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7

CRIMINAL LAW & JUSTICE

**Restoring the Grip: Trends in the Treatment of Victims in the
Criminal Justice System in Nigeria**
Professor Mrs Oluyemisi Bangbose, SAN

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**RESTORING THE GRIP: TRENDS IN
THE TREATMENT OF VICTIMS IN THE
CRIMINAL JUSTICE SYSTEM IN NIGERIA**

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7.1.1 INTRODUCTION

Crime has been since time immemorial. The existence of crime has often resulted in the physical, emotional, psychological and financial victimisation of individuals.² However, for a very long time, unlike the scientific study of crime, known as criminology, there was no scientific study of victims, though, they are recognised as being harmed by the commission of a crime.

A person becomes a crime victim when he or she suffers physical, psychological, emotional injury or any form of loss as a result of a crime in the form of domestic/family violence, robbery, sexual assault or any other. Throughout history, the journey of a victim in the criminal justice system has been very interesting. Historically, the victim had a grip on the criminal justice system. About the 6th through to the 16th century tagged the middle ages, the burden of the justice system fell on the victim. The response to crime was centred on the victim as it was the decision of the victim or the family members to seek or not to seek justice. A change occurred during the industrial revolution when harm done in a crime was perceived as a crime against the state and not the victim. This shifted focus in the justice system from the victim to the offender, and there was a loosening of the grip that the victim had in the justice system. Crimes shifted from being a violation against the victims to violation against the state. The effect of this on the victim was that the victim lost its grip on the criminal justice system and became a passive participant in the justice system.

In the Mid 1940s, there was a change in the way victims were treated within the criminal justice system. Focus shifted back to victims, allowing them to participate with some limitations in the justice system and to derive some direct benefits hence restoring their grip back in the Criminal Justice System.

The above scenario has been the trends in the treatment of crime victims, generally in the criminal justice system.

This paper focuses on the criminal justice system in Nigeria with an examination

² Bangbose Oluyemisi, 1994. Sexual Offences and the Law in Nigeria: An Injustice to the Female Adolescent, *Women Behavioural Issues*: 1:2. 70-84.

of the treatment of crime victims and the trend it has followed throughout history till the present time.

7.1.2 THE CONCEPT OF VICTIMS

Thousands of people become victims every year. Dussich states that the word victim has its root in the early religious notion of suffering, sacrifice and death, and the concept was well known in the ancient civilisation, especially in Babylonia, Greece and Rome.³ The original meaning of the word "victim" was rooted in the idea of sacrifice or scapegoat.⁴ The idea emanated from the execution or casting out a person or animal to satisfy a deity or hierarchy.⁵ Cartwright wrote that the Aztec civilisation and their religion, which flourished in ancient Mesoamerica (that is middle America) between 1345-152 CE, gained a reputation for human sacrifice which is a strictly ritualized process and was regarded as a necessity to ensure continued prosperity to the people.⁶ He further stated that history had it that thousands of "victims" were sacrificed yearly. Over the centuries, the word "victim" has had additional meanings.

O'Connell opined that the meaning of victim per se is far more extensive and victim of crime has many connotations.⁷ Of very significant importance on the definition of victim is the giant stride taken by the United Nations in 1985. The General Assembly of the United Nations adopted a document which gave an encompassing definition of the term victim. It has been rightly stated that the definition of victims by the United Nations "may assist in unifying diverse practices across United Nations Member States"⁸. The United Nations defines the term victim thus "*Victims*" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering,

³ Dussich, John, P.J. *Victimology- Past, Present and Future*. Resource material series No.70. Retrieved at www.unaifei.org/jpRS_No70

⁴ Bangbose Oluyemisi, 2013 Unpublished Lecture Notes on Victimology for the 2012/2013 session

⁵ Ibid

⁶ Cartwright Mark. 2018. *Aztec Sacrifice in Ancient History Encyclopaedia*. Retrieved at www.ancient.eu/AztecSacrifice/datesbacktoancientculture

⁷ O'Connell. 1992. Who may be called a victim. *Journal of Australasian Society of Victimology*; 1:3;15-23

⁸ UNODC - Understanding the concept of victims of crime and a short history of victimology. Retrieved at <https://www.unodc.org/en/crime-prevention-criminal-justice/module-11/key-issues/1--understanding-the-concept-of-victims-of-crime.html>

*economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.*⁹ This definition was adopted by Karman¹⁰. The Declaration expands the definition of a victim to include, “where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimisation”¹¹. To show the universality of the Declaration, paragraphs 1-3 states that, *the provisions contained herein shall be applicable to all, without distinction of any kind, such as race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability.*¹²

The United Nations definition has been adopted by scholars, while the term “crime victim” generally refers to any person, a group or entity who has suffered injury or loss due to illegal activity. The fact that the perpetrator is not identified nor apprehended or prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim does not make a victim less a victim.¹³

Historically, it was well entrenched under the justice system, that, victims had redress to justice alongside with family members when there is any harm to either the person or property under the principle of *Lex Talionis*, that is an eye for an eye. Under the modern concept of victims, the system also recognises this fact, however from a different slant. Victims are now classified into two groups which are direct and secondary victims. A direct victim simply put is a person who is injured or dies as a direct result of a violent crime committed against him or her or, as a direct result of preventing the commission of a violent. On the other hand, a secondary victim is a person who is injured or harmed as a direct result of being affected by the injury or harm of another. This classification has been adopted in the 1985 UN Declaration which recognises that there are indirect victims such as

9 UNODC- Key issues. Retrieved at <https://www.unodc.org/e4j/en/crime-prevention-criminal-justice/module-11/key-issues/intro.html>

10 Karmen A. 1996. *Crime Victims: An introduction to Victimology*. Wadsworth Publishing, USA

11 ibid

12 (United Nations General Assembly, 1985, paras 1-3).

