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Nigerian Criminal Justice System: An Examination of Victims' Rights Approach to Effective Administration of Criminal Justice in Nigeria

Yahya Duro Uthman Hambali
Associate Professor, Department of Jurisprudence and Public Law,
Kwara State University, Malete, Kwara State, Nigeria

Abstract:
The Nigerian criminal justice system is adversarial. Like other similar systems, it is designed to accommodate only two parties, the prosecution, and the defendant, in the combative atmosphere of its trial process. There is no right of audience for victims to claim remedy for their injuries at the trial. They are only visible as witnesses for the State. Whereas the various domestic laws cater to the offender's rights, they are silent about the rights of the victim. The treatment of crime victims by the agencies of the Nigerian criminal justice causes them further traumatization due to a lack of protection.
Consequently, the victims have been passive over the years over their feelings of being used and dumped by the Nigerian criminal justice system due to a lack of voice. There is, therefore, the need to chart a new course where the victim would have an equal voice as the offender. This paper accordingly investigates the views of scholars on the attitude and the dichotomous nature of adversarial criminal justice, where a criminal trial is seen as a combat between the State and the defendant, while the victim is only seen as an item of evidence. The study adopts doctrinal methodology, which reveals that a scholar's general view is for the system to put on the front burner the rights and interests of a crime victim to ensure its legitimacy.

Keywords: *Victim, victimization, Nigerian criminal justice system, treatment of crime victim, participation, voice*

1. Introduction

In every society, acceptable social norms serve as the fulcrum for the peaceful co-existence of the members of the society. These social norms come in the form of rules which may be written or unwritten. Moreover, because some erring members of the society may violate these rules, sanctions for violation of any specific norms are put in place as well as the mechanism for their enforcement. Again, this mechanism may be formal or informal. Crime, therefore, is the breach of a social norm that the society considers inimical to the peaceful co-existence of its members.

Before the introduction of the Western way of administration of criminal justice, every society had the modus by which anyone who offended the set code of conduct was processed and made to pay for his infraction of the set standard. Such modus could involve the family of the offender and the family of the victim coming together to discuss and agree on how to heal the injury suffered by the victim as a result of the act or omission of the offender, while the offender also apologized to his victim. Depending on the gravity of the offence, the offender might have to face a committee of elders headed by the community head or his nominee to atone for his sins. This was particularly typical of African communities where the families were closely knit. In effect, the offender would then be under the surveillance of his family to ensure that he kept within the social norms of the society, as the family reputation might be in jeopardy if the family members were notoriously known for breaching societal norms. Hence, there had been informal means by which offenders were made to answer for their sins and heal their victims' wounds before the western way of processing offenders.

With the introduction of the English criminal procedure, every offender must be processed according to a written law. It then became an offence for any community member by whatever name it is called to assume a judicial position to try a criminal offence rather than imposing a sanction (*Garba v. University of Maiduguri,* 1986). The power to punish is vested in the State, and the offence and punishment to it must be specified under a written law Nigeria Constitutions 36 (12). The scope and degree of punishment shall be as determined by the legislature in a written law and not by the degree of physical and/or psychological effect the criminal act might have on the direct or indirect victim in cases of murder. It is clear that crime is an offence against the State under English law, and only the State has the power to punish and is entitled to remedy. As a general proposition, therefore, we can say that the guiding principle under African law was the restoration of the victim to as near a position to what he had been before as possible (Ong'ondo 1982, 411), while the guiding principle under the English law is the punishment of the offender as deterrence to others with similar criminal tendency.

In both the formal and informal criminal justice systems, the victims of crime play a dominant role in the trial of the offenders; however, what the victims get in return for their roles in each system is not the same. For example, in an informal criminal justice system, how to heal the victim's injuries was key to the trial's outcome, while conviction and sentence to a codified punishment are central to the trial's outcome under the formal criminal justice system. Therefore, under the English criminal justice system, the victim of crime is not the basis for committing the taxpayers' money to the prosecution of the offender, but rather, the basis is the offender himself.

2. Statement of the Problem

Nigeria attained her independence from the British colonial rule on 1st October, 1960, but the British colonial legacies in the administration of criminal justice are still being nurtured with religious loyalty. Surprisingly, the British colonial master and a number of other former British colonies, such as Canada, the United States of America, South Africa, Australia, New Zealand, etc., have since moved away from the offender-based crime-control process of criminal justice. Criminal policies are being geared toward the acceptance of the rights of the victims as much as there is policy recognition for the offenders' rights in the crime-control process. Many years after independence, victims of crime still suffer neglect in the Nigerian Criminal Justice process.

