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**KIDNAPPING AND THE CHALLENGES CONFRONTING THE
ADMINISTRATION OF CRIMINAL JUSTICE IN SELECTED STATES
OF NIGERIA**

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ABSTRACT

This paper examines the challenges confronting the administration of criminal justice in Nigeria with a view to underscore its implication with regards to the prevalence of kidnapping. In order to achieve the objective of the study, qualitative method – in-depth interviews and key informant interviews were utilized in generating data from 60 interviewees. The qualitative data generated from the study was analyzed using a manual content analysis. The study shows that corruption, inadequate court rooms and facilities, poor working condition, frequency in the transfer of police officers, uncooperative attitude of GSM operators, delay emanating from legal practitioners and Director of public prosecution, as well as lack of operating vehicles were some of the major challenges confronting the administration of criminal justice in the prosecution of kidnap cases. Based on the findings, it is recommended that government should stop paying lip service to the fight against corruption but instead take concrete steps to stem the rising tide. Besides a review of the conditions of service of the police, prison and judicial officers, there is the need to provide functional vehicles to the various prison authorities as well as renovating and refurbishing dilapidated buildings and furniture in the various courts.

INTRODUCTION

Kidnapping for ransom is not new or peculiar to Nigeria alone, as people had been kidnapped and sold into slavery during the 18th and 19th centuries (Ikime, 2006). Others were kidnapped from their homes as a result of quarrels over farmlands, child-napping was also not uncommon, as children were abducted and used for money-making rituals (Sanyaolu, 2009). The incidence remains one of the most common crimes in America, Mexico and some other parts of the world. In Nigeria, before the 1990s, cases of kidnapping were so few that there was no mention of kidnapping in the Eighth United Nations Survey on Crime Trend and Operation of Criminal Justice System conducted in 2002 by the United Nations Office on Drugs and Crime (Graham, 2005).

Statistics places Nigeria as the 3rd highest in kidnapping cases in the world. Interestingly, Nigeria has overtaken the United States of America as the latter is

not even listed among the top twenty kidnapping nations in the world (Perlberg, 2013). The current dimension of kidnapping became alarming in the Niger Delta region when militants in February, 2006, abducted some oil workers ostensibly to draw global attention to the deplorable situation in the oil-rich Niger Delta region of the country. Since then, kidnapping has spread to most parts of the country, especially the south-eastern and south-southern regions of Nigeria. The targets are no longer oil workers or foreigners alone; every Nigerian is now a target. In fact, the safety of persons in Nigeria and their property cannot be guaranteed owing to the near daily incidence of kidnapping.

Kidnapping is an offence punishable under the Nigerian law. Anybody caught involved in the act is expected to face a penalty of ten years' imprisonment. Apart from this, some states like Abia, Akwa Ibom, Anambra, Enugu, Imo, Ebonyi, Rivers and Edo have passed into law a bill termed "Prohibition of Hostage Taking and Related Offences Law" with death penalty as punishment for offenders (Inyang, 2009). In further response to the rising waves of kidnapping, some states have improved their methods and strategies of stemming the menace. They have increased their funding on security matters and provided more equipment, communication gadgets, vehicles and other tools of policing to their various State Police Commands.

Only scanty cases of kidnapping have been successfully prosecuted in Nigeria but these cases are unreported. The question is: Why this unwholesome state of affairs? Ukiwo (2002), Oputa (1991) and Abati (2002) have argued that the problem lies squarely at the foot of the corrupt and corrupting role of the police and the courts which makes up the criminal justice system. Therefore, this study investigated the challenges confronting the administration of criminal justice in the prosecution of kidnap cases selected states of Nigeria.

