oil and gas industry.

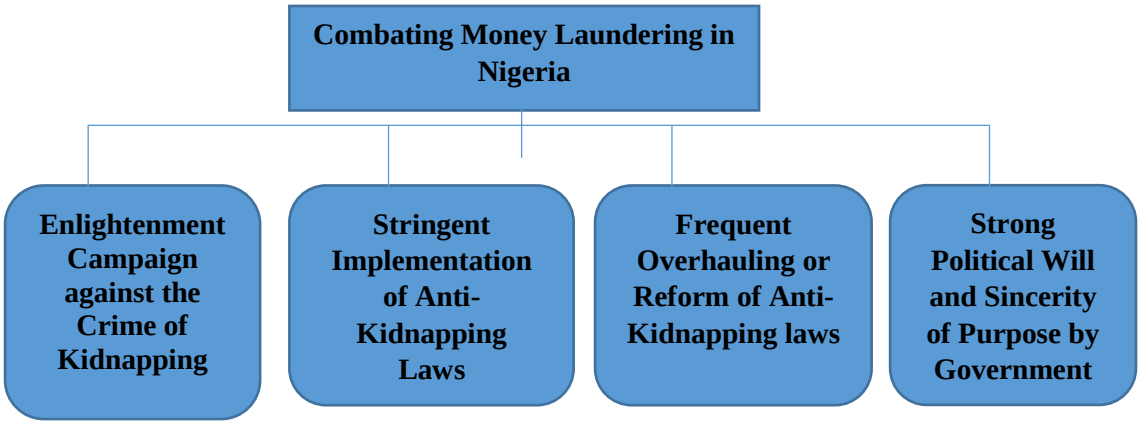
b) Kidnapping could take various forms, such as basic kidnapping. This is also called economic kidnapping, the common kidnapping type where wealthy families or business people are kidnapped to make quick money. Economic kidnapping is a situation where financial demand is made either in cash or some other financial resource.[50] Despite the stringent punishment enacted for kidnapping, it has degenerated to virtually all parts of the country. It has even graduated from acting of terrorisms considering the incidents of Chibok and Dapchi girls executed by Boko Haram insurgents, indicating that the country's security architecture requires urgent overhauling to stimulate economic growth and infrastructural development in Nigeria.

c) The Federal Government and the oil companies operating in the region has never shown any serious interest in addressing this problem. Poor enforcement by regulatory agencies responsible for the law that are meant to protect lives, property and the environment in the oil-producing communities. Weak enforcement of anti-kidnapping laws with other inadequacies has diminished the faith of the oil-producing communities' potency of the laws on adequate compensation and diminished the environment.

d) The Federal Government must ensure that oil firms embark on prompt and adequate clean-up of the environment and its restoration to its position before harm that occasioned resentment by the oil-producing communities. Addressing the corruption that has contributed to the deprivation of the oil-producing communities' social, economic and cultural rights through effective policies and legislative reforms can promote peace, security, and stability in the petroleum sector. Moreover, eliminating corrupt practices and mismanagement of oil resources will promote socio-economic development in the country.

6.1 Figure 1:Hybrid Model for Combating Kidnapping in Nigeria.

The study designs a hybrid model forcombating kidnapping in Nigeria's oil and gas industry:



Source: **The Author Created the Figure**

[50]Thom-Otuya, B.E.N, Kidnapping: A Challenge to Nigerian Security System, (2010),2(8), International Journal of Social Science, 107-116.

6.2 The Challenges Inhibiting Efforts of the Federal Government in Combating Kidnapping in Nigeria's Oil and Gas Industry

Inspite of the plethora of petroleum and environmental laws in place in the petroleum sector, why are kidnappers not brought to book for their activities which bring about insecurity and economic loss to people?

a) Although the various states imposed harsh criminal sanctions in Nigeria, evidence abounds to show that the crime is far from abating. Rather, capital punishment has the potential of increasing the casualty figures of the number of victims killed since kidnappers will not want their identities disclosed by the victims to avoid capital punishment for the crime.

b) Nigerians lack confidence in the Nigerian police force to protect their lives and property, and the success of the police is based on the credible information made available to them by the public. The strained relationship between the police and the member of the society makes it difficult for the police to get quick information about the activities of kidnappers. Whistleblowers protection legal regime is a tool recognised globally for unveiling the crime of kidnapping, other illicit and unethical practices in the upstream petroleum industry. Nigerian police are not well trained with superpower technology for tracking down kidnappers. Nigeria policing system is weak, hence kidnapping and hostages taken for ransom in the petroleum sector without being arrested.