The government of Nigeria battles with serious crimes of terrorism, armed banditry, kidnapping, and a host of other crimes that not only endanger the nation's security but also threaten the very foundation for the existence of the highly heterogeneous society. The Niger Delta Militancy in the South-South region of the country, the *Boko-Haram* insurgency and armed banditry in the North-East region, and several parts of the country's North-West region and, the Jos crises in the Middle-Belt region have all attracted international attention (International Crisis Group). The government has adopted several measures to contain the crises. However, none of the measures recognized the significance of the victims of the dastardly acts of the offenders as an essential element in the crime-control process. This accounts for why the crises seem to have defied all logics. In fact, it is on record that the victims, in some cases, suffer re-victimization in the hands of their victimizers as well as the apparatus of the State for crime-control. The case of *Boko-Haram* in the Northern part of Nigeria provides good illustrations of this point.

The *Jamaa'tu Al-sunnah lid-da'wati wal jihad,* popularly known as *Boko-Haram,* is a strong pseudo-Islamic terrorist group based in Kanamma, North-Eastern Nigeria. The group's name *Boko-Haram* is a Hausa statement that means 'Western education is sinful.' This group is opposed to everything that is of Western origin, especially Western education, ideologies, and systems (NaijaGist.com). The activities of this group include bombing places of worship, government formations such as police stations and military barracks, western establishments, and killing of individuals opposed to the group's course. For instance, Dozens of Boko Haram members stormed the Chibok girls' boarding school in 2014 and packed 276 pupils, aged 12-17, at a time, into trucks which were the group's first mass school abduction. Fifty-seven of the girls managed to escape by jumping from the trucks shortly after their abduction, while 80 were released in exchange for some detained Boko Haram commanders following negotiations with the Nigerian government (Aljazeerah, 2022). However, a military approach that was also adopted by sending a Joint Task Force (JTF) to combat the situation and protect the innocent citizens failed to yield any significant result. In the like manner, there has not been a single conviction of any group member because the victims are unwilling to come out to testify due to fear of re-victimization. Hence, the victims of the scourge refrain from supplying information that could lead to the arrest and prosecution of their victimizers for fear of re-victimization because of the lack of victim protection from the State both in crime reporting and in giving testimony against the victimizers in the course of trial but rather improvise their own self-protection mechanisms.

Therefore, the Nigerian criminal justice process has not been able to combat crime because of the direction of the criminal justice policies, especially the adjectival laws that provide for how offenders should be processed. So much recognition is given to the rights of offenders, which, though, are welcomed because they accord, to a large extent, with the global concept of respect for human rights, while the rights of the victims are not recognized. The crime-control apparatus of the State require relevant information for the arrest and prosecution of offenders, which makes the victims of crime an essential element in the crime-control process. Hence, the confidence of the victims in the criminal justice system, which has been eroded and accounts for their ineptitude in reporting and/or giving evidence against offenders in their prosecutions, needs to be re-built through effective victims' rights policies. The preceding now tells heavily on the right and legitimacy of the Criminal justice system.

Right is the totality of the conditions under which a person's choice can unite with the choice of another as required by a universal law of freedom (Kant 1996, 24). It follows, therefore, that if the action of a person can co-exist with the freedom of everyone in accordance with a universal law, whoever obstructs the performance of that action is said to have harmed the person's right (Kant 1996, 24). Rights are broadly divided into natural right, which is acquired by reason of being human, and positive or statutory right, which originates from the intendment of a legislator (Kant 1996, 29). There is also a further division of rights as (moral) capacities into innate and acquired rights. Whereas innate right is naturally owned by everyone independent of any act that would establish the right, acquired right, on the other hand, requires an act to establish it (Kant 1996, 30). According to Kant, Freedom is the only innate and original right that belongs to every man or woman by virtue of their humanity so long as such freedom can co-exist with the freedom of every other person in accordance with a universal law (Kant 1996, 30). Kant's 'freedom' refers to that area of action that is totally left to a person because of their humanity after excluding what they are either required to do or prohibited from doing by the Doctrine of Right (Griffin 2008, 61). The natural rights derived from such innate right include the right to procedural and distributive justice and retributive justice, which is a right exercised on our behalf by the sovereign authority (Griffin 2008, 61).