13 ibid

the immediate family members or dependents of the “direct victims” who suffer harm “indirectly.” In addition, “other person who have suffered harm as a result of intervening to assist direct victims” are classified as “indirect Victims” or secondary victims.

With the emergence of the concept of victim in the 1940s, scholars known as victimologists proceeded into the scientific study of victims known as victimology.

7.1.3 THE VICTIM AND CRIMINAL JUSTICE SYSTEM IN NIGERIA

Before the advent of the modern criminal justice system, there existed the traditional justice system. In both justice systems, the victim and the offender play very important roles, and they initiate the processes in both systems. However, the main difference in the two systems is that while under the traditional justice system, the victim and the members of the family are both the focus and a beneficiary, under the modern system, the offender is the main focus and the state the beneficiary. In addition, the role played by the victim under the traditional African system of justice has been taken over by the public prosecutor under the modern justice system.

There is no doubt that the criminal justice system is an essential part of any society. It is necessary to ensure equity, justice, fairness and the rule of law. Dambazau defines the criminal justice system as the machinery which a criminal or someone suspected to have committed a crime is processed and subsequently disposed. He states that the criminal justice system is an instrument of Justice and designed to produce Justice.¹⁴ The above definition suggests that there is only one party, that is the criminal or offender or defendant, who goes through the criminal justice process. This is definitely not the case. The victim is another important party in the system, especially in crime commission relating to murder, rape and stealing where there is an offender and a victim Nevertheless, it is apt to state that Dambazau’s definition may be appropriate in cases of victimless crimes such as prostitution, alcoholism and drug use, where the illegal act directly involve only the perpetrator

14 Dambazau, A.B. 1999. *Criminology and Criminal Justice Kaduna: Nigerian Defence Academy Press.*

and there is no obvious victim¹⁵

Basically, the Criminal Justice System in Nigeria is made up of three organs namely, the Police, the Court and the Correctional Institution (formerly known as Prison). The above organs fight against crime, with each having identifiable roles. The Police are the gateway to the justice system as they are the first contact of both the victim and offender in the justice system.¹⁶

They are responsible for the investigation and detection of a crime and the apprehension of an offender of criminal acts. It is apt to briefly state that there are a lot of criminal acts committed by offenders which go unreported and unrecorded because the victim decides for whatever reason not to do so. These cases form part of the "dark figure" of criminal cases, therefore making statistics, where available, to be unreliable or incorrect and not showing the real figure of crime rate. The effect is that such unreported cases do not go through the criminal justice system.

Where it is discovered that the crime committed by an offender wrongs the state, it behoves on the police to activate the second stage of the Justice system. The court is the second agency in the modern criminal justice system. At this stage, the charge against the offender is filed by the prosecutor, and the trial commences. It is during the trial stage in the justice system, that the victim is called to give evidence. At the conclusion of the trial, the court has two options. Where the offender is found to be innocent of the crime charged, he or she is discharged and acquitted. On the other hand, where the court finds the offender guilty of the offence charged, the court proceeds to convict and sentence the offender. In certain jurisdictions excluding Nigeria, at the sentencing stage in the criminal justice system, the victim participation is again required. This is known as Victims Impact Statement. A Victim Impact Statement is a written or oral statement presented to the court at the sentencing of the offender. For example, in the United States of America, except in limited circumstances, the victim has a right to be heard during the sentencing

15 Oxford Bibliographies. Retrieved from <https://www.oxfordbibliographies.com>

16 Bamgbose Oluymisi (1999) "Women's Right and the Nigerian Criminal Justice System: A sorry Tale" in Centre for Women's Studies and Women Research (ed) Proceedings of the Women's World '99: The 7th International Interdisciplinary Congress on Women. Tromsø: Centre for Women's Studies and Women Research, University of Tromsø, Norway. Available at <https://www.skk.uit.no/WW99/html>. See also Alemika E.E.O. 2014. Crime & Public safety in Nigeria CLEEN Foundation. Pg. 1-205.

stage in the Criminal Justice System.¹⁷

The purpose is for the court to know the impact the crime has had on the victim.¹⁸ The victim is expected to state either in writing or orally or both, the emotional, physical and financial impact caused as a result of the crime on them directly or on family members.¹⁹ This statement assists and is helpful to the judge in passing a sentence on the offender. This process which is one of the emerging trends, will be discussed fully later in this paper. However, it suffices to say that this does not operate under the criminal justice system in Nigeria. Where the sentence is non-custodial, the court or appropriate organ enforces the sentence.