Statement of the problem

Unarguably, one of the contemporary social problems in Nigeria today is the series of kidnapping for ransom that have assumed an unprecedented dimension with no end in sight despite the existence of the criminal justice system which ought to checkmate it (Ogugbuaja, 2010, Abati, 2010, Osumah and Aghedo, 2011). Scholars like Olong (2010) Obiora (2011), Ugwulebo (2011) and Ikpang (2011) respectively believe that challenges facing the administration of criminal justice in terms of frequency in transfer of investigating police officers, inadequate operational facilities, poor working conditions of prison officers is responsible for the recurring incidence of kidnapping. Decided cases in Nigeria courts have further exposed the inadequacies in the administration of the criminal justice as being responsible for the apparent inability of government to tame this social menace (Ndu V State, 1990 and Effiong V State, 1998). Could these factors really be the reason for the continued occurrence of kidnapping in Nigeria? This study, therefore, investigated the challenges confronting the administration of criminal justice in the prosecution of kidnap cases.

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Theoretical Framework

This study employed the functionalism perspective in the explanation of the topic under investigation. The theory holds that social phenomenon can be explained in terms of the part they play in the existence and survival of the larger society. It notes that there is inter –dependence of various parts within the system. This means that the function of a part of a system usually affects the system as a whole. This implies that society is made up of different parts each of which is designed to fill different needs, and each of which has particular consequences for the form and shape of society (Durkheim, 1897).

More so, there is the need for the system to maintain equilibrium in order to survive. This means that the social system tend towards equilibrium. That is, when parts of the system changes in magnitude or in quality, the other parts are subjected to strains and are transformed. As a result, the system changes its pattern of performance and the dysfunctional components are disciplined by a regulatory mechanism and the equilibrium of the system is re-established (Parson, 1951).

In applying this theory to explain the challenges confronting the administration of criminal justice in prosecuting kidnap cases in Nigeria, functionalism assumes that the police, court and prison which are the agencies of the criminal justice system are in a state of disequilibrium hence the desired social order remains unattainable. Specifically, the flaws and challenges occasioning malfunction in the said agencies as gleaned from the inability of the police to access call logs from GSM network providers, and the frequency in the transfer of investigating police officers affects the criminal justice system. Consequently, the court is unable to effectively determine the guilt or otherwise of suspected kidnappers. Similarly, the malfunctioning in the prison system, for instance in terms of poor working conditions and inadequate facilities like functional operational vehicles, also causes a disequilibrium in the criminal justice system as the court is unable to proceed with criminal trials resulting in series of adjournments and eventual striking out of charges against suspected kidnappers.

METHODS AND MATERIALS

The research design adopted for this study was exploratory. This design was chosen because it is suitable for investigation that seeks familiarity or new insight on phenomena. The in-depth interview (IDI) and key informant interview (KII) methods were utilized in generating primary data for the study. The choice of these qualitative techniques arose from the fact that they help to better understand any phenomenon and also to gain more in-depth information that may be difficult to convey quantitatively.

The study was conducted in the south-south and south-east of Nigeria which are two of the present six geographical zones of Nigeria. The south-south region comprises Bayelsa, Rivers, Akwa-Ibom, Cross River, Edo and Delta states, while the south-east comprises Imo, Abia, Ebonyi, Anambra and Enugu states. Edo, Delta and Anambra states were selected as study locations of this work.

The selection of the south -south and south-east geographical divisions for this study was based on the fact that they are the hotbeds of kidnapping in Nigeria. This assertion is further given credence to by some other findings which have established the prevalence of kidnapping in these regions (Ogugbuaja, 2010; Osumah and Aghedo, 2011).

The population for this study comprised of members of the judiciary-judges and magistrates, members of the Nigeria Police Force – o/c anti-kidnapping, o/c legal and investigating police officers, members of the Nigerian Prison Services- senior and junior officers, members of the Nigerian Bar Association (NBA), members of the Ministry of Justice – Director of Public Prosecution, senior legal officers and state counsel, kidnappers/suspected kidnappers, victims of kidnapping and relatives of kidnap victims

For efficient collection of data and owing to the near impossibility of studying the entire population as a result of cost and time constraint, a fairly distributed sample was used. Due to the nature of the phenomenon under investigation, the purposive and quota sampling techniques were adopted to select the interviewees. This consisted of sixty interviewees (48 IDIs and 12 KIIs) in the capital cities of the selected states. The reason for restricting the selection of interviewees to the capital cities was due to the fact that the principal actors in the administration of the criminal justice have their headquarters in the state capitals.