The universalism of human rights signifies that human rights transcend national, historical, and cultural boundaries. Universality of human rights presupposes that the same rights are guaranteed to all within and between the state signatories in an international arena (Corrin 2013, 104). Donnelly justifies universality of human rights on three legal grounds: (1) Virtually all states consider internationally recognized human rights to be a firmly established part of international law and politics (International legal universality); (2) Virtually all cultures, religions, and leading worldviews participate in an overlapping consensus on these internationally recognized human rights (Overlapping consensus universality); and (3) This consensus rests on the contemporary universality of standard threats to human dignity posed by modern markets and modern states (Functional Universality) (Donnelly 2013, 94). To him, international legal universality counts as one of the remarkable achievements of international human rights movements because it has facilitated a deepening overlapping consensus, one of its inherent attributes (Donnelly 2013, 118). Hence Donnelly rejects there is any foundation for human rights.

Furthermore, he does not believe that human rights are linked to God, human nature, or human needs. Instead, human rights rest on the normative consensus of the international community on the list of rights as explained by his three legal grounds. However, this justification is considered weak because there is no consensus on the right of women or the morality of abortion and a host of others (Freeman 2012, 69).

Legitimacy refers to when people are influenced by an authority or institution not because they have been coerced but because they believe that the decisions and rules made by the authority or institution are in some way right and proper and ought to be followed (Tyler et al. 2007, 10). The legitimacy of the authorities is essential because when people view an authority as legitimate, they voluntarily agree to accept the decisions of that authority (Tyler et al. 2007, 10). In the criminal justice process context, the authorities concerned are the police, the court, and the penal institution. Legitimacy of the police involves two core issues. The first is the belief that police officers are trustworthy, honest, and concerned about the well-being of the people they come in contact with, while the second involves the belief that police authority ought to be accepted, and people should voluntarily submit to police decisions and directive (Tyler et al. 2007, 10). Legitimacy in this regard is an outcome of how the police treat people while exercising their regulatory authority. The cooperation of the people with the police is secured due to the fairness in their decision-making. Such fairness would reflect neutrality, non-discriminatory behaviour, and fair treatment in its encounter with the members of the public (Tyler 2013, 9). In particular, the primary issue that shapes people's reactions to their encounter with the police is a question of right to procedural fairness or procedural justice in the exercise of the police authority (Tyler 2013, 11).

The fundamental importance of procedural justice in the public's opinion and in the expectations of victims seems to tilt towards the normative arguments concerning fundamental human rights and the rule of law. (Snaken 2013, 66). Procedural fairness involves two issues; the first is the fairness of decision making, which involves police neutrality, absence of bias, consistency of application of rules, and unhindered opportunity for people to explain the issues and how they should be handled. The second issue is fair treatment and trustworthiness. Fair treatment involves whether they are courteous towards people and respectful of people and their rights, while trustworthiness involves whether the authorities explain the reasons for their actions in a manner that indicates to the people they are dealing with that they indeed have a genuine concern for them (Tyler 2013, 11). According to the procedural justice model, the procedures' fairness has a greater influence on legitimacy beliefs than favourable outcomes for the individuals or effectiveness in crime control (Smith 2007, 51). Procedural fairness is also the bedrock of why people defer to decisions made by judges and other judicial authorities. The interviews with people who have been personally involved with the courts by Tyler and Huo in Oakland and Los Angeles suggest that people's reactions are shaped by whether they have received a fair day in court regardless of their purpose of being there. This involves whether their concerns have been addressed through a just process (Tyler 2013, 21).

3. Literature Review

As Tony Marshall comments, the courts and the legal system are predicated on the centrality of justice – on due process, predictability, procedural rectitude, protection of the rights of the defendant, and strict adherence to established rules. In so far as these are the major considerations, the system is as perfect an instrument for carrying them out as has yet been imagined. These imply that the system can be reformed (Marshall 1985, 156). Justice has one foot on the break, applying safeguards such as 'due process' to ensure the innocent are not punished, and the other on the accelerator, pushing against those safeguards so that they do not enable the guilty to escape. However, the process can have its own value (Wright 1996, 21).