The last stage of the justice system is the correctional institutions, still known as prisons in some jurisdiction. Correctional institutions enforce custodial sentences imposed by the courts. The aim of punishment levied on offenders include: deterrence, reformation, elimination (death sentence) or rehabilitation. Correctional institutions are thus equipped to fulfil these aims.

However, the modern trend in the aim of punishment is the rehabilitation of the offender. The rehabilitation purpose or aim of the correctional facilities is always emphasised where it is expected that while in incarceration, the offender repents and turns a new leaf to enable him or her come back into the society if the sentence passed is of such nature, a better place. At this stage of the criminal justice system, the victims do not participate in the process.

7.1.4 JOURNEY OF VICTIMS IN THE CRIMINAL JUSTICE SYSTEM

The journey of victims of crime in the criminal justice system has been interesting and had witnessed changes over time. This spans from the traditional age through the industrial age and to contemporary times.

17 Victim Impact Statements – Department of Justice. United States Department of Justice – District of Alaska Accessed in <https://www.justice.gov/usao-ak/victim-impact-statements>

18 ibid

19 Ibid

7.1.4.1 The Traditional Justice System

Unlike victims of crime in the modern Criminal Justice System, victims under the traditional justice system had a strong grip on the system; because in the settlement of a dispute, they were the main focus throughout the process. Thus, making victims active participants in the entire process. Not only were victims' active participants, the process equally accommodated their family members. This was also applicable to the offender who did not go through the process alone, but the family members were also responsible for the acts committed. The goal of the justice system which was the reparation of the harm done to the victim and the community by the offender is resounding because of the adequate support given to the victims and also members of the family who may be said to be secondary victims as discussed earlier in this paper. It is undoubted therefore, that this period in history, marked the times when the victims had a grip in the criminal justice system.

Nigeria has a rich traditional culture, and many rural societies still have a strong grip on the traditional justice system despite the influence of colonialism.²⁰ Elechi confirmed this about the Igbo, a dominant ethnic group in South-West Nigeria. He said, "*despite colonial and post-colonial state subjugation, the Igbo Indigenous Justice System holds sway especially in the rural areas where the majority of the people reside*". He further states that "*crime is viewed as a conflict between community members*". He went further to state "*As primary stakeholders in the conflict, victims, offenders and the community are actively involved in the definition of harm and the crafting of solutions acceptable to stakeholders.*"²¹ Elechi concludes that the quality and effectiveness of justice are measured through the well-being of victims and the community.

Generally, in the traditional societies in Nigeria, the justice system is victim centred, self-participatory in approach, with consensus decision, with reintegrative goal resulting in the restoration of relationship. There is no middle man like the

20 Olujemisi. 2003. Cultural Reflections in the Penal Laws in Nigeria in Agomo (ed) Constitution, Law and Gender, Lagos: Florence and Lambert Publishers Limited. Pp. 101-112.

21 Elechi O. Oko. 2008. The Igbo Indigenous Justice System. *Colonial systems of control. Criminal Justice in Nigeria.* Viviane Saleh-Hanna. University of Ottawa Press. Chapter 20: 394.

prosecutors or legal practitioners as it exists under the modern justice system. McDonald therefore said that the victim was both a key decision maker and direct beneficiary²². Bamgbose confirmed this when she said, punishment under the traditional criminal included fines payable to the victim, restitution, compensation and restoration.²³

The setting in which justice is administered is another notable feature of the traditional justice system. The setting is secure, conducive and respectful. The unrestricted presence of the family members enhances the family support system, which is very crucial in the traditional setting. The ability to speak unhindered without leading questions or without being guided or guarded as in the modern courts is another important feature. It is important to emphasise that the offender and the members of their family are also accorded fair treatment in the traditional justice system.

7.1.4.2 Modern Criminal Justice System

The modern criminal justice system is a heritage from colonisation and until the 20th century did not generally provide for traditional modes of restitution, compensation and support for the victim. Under this system, unlike the traditional system, victims lost the grip or hold they had on the justice system. The State took over the roles and responsibilities victims used to play; even to the extent of benefitting financially through fines on the harm done to victims. The victims lost it all. This is not to say that victims did not participate in the process at all; they did, but were confined to certain informal roles. As discussed above, victims report any harm done to them or a close person to the police - the first agency in the modern criminal justice system, thereby, initiating the process in the modern justice system. Victims also provide information which may lead to arrest and bring the offender also into the criminal justice system. Decisions as to the charge against the offender, filing of charge, court and date for hearing are taken without

22 McDonald W.F (1976) Towards a Bicentennial Revolution in Criminal Justice System: The Return of the Victim 13 *Am Criminal Law Review* 649. 649-50 1975-1976.