With the aid of official police, court and prison records, kidnappers, suspected kidnappers, victims of kidnappers and their relatives were purposively selected and interviewed. The same technique was adopted in selecting and interviewing other respondents in this study. The qualitative data generated from the study was analyzed using a manual content analysis.

RESULTS AND DISCUSSIONS

The police and the operators of the Global System for Mobile Communication (GSM) as a theme illuminated the rather gloomy role that network providers play, which has impacted negatively on the Nigeria Police and the ability of the state to secure conviction in relation to kidnap cases. The operators of the Global System for Mobile Communication in Nigeria are implicated, as they either do not cooperate with the police in the investigation of kidnap cases by refusing to furnish tracking details of calls made through their networks by kidnappers to the families of kidnap victims or do not keep the requisite tracking equipment in good condition. There were reported cases of telecommunication operators refusing to cooperate in the investigation of kidnap cases on account of faulty equipment. This was expressed as being the norm rather than the exception.

For instance, one of the police informants averred as follows:

These days, the GSM operators are making our Investigation very clumsy, as they always say that their

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equipment are faulty and so cannot assist or furnish us with the needed call records both of the suspected kidnappers and the relatives of the victims.
(KII, Male, O/C anti-kidnapping, Asaba, August, 2015).

The situation is also not helped by the nonchallant attitude of some network providers in furnishing investigating police officers with call log details. This was captured in the narratives of one investigating Police Officer:

Nothing is as frustrating as having to wait endlessly for the network provider to provide me with the details of the calls made by a suspected kidnapper. My superiors think that I am not doing my job, the lawyers are there threatening to petition me for refusing bail to their client. If only the network providers will act with dispatch and promptness...
(IDI, Female, Investigating Police Officer, Benin, May, 2015).

Establishing that the calls made by a suspected kidnapper to the relatives of a kidnap victim were actually made by the suspect is one of the legal methods used to establish a case of kidnapping. This has become a major challenge confronting criminal justice in the prosecution of kidnap cases. This is due in the main to the lack of accurate databank as subscribers use fake identities in registering their sim cards. This is captured below:

One of the problems we face as Investigating Police Officer in the course of investigation is that, we have difficulties linking our suspects with the calls allegedly made by them. The defence lawyers usually raise dust over this during trial in their bid to secure acquittal for their clients- kidnappers.
(IDI, Male, Investigating Police Officer, Awka, August, 2015).

It was found in the study that the operators of the Global System for Mobile Communication (GSM) have hindered the smooth prosecution of kidnap cases by the police and state counsels. Many of the informants mentioned the very uncooperative attitudes of the Global System for Mobile Communication (GSM) operators who sometimes refuse to release tracking details of calls made through their network by kidnappers to the families of kidnap victims or do not keep the requisite tracking equipment in good condition. Such call details are material evidence needed for a successful prosecution of a kidnap case.

This finding validates the study of Ugwulebo (2011), who notes that GSM service providers should fast track their data-capturing exercise, as this will help the security agents to know who is making a call and, the location of the call and, once ownership of the number(s) can be identified, the handsets can be tracked and

their geographical locations become identifiable. Ikpan (2011) observes that, in some countries, when telephone calls are made, the police have access to the calls but it is not the same in Nigeria.