The criminal justice process has been attacked on various fronts as it has not been able to control crime despite its punitive approach to treating offenders. According to one German observer of the USA mediation project, 'despite frequent claims of unmanageable caseloads and impending breakdown, agents of the criminal justice system in many jurisdictions appear to cling to every single case as though it were absolutely vital for the survival of the system' (Weigend 1981, 45 quoted by Wright 1996, 22). Wright is also of the view that the system's faults can, to a limited extent, be eliminated in the light of the experience and the procedure that has been improved over the years. However, reform is possible only to a point because the system aims to secure a conviction and then, generally, to impose a punishment (Wright, 1996: 23). Offenders are usually passive spectators at their trial, and victims are left out of it altogether, except sometimes as witnesses (Wright 1996, 24). A basic criticism was that victims are not kept informed of the progress of the case or lack of it. The system neglects even the families of murder victims (Wright 1996, 24). Besides, when the victim is required to attend court to testify, there is a tendency to treat him or her as an 'item of evidence' or a 'nonperson' (Wright 1996, 25 quoting from Rössner and Wulf 1984, 8; and Shapland 1983, 20).

According to Williams, changes to the criminal justice system, which prejudice the defendant's rights and increase the danger of unfair convictions, are more obviously against the victims' interests. If the wrong person is convicted of a crime, the actual perpetrator remains undetected and is free to victimize others. Meanwhile, in more serious cases, innocent victims can become bitter and destructive when imprisoned: public confidence is eroded when a miscarriage of justice comes to light, and some victims would be less inclined to report offences if they perceived a high likelihood of a wrongful conviction being the result. Tinkering with the legal rights of the offenders or deliberately reducing them does not improve many victims and may worsen (Williams, 2005: 91). The principle of surcharging offenders has been established in the USA for 20 years. It no longer appears to be controversial there (Williams 2005, 91 citing Doerner and Lab 2002). Compensation levied by courts upon offenders as a sentence (or part of one) is also symbolically and practically important to many victims. It shows official disapproval of the offence and recognition of the victim's loss, and it holds the offender accountable in a tangible way (Williams 2005, 97-8). Victims of crime benefit from being kept informed about the progress of the criminal case in which they are involved, and that failure to provide this information can make life more difficult for them (Williams 2005: 105).

Although, from Sander's viewpoint, even though, in particular cases, 'offender' and 'victims' can be clearly separated, this is not possible on a society-wide basis. Offenders are disproportionately represented among the most frequently victimized section of society (young males at the poorest and most socially marginalized end of the social scale). The overlap between the 'victim' population and the 'offender' population is, in other words, huge (Sanders 2002, 198). The adversarial criminal justice system means that, in formal terms, there are two sides to the (legal) story: prosecution and defence (Sanders 2002, 199). For many years victims were the forgotten actors in the criminal justice system. Neither the police nor the prosecution had any great interest in ascertaining the view or interest of, or facts about, the victim except in relation to information that could form legal 'evidence' – that is, evidence admissible in court (Sanders 2002, 200). Communication from victims to courts and from courts to victims was obstructed, leaving victims ignorant of about what was happening in 'their' cases (Sanders 2002, 200).

Explaining why the victims are insignificant in adversarial criminal justice, Sanders explains that under the common law 'expediency' approach (as distinguished from the Civil Law 'legality' approach common in Europe), no crimes need to be investigated or prosecuted, but anyone may investigate or prosecute. Victims can still take out private prosecutions if they wish (and can afford it) and occasionally do so (Sanders 2002, 200-1). He concludes that police and Crown Prosecution Service do not prosecute 'for' the victim but rather prosecute for the State. Offences are, again, in theory, offences against society (not against the victim), and the consequence of conviction is punishment, not compensation (although, again, the situation, in reality, is not this straightforward). There is no legal requirement that the prosecution takes any particular heed to the wishes or interests of the victims, receives information from victims, or provides information to victims. Victims are simply citizens who may or may not be used as witnesses, which is again a matter wholly for the prosecution (Sanders 2002, 201). He concludes by saying that the formal position of victims remains unchanged, in that they are not parties to proceedings and have no enforceable rights in relation to prosecution and subsequent decisions. However, the administrative response of the criminal justice system to victims has significantly changed (Sanders 2002, 202-3).