23 Bamgbose Olujemisi. 2005. Dispute Settlement under the Yoruba Culture: Lessons for the Criminal Justice System in Falola and Ann Genova, *The Yoruba in Transition: History, Values and Modernity.* Durham, Carolina. Carolina Academic Press. Pp. 125-149 at 139.

consulting the victim who is uninformed. Dambazau referred to a crime victim as a passive participant in the criminal justice process.²⁴

The second stage in the criminal justice system where victims appear to have some relevance is the court room where the trial is held. This is where victims are shouldered with the mandatory responsibility of attendance in court to give evidence without any form of guidance, financial or emotional support. This makes the victim an "evidentiary material."²⁵ At times, during trials, victims experience what is termed "secondary victimisation". Secondary victimisation is said to occur when victims suffer further harm not as a direct result of the criminal act but due to the manner in which institutions and other individuals deal with the victim.²⁶ According to the National Crime Victim Law Institute, at this second stage of the justice system and during the interaction of victims with the defence attorney, prosecutors, judges, other legal system personnel and processes, some victims experience secondary victimisation²⁷. It may result in frustration.²⁸ Orth states that secondary victimisation can "reduce the victim's self-esteem, faith in the future, trust in the legal system and faith in the just world"²⁹ It is therefore not surprising that Marek states that, "Contemporary Justice Administration in the developed and developing world are doing bad with crime victims."³⁰ The near total neglect of victims, except for use for the advantage of the State is an indication that the victim has lost its grip under the modern justice process.

Acquittal terminates a trial while a conviction continues the journey in the criminal justice process. After the conviction, the sentencing stage is where the offender is given appropriate punishment. It suffices to state that at the sentencing stage, the victim, is still in the Nigerian criminal justice process, but has no role to play

24 Dambazzau A.B. 1999. Criminology and Criminal Justice. Kaduna: Nigerian Defence Academy Press.

25 Markus Loffelmann. The Victim in Criminal proceeding: A systematic portrayal of Victim Protection under German Criminal Procedure Law

26 European Institute for Gender Equality 2021 Secondary victimisation. Accessed in eige.europa.eu

27 National Crime Victim Law Institute 2013. *Victim Law Bulletin, March 2013* Legal Publication of the National Secondary Victimisation of Crime Victims by Criminal Proceedings rime Victim Law Institute at Lewis and Clarks Law School

28 Bamgbose Oluyemisi. 2001. Legal and Cultural Approaches to Sexual Matters in Africa: The Cry of the Adolescent Girl. *The University of Miami International and Comparative Law Review, Special Issue*. 10.127-144 at p.138.

29 Uli Orth. 2002. Secondary Victimisation of Crime Victims by Criminal Proceedings *Social Justice Research*, Volume 15, Issue 4. December 2002. 313 -314

30 Marek A.E. 1984. Crime Victims and Criminal Justice Administration. *World society of victimology Newsletter*; 3:8

unlike what obtains in some other jurisdictions. This passive participation applies where the sentence is a non-custodial sentence like a discharge, fine or community order or where it is custodial like imprisonment. None of these sentences are directly beneficial to the victim.

Death, imprisonment, canning, fine and forfeiture are punishment under the criminal code applicable in the southern state of Nigeria,³¹ On the other hand in the Northern states of Nigeria, the punishments include death, forfeiture of property, imprisonment, detention in a reformatory, fine and caning. It is apparent that most of the sentences available under the modern Nigerian justice system are not of any direct benefit to victims compared to the traditional justice system.

However, Section 78 of the Penal Code goes further to provide for compensation by the offender to the victim.³² The award of compensation can be either in addition to, or in substitution for any other punishment. In *Mustapha v. Federal Republic of Nigeria*³³ per Jummai Hanatu Sankey, JCA held that "it is indeed law as set out in section 365 of the Criminal Procedure Code, Cap 42, Laws of Bornu State, 1994 that the court may order that compensation be paid to the victim of a crime and a term of imprisonment may be awarded for failure to pay the compensation. However, there is a procedure which must be followed before compensation may be awarded and it lies in the fact that the entitlement to the same must first be established and the other side heard before the award".

In addition, in some States in Northern Nigeria, where Sharia Law is recognised, the Sharia Penal Code applies. The provisions of the Code in different States are very similar. For example, in the Zamfara State of Nigeria, one of the first States in Nigeria to pass the Sharia Penal Code into law,³⁴ Chapter III of the Code provides for the punishments under sharia law. They include, amputation - *qat*³⁵,

31 Section 17 of the Criminal Code Act Cap C38, Laws of the Federal Republic of Nigeria, 2004;

32 Ibid.

33 (2020) LPELR-50037(CA),

34 Chapter III Shari'ah Penal Code Law Zamfara State of Nigeria, Law No 10 2000. Laws of Zamfara State of Nigeria

35 Section 93 (g)

retaliation - *qisas*³⁶, boycott- *hajar*³⁷, blood-*avit* -*diyyah* ³⁸which are of no benefit to the victim. However, other punishments include restitution³⁹ known as *radd* and compensation⁴⁰ known as *arshihukumamh*, which are of direct benefit to the victim. The code further provides that when an offender has been convicted of any offence under the code, in addition to the punishment for the offence, may be ordered “to make complete restitution of any benefits moneys, funds or properties obtained by the crime to the victim or anybody concerned”⁴¹. In addition, where the victim makes an application to the court, the court may order the offender to pay compensation to the victim “for any injury that had resulted from the offence”. The penal laws in northern Nigeria therefore make provisions for direct benefits to the victim under the justice system.