The Nigerian Police Force is a federal outfit. This means that all officers in the force are subject to transfer to any part of the federation at any time. This impacts on trials as investigating police officers cannot be reached or are not forthcoming due to finance or other official assignments to come and give evidence in court. This situation was aptly summed up by one of the informants:

I have lost at least two kidnap cases due to my inability to get the investigating police officer (IPO) to testify and tender the exhibits recovered from the accused. My case failed, as the judge got fed up with me over my constant application for a date to enable me get the investigating Police Officer (IPO) who had been transferred to the North to testify before the court (IDI, Male, State Counsel, Benin City, May, 2015)

The study also found that one of the challenges confronting the actors of criminal justice in the prosecution of kidnap cases is the frequent transfer of policemen from one location to another irrespective of the assignment they have at hand. This hinders the progress of justice, as they are vital witnesses in the court. Olong (2010) observes that by the very nature of the Nigeria Police Force, being a federal set up, its men and officers are subject to transfer to any part of the federation at any time. The transfer of any policeman conducting a case to another state usually has a serious effect on the criminal justice.

The study also revealed that inadequate court facilities and modern working tools have become the lot of the judiciary in Nigeria. With the advancement made in science and technology, there is, as was gathered, no good reason for not making the courts more comfortable. The archaic equipment used in most courts have the effect of slowing down the work of the court and contributes to the congestion of kidnap cases in courts. On this, an informant observed that:

You won't believe that sometimes I have to fan myself with a file during trial as the fan has stopped working in my court. My courtroom is particularly very hot and my chair is very uncomfortable to sit on for a long time. (KII, Male, Judge, Asaba, October, 2015)

This finding is also supported by Olong (2010), who asserts that some of the challenges in the administration of criminal justice are caused by the poor working condition of judges, particularly inadequate facilities. Judges in some states work in the most unconducive environments and are consequently prone to rising early from sittings.

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Another challenge has to do with delay by legal practitioners. Some defence counsels deliberately delay trials by requesting adjournments, purposely to ensure the full payment of their professional fees prior to the conclusion of the trial, while others who are paid on the basis of the number of court appearances consciously delay kidnap cases with a view to beefing up their fees. This situation is well summed up thus:

Trials are unduly delayed by defense counsel who applies for frivolous adjournments.
(KII, Female, Judge, Benin City, October, 2015)

The study found that it is not only defence counsel that is in the habit of seeking frivolous adjournment, state counsel too are guilty of this. One of the informants who is a state counsel alluded to this:

It is true that sometimes because of the volume of cases that I have not treated and the attitude of some complainants and even Investigating Police Officers (IPO), I have no choice but to ask for adjournment as to proceed with the case will make me look lame.
(IDI, Female, State Counsel, Benin, August, 2015)

Another informant put the blame of delay in the adjudication of kidnap cases at the doorstep of the Director of Public Prosecution (DPP). In anger, he noted that:

Most of the over-congestion in our prisons and the delay in trials is caused by the Director of Public Prosecution's (DPP) office. For the office of the Director of Public Prosecution (DPP) to give legal advice sometimes takes several months. Unfortunately, the case is at a standstill.
(IDI, Male, Defense Counsel, Asaba, August, 2015)

This study also found that undue delay occasioned by frivolous applications for adjournment by counsel is another challenge confronting criminal justice in the prosecution of kidnap cases. Many of the informants accused defence counsel of unnecessarily causing delay in kidnap cases. It was also found in the study that state counsel too are guilty of stalling trials either due to the large volume of cases assigned to them or laziness to have pre-trial conferences with their witnesses. This makes them ill prepared and so they have no option other than to apply for adjournment. Nweke (2014) supports this finding, as she asserts that, with trials taking several years owing to adjournments, the public is gradually losing interest in the criminal justice system.

The finding of this study has received judicial pronouncements as clearly shown in *Ndu v The State* (1990), where the case was bedeviled with several adjournments

and at the instance of the defence counsel, giving various reasons such as his fees not being paid, ill-health, trying to procure witnesses and having to travel out of jurisdiction.