Roach believes that the non-punitive model is a genuine alternative. It does not rely on punishment to control crime, treats people fairly and as responsible citizens but not by relying on adversarial adjudication, and it seeks to reconcile the interests of the offenders, victims, and their communities through restorative justice and crime prevention (Roach 1999, 37). Although Sanders disagrees with this terse belief by Roach that due process rights for the defendants would be respected in a non-punitive system, he says nothing of his punitive model of victim's right (Sanders 2002, 205). He, however, admits that there will be a continued need for punishment and incapacitation in worse cases and conflicts between due process and victims' rights. Much will depend on when punitive responses are deemed necessary and if crime prevention and restorative justice are accepted as legitimate responses to crime (Roach 1999, 38).

The main problem with restorative justice is that it tends to assume that the opinions, rights, and interests of victims and offenders are always reconcilable. This is untenable as the view that one always needs to be traded off against the other. In many cases, restorative justice schemes trample, to a greater or lesser extent, on the interests of both victims and offenders (Sanders 2002: 210). The criminal justice policy at every level should aim to maximize the totality of freedom. Giving effect to a victim's opinion about, say, the severity of punishment does not increase the victim's freedom as much as it reduces that of the offender; thus, such opinions should not be sought by the criminal justice system. Informing victims of prosecution decisions and the reasons for them, on the other hand, does reduce secondary victimization and thus increases the victims' freedom without reducing the suspect's freedom. (Sanders 2002: 210).

Marshall believes that the complexity of social issues is such that one cannot make a clear-cut distinction between occasions when one or another type of settlement process is preferable. Therefore, it is important to plan for a system of dispute settlement procedures that allows for various approaches, interchanges between agencies, and even changes over time in the nature of the dispute. Negotiation rejected at an earlier stage may become acceptable at a later one. Rather than an alternative system to that of criminal justice, one needs a system of alternatives that includes the judicial (Marshall 1985, 163). Marshall advises that for there to be procedural acceptability, the state must have cognizance of the role of the criminal justice system in satisfying individual citizens if it is to maintain the system as a thriving resource. It needs both to maintain the legitimacy of the criminal justice system and to preserve the general public's confidence in it. It achieves this in two ways:

- By ensuring that the procedures and decisions of the criminal justice system follow certain principles of practice which are acceptable and laudable in the view of the bulk of citizens; and

- By ensuring that the criminal justice system is, as far as possible, an effective resource for, and therefore used by, citizens (Marshall 1985, 12).

Relying on the opinion of Braithwaite and Daly, and Faulkner, Doak describes victim's rights in the modern English criminal justice system in the following way, 'Conceptually, victims have no role to play in the modern criminal justice system other than to act as 'evidentiary cannon fodder.' In contrast to many continental systems, they have no 'right to be heard' or give a narrative account. They are denied any form of proactive participation in the trial since their interest are deemed to fall outside the remit of the criminal trial as a forum for the resolution of the dispute between the state and the accused. Victims have been 'conscripted' into an operational role within the criminal justice system and are generally treated as its servants or agents. In the view of criminal law purists, the 'rights' and the 'interests' of the victim should thus be pursued under the civil, as opposed to the criminal law, using the law of tort.' (Doak 2008, 35)

In the modern criminal justice system, victims are exposed to secondary victimization in the course of their cross-examination because of the systemic structures and values of the adversarial system, especially in rape cases, where one of the main methods used to attack the character of the complainant is to suggest that she is sexually disreputable, alluding to loose moral values and a decadent lifestyle. In assessing this, the jury is invited to take into account a wide range of deeply personal and embarrassing details (Doak 2008, 55). Doak is of the opinion that victim participation in the trial process is desirable because it offers the victim chance to ensure that the court has a maximum opportunity to hear facts and receive evidence from all of those directly affected by the crime – not just the perpetrator and the prosecution; it also boosts the legitimacy of the criminal process through empowering the victims and acknowledging their status as parties directly affected by the alleged act of the accused. There may also be a longer-term, though less ascertainable, benefit for victims through participation's cathartic effect (Doak 2008: 135).