It is therefore not surprising that Odekunle in a research on victims of crime in Zaria came up with the findings that victims of crime in Nigeria prefer restitution and compensation to the sentencing of their victimisers to imprisonment or fine.⁴² A former Chief Justice of Nigeria, Justice Muhammed Bello in an address, noted that during colonial times, about ninety percent of crimes in Nigeria were tried and punished in Customary Courts and Sharia Courts as the courts focused more on compensation and restitution rather than send the offenders to prison.⁴³

An appeal against the conviction or sentence of the trial court, results in the Appeal Court upholding or dismissing the court verdict. Where the verdict of the trial court is upheld on appeal, the offender goes through the entire gamut of the criminal justice process.

The Justice System which should be a three-way traffic for the victim, offender

36 Section 93 (h)

37 Section 93 (m)

38 Section 93 (l)

39 Section 93 (j)

40 Section 93 (o)

41 Section 103

42 Odekunle Femi. 1979. Victims of Property Crime in Nigeria: A Preliminary Investigation in Zaria. *Victimology: An International Journal*, 4:4 or Odekunle F. “Restitution, compensation and Victims Remedies: Background and Justifications” in Adetuba 5 (ed) *Compensation and Remedies for Victims of Crime* (Lagos: Federal Ministry of Justice) 157.

43 Bello M. 1990. Address delivered by the Honourable Chief Justice of Nigeria, Justice Muhammed Bello CJN in *Compensation and Remedies for Victims of Crime*. Lagos: Federal Ministry of Justice.

and state is predominantly, especially in the southern states of Nigeria a two-way traffic for the state and the offender alone, leaving the victim.

McDonald might be correct in pointing out that under the modern justice system, the victim is “a forgotten person”⁴⁴

7.1.5 RESTORING ITS GRIP: THE FUTURE OF VICTIMS OF CRIME IN THE CRIMINAL JUSTICE SYSTEM

In the mid-20th century, around the mid-1940s, another change occurred, concerning the way victims were treated in the criminal justice system. This change resulted in the focus shifting back to the victim. The change started with researchers showing interest in a study of victims. However, the study was not in the best interest of victims as it was directed at what later evolved as “victims precipitation theory”.⁴⁵ This theory analysed how victims contributed to the crime committed and were active participants in the crime either through provocation or facilitation of the crime. “Victim precipitation” denotes that victims instigated their own victimisation and had a role to play in the crime.⁴⁶ This was the genesis of victimology, which is the study of victims in the early 20th century propounded by Han Von Hentig,⁴⁷ Benjamin Mendelsohn⁴⁸, Marvin Wolfgang⁴⁹ and others. Studies on these works went on to suggest that the above scholar attempted to shift the blame on the victim, thereby to partially or at least mitigate the action of the criminal to allow consideration in sentencing.⁵⁰ Although this paper will not delve into a discussion on this theory, however it suffices to say that the change that integrated victims back into the justice system arose from the controversial theory. The attempt to blame the victim was heavily criticised by activists in the

44 McDonald W. F. 1976. *Criminal Justice and the Victim: An Introduction*” In *Criminal Justice and the Victim*. 17-19. McDonald. ed. 1976. Sage. *Criminal Justice System Annuals*. Volume 6

45 Lasky Nicole. V. 2019. *Victims Precipitation Theory*. *The Encyclopedia of women and Crime* Wiley Online Library Retrieved at <https://onlinelibrary.wiley.com>

46 Bamgbose Oluyemisi. 2013 *Supra*. Footnote 3

47 Von Hentig H. 1940. Remarks on the Interaction of perpetrator and Victim. *Journal of Criminal Law and criminology* (1931-1951) 31 (3) 303-309 1940

48 Mendelsohn Benjamin. 1956. The victimology. *Etudes Internationales de Psycho- Sociologie Criminell* 3, 25-26

49 Wolfgang, M.F. 1957. Victim Precipitated Criminal Homicide. *Journal of Criminal Law and Criminology and Police Science* 48 (1), 1-11 1957

50 Petherick Wayne. 2017. Victim Precipitation: Why we need to expand upon the Theory *Forensic Res Criminology Int Journal*. Volume 5. Issue 2

1980's for "logical inadequacies, questionable evidence, unfounded assumptions, untested hypothesis and unwarranted generalisation."⁵¹ There was a call for more progressive, effective and efficient crime prevention problem and victim protection-oriented programs. This coincided with the movement against social inequalities in the 1960s by women's movement, where activists brought to fore the issue of violence against women, criticised, the notion that the victims precipitated their harm and demanded that the concept be stamped out. In the 21st century, the victim's precipitation concept has been "flawed and rejected, fallen out of favour within criminology,"⁵² has given way to a more sympathetic approach to victims of crime, thereby remediating their position back into the criminal justice system.

Globally, there has been a tremendous improvement in the development of interest for victims of crime. There are many emerging ideas and a paradigm shift in favour of the victims of crime spanning across many jurisdictions, including Nigeria. Victims of crime, are now restoring a grip into the criminal justice system. The emerging ideas are discussed below.