c) Gross inadequate of police workforce in Nigeria to carry out the statutory responsibilities of Nigeria police force. There are no police patrols and operational vehicles on most Nigerian highways where these kidnappings take place daily.

d) Corruption often leaders embezzle allocation meant for police development and training. Some policemen and military men also engage in kidnapping for ransom to makes ends meet.

e) Since combating corruption is impossible without the cooperation of all stakeholders. Unfortunately, the absence of a specific, well-constructed legal regime on whistleblowers protection and the crime of kidnapping in Nigeria have exposed whistleblowers to grave consequences of reporting, thereby discouraging reporting of kidnapping. This obvious *lacuna* must be filled urgently in Nigeria's legal regime.

f) Some provisions in the anti-kidnapping laws, among others, are ambiguous and contradictory. These have diminished the potency of such legislation in combating kidnapping in Nigeria's upstream petroleum industry. Moreover, some of their provisions are obsolete and inadequate to combat kidnapping in the sector.

g) The unwholesome attitude of the judiciary in prioritising the economic interests of the State over the environment is the major cause of kidnapping and other insecurity in the sector.

h) The slow judicial process in which cases take several years before being disposed of is another factor causing the people to resort to self-help, such as the kidnapping of oil firm staff to draw the Federal Government's attention to their plights.

i) The laws do not pay much attention to preventive measures as they appear to be more concerned with the outcome of the crime of kidnapping. Therefore, provision is not made in the law to ensure that the crime of kidnapping does not occur or to minimise its occurrence, considering the devastating effects on the victims and their loved ones.

j) Another challenge is the poor enforcement mechanism of the existing anti-kidnapping laws. In addition, most regulatory institutions in the upstream petroleum industry lack trained staff, technical expertise, adequate information, analytical capability, secret intelligence and surveillance skills.

k) The over-dependence on oil revenue by the Federal Government means that most of the government's policies are directed towards minimising any loss of the revenues from oil at the expense of environmental protection of citizens' rights.

l) Other challenges like corruption, lack of accountability in government, lack of Niger Delta people participation in petroleum and environmental matters.

7.0 Conclusion and Policy Implications

Kidnapping in Nigeria's upstream petroleum industry has occasioned insecurity, economic challenges which have impeded sustainable national development, despite all efforts of the legislatures to impose stringent sanctions for the offence, which has spread throughout the country to terrorism. A lot is being invested in managing the kidnapping problem by the Federal Government of Nigeria, but the efforts do not seem to be good enough to reduce the scourge's expansion. Section 14 (2) (a) of the 1999 Constitution of the Federal Republic of Nigeria, which stipulates that "The security and welfare of the people shall be a principal aim of government". Originating from this Constitutional provision, it is reasoned that government tends to lose its substance when it is incapable of undertakes society's basic internal security requirements, especially in the upstream petroleum sector.

The upsurge of kidnapping seems to be overpowering the Nigerian Police, demanding the implementation of extra measures by the Federal Government, for instance, registration of mobile phone users, amendment of anti-kidnapping laws by some states to provide capital punishment such as death penalty, engagement of military task force, and destruction buildings owned or utilised by kidnappers for their nefarious activities *inter alia*. However, these have been established to be inefficient in combating the menace. To this end, the study recommends, among others, the Federal Government's implementation of measures to drastically reduce poverty, create employment for the teeming youth, curb widespread corruption, and evolve a reliable national identification system, and capacitation of security and law enforcement agencies through proper training and security equipment.

Also, the various interventionist agencies set up to combat insecurity and other oil-related challenges in the upstream petroleum sector have not improved the security situation in the sector. Rather, the agencies have been bedevilled by corruption, undue political interference, bureaucratic inefficiency, underfunding, and adopting a top-down approach to security and sustainable development issues. Nigeria has laws and regulations in place capable of regulating the activities of the oil firms in the upstream sector but fails to ensure enforcement and

compliance due to inadequate monitoring or surveillance equipment, personnel and funding. Some of these laws are defective or inadequate to guarantee safety, security of lives, and property.

The weak enforcement of the laws occasioned insecurity, thereby breeds hatred and contempt for the oil firms and the Federal Government. This predisposes the kidnapping of oil workers, vandalising oil pipelines, installations, demand for resources control, self-determination, and the quest for environmental rights and justice. Therefore, there is a need for the Federal Government to address these inadequacies and ensure that anti-kidnapping laws and other environmental laws are effectively applied and enforced by the regulatory agencies in the sector.