Another finding of this study borders on corruption by judicial officers, their subordinates and administrative staff. Many informants were of the opinion that corruption can take any of the following forms: bribe taking, gratification, granting of injunction in breach of the principles governing it, frivolous adjournment of cases, refusal to file proof of service after the service of a court process and undue devotion to technicality. The generality of the informants interviewed were of the view that some judges are corrupt and corruptible. This view was echoed by one of the informants:

It is true that some judges collect money from litigants through their supporting staff and so grant bail to suspected kidnappers and in some cases, free them.
(IDI, Female, Counsel, Awka, October, 2015)

Another informant put it succinctly thus:

This office stinks even though we pretend; there is corruption here. That is why, in a clear case of kidnapping, legal advice would say otherwise after money has exchanged hands.
(IDI, Male, Counsel, Asaba, October, 2015)

The study clearly unraveled the corrupt practices, tendencies and acts of some judicial officers and their administrative staff who have soiled the temple of justice. Judges collect money from accused persons through their administrative staff and so grant bail to suspected kidnappers in very questionable circumstances.

Similarly, the study showed how bailiffs and court clerks pervert the cause of justice by refusing to duplicate case files so as to frustrate Director of Public Prosecution's legal advice. Sometimes legal advice is bought with money and a no-case to answer is thus given in some kidnap cases. Corruption in the judiciary (court) takes any of the following forms: bribe- taking, gratification, granting of injunction and bail in clear breach of the principle governing the grant or refusal without reasonable cause, frivolous adjournment, sitting at odd hours and or in the chambers, refusal to file proof of service after the service of a court process, and undue devotion to technicality, all in a bid to get or lure the relatives of the accused person to "settle" the judge.

These findings in relation to the corrupt and corruptible nature of judicial officers and their supporting staff confirm previous studies on the subject matter. Oputa (1991) notes that corruption is the social malaise that has engulfed Nigeria's

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national life and the courts have not been spared. To retain public confidence in the system, the administrators of justice in our courts, should above all things, be pure, incorruptible and just; otherwise miscarriage of justice will be the order of the day. The finding of this study further validates Abati's (2002) view that the generality of the Nigerian people would seem to have arrived at the conclusion that judges are corrupt and corruptible and that it is possible for the man in power to manipulate the judiciary to suit his whims, thereby subverting the cause of justice.

This study also found that prison authorities contribute to delay in the administration of criminal justice. The prison, as some interviewees noted, is confronted with problems that seem to be beyond its control. The informants advanced several reasons for this unhealthy situation, among which is: the lack of communication between the prison authorities and the prosecutors (state counsels). Such situation may occur when the prosecutors (state counsels) do not give proper notice to prison authorities of the date of trial. This invariably leads to further adjournment of the case. This situation was attested to by a senior prison officer who stated that:

Many times we are not even aware of the next date and funny enough, the court and the prosecutor do not give us hearing notice to enable us take the accused to court. (KII, Male, Senior Prison Officer, Ogwashi-ukwu/Asaba, August, 2015)

Inadequate means of transportation of inmates from prison to court is a major challenge which has been hampering the prison in carrying out its function. One informant lamented that vehicles are hardly available to convey the accused persons to court. Where this becomes the norm, the prosecution of kidnap cases suffers untold hardship.

A state counsel had this to say:

How can we prosecute these suspected kidnappers when the prison authority hardly ever bring them to court because of either non-availability of vehicles, breakdown of vehicles or lack of fuel. The prison authority should face this challenge once and for all. (IDI, Male, State counsel, Awka, August, 2015)

A prison informant argued thus:

Our vehicles are old and rickety and often breaks down without notice. We need new vehicles to help our work. (KII, Male, Senior Prison Officer, Benin City, September, 2015)

Another issue found in this study is the poor medical facilities available to pre-trial detainees resulting in constant breakdown in the health of inmates while awaiting

trial. Consequently, on the day of trial, an accused person is reported ill and so cannot stand his trial. One of the reasons that could be responsible for this state of affairs is congestion-overcrowding.