7.1.5.1 Victims Compensation

This was one of the remedies recognised under the traditional justice system in Nigeria, where the offender is made to pay compensation to the victim of a crime. However, the idea that the state should provide financial reimbursement to victims of crime was initially propounded by English penal reformer, Margery Fry in the 1950s. Margery opined that victims of crime may be viewed as being harmed if they do not receive support⁵³ and that the support by the government will assist in reinforcing the restoration of victims to their equilibrium. In the 1960s, Margery Fry was also one of the several reformers who proposed for the better treatment of victims of crime through lobbying of the government. As a result of her effort in 1963, the state compensation scheme was first implemented in New Zealand, followed by Great Britain in 1964. In the United States of America, the

State of California was the first to pass a law on the compensation scheme in 1965, followed by New York in 1966, Hawaii 1967 and Massachusetts in 1968. By 1989, forty-five (45) out of the fifty (50) states had passed legislations on the compensation scheme. Australia, Finland, Provinces in Canada and other western countries introduced compensation programs.⁵⁴ Researchers have found out that the compensation received by victims from the scheme is only a token amount and only a small percentage of the victims have access to it. Robert Elias⁵⁵ opined that "*victim compensation is a symbolic public policy*" stating that "*compensation has been largely a failure to victims not because it has failed to compensate, but it has failed to achieve its goals of crime control and improving victim attitude of cooperation with law enforcement.*" The compensation schemes in different countries are administered by the government. In England, it is administered under the Criminal Injury Compensation Board while in the United States of America, it is run by the Crime Victims Fund established under the Victims of Crime Act of 1984. The United States Scheme, funds various services to protect and restore the dignity and esteem of the victim. This ranges from counselling, clothing, transportation, medical and financial bills. In Nigeria, apart from the fact that compensation was part of the traditional system of Justice, there was also compensation schemes scattered in different parts of legislations. The major provisions are in the Criminal Code Act, the Penal Code⁵⁶, the Criminal Procedure Act⁵⁷, the Criminal Procedure Code⁵⁸ and the Police Act.

A cursory look at the different provisions, reveal the inadequacies embedded therein. Specifically, none of the provisions above makes compensation a disposition method on its own but left it at the discretion of the court in certain cases. In 2015, the Administration of Criminal Justice Act was passed. This landmark legislation was the first time the Nigerian government would pass a legislation to strengthen victims in the journey through the justice system. Though the 2015 Act is not without its flaws, it brought a sigh of relief to practitioners in

54 Ibid.

55 Robert Elias. 1983. *The Symbolic Politics of Victims. Compensation Victimology*; 8:213-214. Retrieved at https://www.researchgate.net/publication/232551700-The_symbolic_politics_of_victims_compensation

56 Section 78

57 Sections 263, 267, 268, 360

58 Section 365

51 Cortina, L.M, Rabelo, V.C, Holland K.J. 2017. *Beyond Blaming the Victim; toward a more Progressive understanding of workplace Mistreatment.* Volume 11 Issue1 81-100. doi:10.1017/iop.2017.54

52 ibid

53 Margery Fry. 1874-1958. *Quakers in the world.* Retrieved online at <https://www.quakersintheworld.org/quakers-in-action/84/margery-fry>

the victim justice system. The Act⁵⁹ broadened to a large extent, the powers of the criminal court to award compensation to a victim of crime. For the first time in the history of Nigeria, compensation was recognised as a stand-alone disposition method, and it applies to all crimes and not restricted to crimes of violence.

There are certain problems in many of the jurisdictions where the compensation scheme operates. One of such is the eligibility restrictions. Conditions which disqualify many victims include the fact that violence among family members and emotional trauma are not covered under the scheme. Other problems include lengthy bureaucratic procedures, lack of awareness of the scheme amongst the people and insufficient funding by the government of the scheme. In Nigeria, the problem associated with the laudable provision of compensation is the absence of a compensation scheme for victims of crime despite several outcries for the introduction of the scheme.⁶⁰ However, it is imperative that a statutory victim compensation scheme be established, administered the public be sensitized of the existence of the scheme in line with the United Nations Declaration of Basic Principles of Justice for victim and abuse of power.⁶¹

7.1.5.2 Restitution

This was one of the earliest redress for victims of crime. It remerged as a redress specially to fill in the gap created by the compensation scheme which was limited to crimes of violence. Restitution applied to crimes involving property. In Nigeria, Section 270(1) Criminal Procedure Law⁶² and Section 357(1) Criminal Procedure Code⁶³ both recognised this remedy to victims. The problem was with the judges and magistrates who did not effectively make use of these disposition methods. With the Administration of Criminal Justice Act, the victim-oriented remedy of restitution has been restored. It is hoped that the Judiciary at all levels will make good use of it as it will reduce congestion in prisons and foster community harmony.

59 Sections 314, 319, 320, 321, 323, 324 and 325 of the 2015 Act

60 Balogun A.L. 1990. Problems of victims in the administration of justice: the judicial viewpoint in Adetiba S (ed) Compensation and Remedies for victims of Crime (Lagos) Federal Ministry of Justice. Pg. 62

61 Adopted by the General Assembly Resolution 40/34 of 29 November, 1985

62 Cap C41 Laws of the Federation, 2004

63 Cap 30 Law of the Northern Nigeria 1963

7.1.5.3 Victim Services

Services for victims of all types of crime was one of the developments pointing to the victims restoring their grip in the justice system. Victims service provides support, counselling, information, referral and compensation service to victims' growth all over the world. In the early 1990s, it was described as phenomenal as such services if ever they existed, were unknown in the 1970s.⁶⁴ The various programs provide services for victims of various categories like rape, assault, domestic violence. These include rape crisis centres and shelters. In Nigeria, victims support services have grown tremendously over the years. Both governmental and non-governmental organs offer diverse victims' services. For example, The Mirabel Centre is a sexual assault referral centre based in Lagos, where free medical and psycho-social support is given to survivors of rape and sexual assault.⁶⁵ Lagos State Domestic and Sexual Violence Response Team (DSVRT) is a governmental organisation; Women's Law Clinic in the Faculty of Law, University of Ibadan is a non-governmental organisation which provides services for women victims.