To Kelly and Erez, there is a curious blend of independence and dependence such that victims have no clout as to if or how the state chooses to proceed against their assailants. However, the state depends entirely on their cooperation, without which any chance for conviction is dashed (Kelly and Erez 1997, 232). It has been argued that sentencing will be more accurate if victims convey their feelings and that criminal justice process will be more democratic and better reflect the community's response to crime (Kelly and Erez 1997, 236, citing Erez 1990 and Rubel 1986). As against the victims' participation, it has also been argued that allowing victims to participate will expose the court to precisely the public pressure from which it should be insulated; and that a victim's view of sentencing is 'irrelevant to any legitimate sentencing factor, lacks probative value in a system of public prosecution, and is likely to be highly prejudicial' (Kelly and Erez 1997, 236, citing Rubel 1986 and Hellerstein 1989).

According to Kelly and Erez, a decade after many reforms on victims' participation in the criminal justice system were adopted, research shows that (a) victim participation does not bog down the criminal justice system; (b) victim participation does not necessarily result in more harsh punishment of offenders; (c) victim participation may or may not result in increased satisfaction with the judicial system; and (d) the existence of so many statutes may be misleading – most victims are unaware of and never benefit from these reforms (Kelly and Erez 1997: 237). The more participation a jurisdiction affords crime victims, the greater victims' levels of satisfaction (Kelly and Erez 1997, 239).

Sanders and Jones also lent their voices. According to them, in adversarial systems, there are just two parties to the criminal disputes: the prosecution and the defence. Although the prosecution acts on behalf of the victim in some respect, this is almost incidental to the fact that, in both formal and substantive terms, the prosecution acts on behalf of the state (Sanders and Jones 2011, 283). Decisions may be taken, for example, to prosecute, to accept guilty pleas on relatively minor charges, to drop some or all charges, and so forth, regardless of the views or interests of the victims (Sanders and Jones 2011, 283). Adversarial systems affect witnesses in court in two different ways. One is the failure to recognize them as parties, while the other puts them arguably overly center-stage. Lack of recognition of victims as parties is quite evident in a plea bargain, in which case the prosecution will claim to act in the public's interest without considering the victims' interest (Sanders and Jones 2011, 284).

Hall, in his part, believes that all criminal justice systems, whether adversarial or inquisitorial, require the witness to come forward to give evidence on which prosecution can be based. This is particularly important in the case of the victims, who often provide the most directly applicable evidence in many cases. As such, the government that funds and (to varying degrees) administers criminal justice agencies have an inherent interest in ensuring their citizens are disposed to work with the system and can provide clear, detailed evidence when they do so. The meeting of such goals brings increased efficiency in the criminal justice system, reduced delays, and, ultimately, a saving of public funds (Hall 2010, 122-3). Although victims' rights appear to have received much recognition in recent years, the concern about the enforceability of those rights still remains non-existent. Reviewing scholars' theories on this issue, Hall expresses concerns that if one accepts the contention that a zero-sum game can be avoided (or does not really exist), none of the theories directly addresses how the rights of the victims can be enforced in any given jurisdiction (Hall 2010, 142).

Professor Parker's two models of criminal justice, due-process and crime-control models, set the standard for decades for scholars to build on. Although, when he came up with the models, he did not have within his contemplation that victims should have a say in the criminal justice process (Roach 1999, 19; Beloof 1999, 291; Sanders 2002, 203). In fact, he was quoted to have stated in his work thus:

'The Kind of model we need is one that permits us to recognize explicitly the value choices that underlie the details of the criminal process. In a word, what we need is a normative model or models. It will take more than one model, but it will not take more than two.' (Beloof 1999, 290; Griffiths 1970, 361).

The Nigerian criminal justice system gives little recognition to victims of crime. The victim is 'an observer or a passive participant of the criminal justice process. He is always represented by the state and acts as a prosecution witness. He is rarely consulted in any decision-making during the process' (Dambazau 2007, 213). A couple of Nigerian scholars

have lent their voices to the foregoing debates, particularly as it pertains to the Nigerian criminal justice system, which was imported to the country by the British colonial administration after displacing the well-established customary criminal justice process that they found in place. Okonkwo sees the retributive object of criminal law from a different perspective. According to him, the significance of a retributive object is still part of the primary belief of some people about punishment in respect of many crimes (Okonkwo 1980, 29). He also finds his position on the argument that 'since retribution is essentially a non-utilitarian principle, it cannot be disproved, but only accepted or rejected as a matter of emotional preference' (Okonkwo 1980, 29). He re-emphasizes the principle of 'just desert,' which epitomizes the universal notion that punishment must not only be proportionate to the injury caused but must be just or fair (Okonkwo 1980, 29). Okonkwo's view of Nigerian criminal justice is that the system's primary concern is the offender, both in terms of punishment and the appropriateness of it to the crime committed. 34 years after Okonkwo's view about the Nigerian criminal justice system, the system remains the same.