One senior prison officer in Awka stated that:

Our clinic is not adequately stocked with drugs and also lacks qualified medical personnel, the government needs to help us so that some of the constant and simple illnesses which prevents accused persons from standing their trials can be surmounted.

(KII, Male, Senior Prison Officer, Benin City, September, 2015)

A number of the junior prison officers lamented that they could not take care of themselves and their families owing to poor emolument and that this affected their overall productivity at work. One angry junior officer said:

I have been on the same small salary for over 8 years now and you want me to die for this work. I won't because the condition of service is very uninteresting.

(IDI, Male, junior prison officer, Awka, August, 2015)

The study revealed that the prison is heavily weighed down in playing its role in the prosecution of kidnap cases; it advertently or inadvertently contributes to the delay in the administration of criminal justice. The study explored various reasons for this unhealthy situation and noted that they are to be located in the lack of communication between the prison authorities and the prosecutors or prosecuting counsels; inadequate means of transportation of inmates from the prison yard to the court premises; poor medical facilities; and poor working conditions.

The case of *Effiong v State* (1998) further illuminates the finding of this study with respect to vehicles being hardly ever available to convey accused persons to court. In the case above, the court lamented a situation where several adjournments were granted because the accused person could not be brought to court to stand his trial as a result of the inability of the prison officials to convey him to court in their vehicle. Obiora (2011) validates the finding of this study with reference to the working condition of prison staff. He notes that there is the urgent need to engage in specific training for prison staff and officials in addition to improving their condition of service.

Conclusion

Nigeria's criminal justice system ordinarily is well laid out as comprising the police, the court and the prisons with each having its defined roles backed by statutory provisions. Regrettably however, the incidence and prevalence of kidnapping has in no small measure, exposed the flaws and inadequacies inherent in the

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administration of criminal justice. A number of challenges confronting the administration of criminal justice were identified in this study. Though multifaceted, they are however surmountable.

Recommendations

Based on the findings of this study, the following recommendations are imperative:

- There is the need to ensure that all GSM lines purchased are fully registered. The registration should involve the production of a valid means of identification. This will help to easily track calls made by suspected kidnappers to relatives of kidnap victims. In addition, the GSM operators should be encouraged to keep modern tracking devices as well as prompt production of call logs to investigating police officers whenever same is required.
- The transfer of police officer from one location to another is inevitability. However, where such officers are subpoenaed to give evidence in kidnap cases, the police authority should ensure that their transportation and accommodation are adequately taken care of in addition to out of station allowance. This will in no small way motivate the officers and ensure their court attendance to testify.
- Government should make effort of not only building more court rooms but ensuring that modern facilities are provided in line with the best practices. The existing court rooms should be renovated, and furniture refurbished.
- There should be full implementation and compliance with the provisions in the Administration of Criminal Justice Act, 2015 particularly with regards to the minimum number of adjournments that can be sought and granted in a criminal case. In addition, its provision on the speedy dispensation of criminal justice should also be ensured as this will have the maximum effect of discouraging lazy legal practitioners from seeking frivolous adjournments.
- Many of the prisons in Nigeria, lack serviceable and functional vehicles and this often results in the inability to convey suspected kidnappers to court to stand trials as and when due. Government and public-spirited individuals should provide functional vehicles to the various prison facilities. In addition, the condition of service of prison officers should be reviewed with the aim of making the work more attractive to men and officers of the prison services.
- Lastly, government should stop paying lip service to the fight against corruption. Judges who have been found culpable of corrupt practices by the National Judicial Council, should be recommended for retirement and retired from the judicial service. Additionally, such judicial officers should be tried in a court of competent jurisdiction and if found guilty, sentenced

to a term of imprisonment. This will not only make others sit up, but serve as a deterrent to potential corrupt judicial officers.

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