A major agency in Nigeria is the National Agency for the Prohibition of Trafficking in Persons (NAPTIP). It was mandated to administer the provision of the Violence against Persons Prohibitions Act (VAPPA).⁶⁶ It collaborates with relevant governmental and non-governmental organisations.⁶⁷

In the United States of America, the Victims' Involvement Project was established by the Vera Institute of Justice in April, 1979. The project grew out of research and the decision that victims should play a role in the criminal justice system by being informed about their cases or outcome, notified about dates of adjournment and cancellation of such dates, the procedure in the court and the assistance they may get from the court.

64 Fattah, E.A. Victimology Today. Recent Theoretical and Applied Development Resource Materials Series No 56. Retrieved online from www.unafej.or.jp/Rs_No56. Pg. 68.

65 Retrieved online from www.mirabilecentre.org

66 Section 44 of the Violence against Persons Prohibitions Act (VAPPA).

67 Retrieved from www.nsod.naptip.gov.ng

7.1.5.4 Scholarly Interest And Emergence Of Victimology Courses

The scientific study of victims and victim related issues came up in the early 1940s when scholars developed interest in the study of victims. In the 21st century, many scholars and students have emerged in the field of victimology and there is continued interest in the study. Victimology courses have emerged in many universities, colleges and institutes all over the world, including Nigeria and more recently, specialised courses are emerging.

7.1.5.5 Publication Of Research Materials And Journals

The interest in the study of victims resulted in scholarly research being carried out. The result is the emergence of high impact journals in the area of victimology. Of particular interest is the emergence of specialised journals on various aspects of victims' issues. As at 2021, there are about twenty-six (26) journals dedicated exclusively to victimology.⁶⁸

7.1.5.6 Societies Of Victimology And Learned Conferences

The last couple of decades saw the rapid expansion of activities relating to interest in the victims. Fattah noted the rapid rate in which the discipline of the study of victims established itself on the academic scene.⁶⁹ The establishment of societies of victimology is one of the trends emerging from the growing interest in victim issues. In addition, academic discourse on victimology is now organised on a regular basis for scholars and persons interested in victims' studies. As at 2021, fourteen conferences are dedicated exclusively to victimology.⁷⁰ The first international symposium on victimology held in Jerusalem in 1973.

7.1.5.7 Extensive Media Coverage

There has been keen and daily increasing interest of victim issues with the extensive publicity by the media. This has made information about victims globally accessible. The ENDSARS protest in Nigeria and the aftermath in October 2020,

68 Updated list of High Journal Impact Factor Victimology Journal in <https://www.omicsonline.org/-victimology-journals-conferences-list.php>

69 Fattah 1992. Pg. 60

70 <https://www.omicsonline.org/victimology-journals-conferences-list.php>

buttresses the effect of social media. The protest was to register grievances to the Nigerian government on the brutality of the police unit known as the Special Anti- Robbery Squad (SARS) and to end brutality on victims in the hands of the police. The protest was fuelled and sustained by the involvement of the media and this helped in gaining international attention. The Judicial Panels set up in nearly all the states of the Federation to redress established cases of brutality would be greatly assisted with evidence from media coverage confirming brutality.

7.1.5.8 International And National Legislations

There are legislations on victim issues and services mushroomed all over the globe. The adoption of the United Nations on the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power by the General Assembly Resolution 40/34 of 29 November, 1983, was an unprecedented development in the interest on the treatment of victims of crime and an indication of the restoration of the interest in victims of crime in the criminal justice system. The Article with twenty-one (21) resolutions is the first international legislation mainly on victims of crime. Many countries have adopted the Declaration in one form or the other and domesticated it as national legislations.⁷¹ In Nigeria, the Administration of Criminal Justice Act (ACJA) which came into force in 2015, codified some of the principles in the Declaration. Other legislations include the Criminal Laws of Lagos State,⁷² Violence against Persons Prohibitions Act, 2015,⁷³ and Child Rights Act, 2013.⁷⁴ The Violence against Persons Prohibitions Act (VAPPA) was passed on May 23, 2015, with one of its objectives which is to provide maximum protection and effective remedies for victims and punishment of an offender and for other related matters. Of great importance in this legislation, is the inclusion of compensation and the creation of a Sex Offenders Register.⁷⁵

71 The United Nations General Assembly Voluntary Funds for Victims of Torture 1981.

72 Criminal Laws of Lagos State, 2015.

73 Violence Against Persons (Prohibition) Act, 2015

74 Child Rights Act, 2013.

75 Nigeria Sexual Offender and Service Provider Database in [Nsod.nattip.gov.ng](https://www.nattip.gov.ng). See also Emmanuel Akinwotu (2019) The Guardian Nigeria Launches first sex offender register in <https://www.theguardian.com/global-development/2019> Violence against Women Law Oyo State, 2016 published in Oyo State of Nigeria gazette Ibadan 16 March, 2017; No 8. Vol. 43. Pages A23 – A46./nov/25/Nigeria—first-sex-offender-register