The study has many implications for the legislature, policymakers, and judiciary in the Constitution's creative interpretation, other regulations, and policies. The suggestions proposed in the study regarding the inadequacies in some of the legal regimes regulating the upstream petroleum sector, environment, and security may help the legislature and policy-makers reform these laws and policies to guarantee the safety of lives, property, and protection of oil-producing communities' environment. They will also assist the legislature in putting in place adequate machinery to strengthen the various institutions and agencies responsible for implementing the upstream petroleum sector, environmental law, and policies. Finally, the study is significant because several recommendation ameliorative strategies for combating kidnapping and stimulating an appropriate legal framework for regulating oil firms in the upstream petroleum sector have been proffered.

Recommendations

The following recommendations would be instructive if given proper consideration:

a) The Federal Government needs to work out long-term strategies for human capacity development and reintegration of ex-militants such as resettlement, training and skills acquisition, capacity building and the underlying problems that triggered kidnapping, hostage-taking, and militancy must be addressed holistically to foster peace in the upstream industry.

b) There is a need for creation of jobs by the three tiers of government, particularly at local.

   Government Areas that is closer to the people remedy the scourge of kidnapping in Nigeria's upstream petroleum industry.

c) Increase in the interest or holdings in the oil and gas resources of the oil-producing communities of the Niger Delta areas to give them a direct financial stake in the revenues derived from oil production rather than having the money flow primarily to the Federal and States Governments to enhance infrastructural, human capital and environmental development of the region to forestall kidnapping and other oil-related crimes. In addition, a transparency and accountability mechanism for the utilisation of the funds should be put in place at the local level to raise the people's living standards in oil-producing communities and promote peace, security, and environmental sustainability.

d) Kidnapping is a global problem, and everyone is a target of kidnappers. Therefore, there is a need to combat the scourge in Nigeria's upstream petroleum industry via stringent anti-kidnapping laws and sanctions.

e) The study recommends imposition and implementation of stricter penalties such as the death penalty for kidnapping by states that are yet to prohibit kidnapping or who are in the process of doing so, especially where the victim(s) died. In addition, there is a need for fair distribution of resources and diversification of the country's economy.

f) There is a need to address the unemployment problem bedevilling the country by creating more jobs to discourage kidnapping.

g) The various security agencies should be properly trained and adequately equipped in order to combat this scourge.

h) It is high time the government addressed the root causes of this offence, which is sometimes ideologically motivated by regions that feel marginalised; therefore, there is the need for fair and equitable distribution of resources.

i) There is a need for Nigeria to commence community policing and neighbourhood watch to deter kidnapping and other oil-related crimes in the sector. Since the kidnappers live within communities where their identities cannot be eternally concealed, communities participation in crime prevention and management will combat the crime.

j) There is a need to fully implement the United Nations Environmental Protection Report on Environmental Assessment of Ogoniland and establish the Environmental Restoration Fund.

k) Though the Presidential Amnesty Programme has restored peace in the region much need to be done to improve the living condition of the people. Equipping the people with human resources skills through scholarship cleaning up all oil impacted areas and providing employment opportunities for the youths.

l) Synergy in intelligence gathering and sharing among security agencies should be strengthened via legislation to create obligation rather than mere discretion to do so.

m) Intelligence gathering and sharing between and among security agencies is a huge challenge and accounts for rescue operations failures. Institutional sabotage is another challenge that needs to be addressed. Therefore, it becomes sabotage for any agency to unreasonably withhold sensitive information from others in the investigation and arrest of kidnappers.

n) The need for mandatory provisions compelling communication operators in Nigeria to aid security agencies in tracking and arresting kidnappers. There is a need to enhance the operational capacity of security agencies through the provision of sophisticated weaponry and surveillance equipment.

- Future research should focus on the effects of kidnapping on Nigeria's economies.

Limitations of the Study: Carrying out a study on kidnapping in Nigeria's upstream petroleum industry has its challenges. Some of the secondary data sources available pose great challenges in distilling accurate information due to inaccurate expatriate kidnappings in the Niger Delta. In addition, many ransom demands are handled quietly. However, this study carefully employs the use of relevant literature and other reliable information sources. Another challenge is the difficulty in gaining access to some data, which militates against the utility of personal interviews of many kidnapped victims due to fear of insecurity.