States of the federation also domesticated their own versions of the law. Amongst them are; The Violence against Persons Prohibitions Act, Kaduna, December, 2018; Abia State Violence Against Persons Prohibition (VAAPP) Law, 2020; Ekiti State Gender-Based Violence (Prohibition) Law, 2019; Bauchi State Violence against Persons Prohibition Law, 2020, Violence against Women Law, Oyo, 2016;⁷⁶ Most of the provisions in the state laws are similar and there are protections for the victims. For example, in the Oyo State Law, Section 38 provides for the right of victim to receive the necessary material, compulsory medical, psychological, social and legal assistance through government agencies and non-governmental agencies; to be informed of legal health and social services; right to rehabilitation and re-integration program of the state which involves the acquisition of skills in any vocation and also in necessary formal education or access to micro-credit facilities. The law also makes provision for the proper treatment of victims of violence through the creation of the Gender Violence Unit⁷⁷ which render logistic and material assistance to any woman who has suffered any form or act of violence.⁷⁸ The law also protects victims of violence during the court proceedings by providing that the court may be held in camera and not in full public glare⁷⁹

In the United States of America, the Victim's Rights and Restitution Act (VRRRA) provides for services that the federal court is required to provide to victims of federal crime.⁸⁰ They include information of the place where they may receive medical and social services; public and private programs available for counselling treatment & other support services; the status of the investigation of the crime to the extent provided it is appropriate and will not interfere with the investigation; Having personal property being held for evidentiary purposes maintained in good condition and returned as soon as it is no longer needed for evidentiary

76 Violence against Women Law, Oyo, 2016

77 Section 39 ibid

78 Bamgbose Oluyemisi. 1996. Violence against Women: A recurring International and Criminological Problem in Akinyele I.O et al. (ed) Proceedings of the National Conference of the Society for International Development on the Role of Civil Society in the implementation and follow up Activities of major United Nations Conferences in Nigeria. Pp. 142- 165 (NIGERIA)

79 Section 38(6) ibid

80 Victim's Right Restitution Act, (VRRRA) 34 USC No. 20141. Rights of Victims. Retrieved from <https://www.justice.gov/enrd/rights.victim>

purpose. The Crime Victims' Right Act⁸¹ (CVRA) lists the rights of the victim in the criminal justice system. Under both Acts, where the victim is incompetent or deceased, a legal guardian of the crime victim may assume that position.⁸²

7.1.5.9 Police Measures

There has been proactive measures in the treatment of rape victims through the creation of gender desks in all police formations across the command to tackle the menace as commanded by Inspector General of Police.

7.1.5.10 Judicial Activism

Worthy of note of Judicial Activism by Judges is the broadminded interpretation given by judges to the law. This was evident in the 2020 case of *Asiruwa v. State*⁸³, where Boloukuromo Moses, JCA in considering the issue whether the offence of rape has a limitation date for its commencement held that "*the offence of rape unlike that of defilement does not have a limitation date for its commencement and that arguments of statute bar and its effect of the jurisdiction of the trial court is of no moment.*" Another example of judicial activism is the expeditious manner in which criminal cases are handled by the courts in Nigeria

7.1.6 RECOMMENDATIONS

Victims are primary stakeholders in the criminal justice system and they have to be recognised as persons who have been hurt, have pain and may be suffering. They need to have a grip on the criminal justice system. Crime should be viewed by actors in the criminal justice system as a violation of individual rights, infraction of social relationship and social values before becoming an offence against the state. Therefore, both the victim and the offender should have equal access and equal participation.

It is recommended that restorative justice should be adopted and sanctions should be compensatory in nature. Mediation with all its advantages, including out of

81 Crime Victims' Right Act, (CVRA) 18 U.S.C NO 3771

82 Ibid.

83 (2020) LPELR-50774(CA)

court agreement, restoration, replacement, compensation should be encouraged. Legal violation should be viewed primarily as victimisation of an individual or group of individuals, then seen as victimisation of the society.

Laws relating to victims in the Criminal Procedure Act and Criminal Procedure Code that deal with the rule of procedure for all criminal trials should be harmonised to reflect fairness to all parties in the justice system. The Administration of Criminal Justice Act and its laudable provisions, which presently only applies to the Federal Capital Territory should be reviewed and adopted by all states in the Federation. All tools for effective implementation should be put in place.

7.1.7 CONCLUSION

Culture and tradition ensured that the victim had a grip on the criminal justice system before the 19th century. Effect of colonisation and industrialisation from the mid-nineteenth century to the mid-twentieth century caused the victim to lose the grip. Criticisms and circumstances in the 20th century by activism inadvertently restored the grip and refocused the attention of the state and stakeholders to the victim.

The journey of the victim in the criminal justice system has been interesting, irksome and presently hopeful, with great expectation that it will get smoother as the 21st century progresses. With a focused and determined interest of all actors and agencies in the justice system, a balanced position for all parties in the justice system is achievable.