Olufunmilayo notes that the concepts of the colonial criminal justice system that was introduced to Nigeria negate the traditional social norms of the societies that form Nigeria, which tended to emphasize the status of the victim before the crime was alleged was committed (Olufunmilayo 1982, 404). She compares the two systems in cases where death occurs as a result of the offender's act. Whereas there is no provision for compensation of the family of the victim in the English criminal justice system introduced to Nigeria, in the traditional social norms of communities in Nigeria before the colonial law was introduced, the offender (with the active participation of the members of their extended family where necessary) would be made to pay compensation to the members of the extended family of the victim. This compensation which was known as 'blood money,' had dual purposes: namely, to mitigate the injury suffered by relations of the victim and to create an immediate fund for the sustenance of the immediate family of the victim pending the time when better arrangements could be made by the wider family (Olufunmilayo 1982, 404).

Ibidapo-Obe describes the imposed criminal court procedure by the colonial authorities as an adversarial contest between government prosecutor(s) and defence counsel. He sees the western-oriented formal criminal justice system as one which emphasizes the state and the offenders as parties to the criminal proceedings. At the same time, the victim is given the role of prosecution witness (Ibidapo-Obe 2005, 120). To him, the foreign system of criminal justice administration contrasts poorly with traditional African models of criminal justice presided over by the local chief and his council (in the kingly communities) or the council of elders (in the 'acephalous' or 'gerontocratic' communities) (Ibidapo-Obe 2005, 120). The procedure under customary criminal justice was simple, devoid of any formality, and afforded the natives full participation in the speedy and cheap administration of justice (Ibidapo-Obe 2005, 120). In his conclusion, 'the dilemma of African law is the dilemma of a subjugated people and imposed confusion and disorientation brought about by man's inhumanity to man' (Ibidapo-Obe 2005, 120). Further in his conclusion, he states as follows:

'The African continent has diverse laws and customs. So had Britain, Scotland, and Wales before they fashioned the Common Law, which was later exported to Africa. The call here is that we should undertake a thorough study of African customs, extract the best and most useful, borrow useful aspects of any foreign law – Chinese, Japanese, or whatever – and use this as an integrative mechanism to curb the deviance in African societies' (Ibidapo-Obe 2005, 120).

Adeyemi notes that there is no real institutional scheme to enhance victim remedy and the traditional sentiment of reconciliation in the Nigerian criminal justice system (Adeyemi 1990, 296). The arrest and investigation process gives rise to hostility, which is further aggravated by the focus of the Nigerian criminal justice system on the punishment of offenders rather than the need to provide a remedy for the victim (Adeyemi 1990, 296). Remedies for victims should no longer be left to the whims and caprices of individual magistrates and judges but should be institutionalized and streamlined in a manner that will fit the country's traditional tripartite approach of justice for the victim, justice for the offender, and preservation of the interests of society (Adeyemi 1990, 296). He argues that it is essential that the victim becomes a party in all stages of the criminal justice process, up to and including the sentencing stage. He bemoans the rigid and dichotomous separation of the criminal process as a merely punishing process and the civil process as a remedying process in the administration of criminal justice (Adeyemi 1990, 296). Perhaps, what Adeyemi means to say here is that the practice of living victims to seek remedy for their injury in a civil court when the injury can also be comforted in a criminal process makes the Nigerian justice administration cumbersome alien. I would agree with this submission if this were the case because it offers a sound basis for the need to actively involve victims in the Nigerian criminal justice process, particularly at the trial stage of the process.

It is, therefore, abundantly clear from the foregoing views of scholars that the time has come when the focus of the modern criminal justice system should no longer be on its benefits for the society and the fair treatment of the offender but should also include fair treatment of the interests of the crime victim.

4. Conclusion and the Way Forward

The legal framework of the Nigerian criminal justice system has been considered in this paper. In particular, a special focus is given to the position and treatment of the crime victim as the offender is taken through the criminal justice process. The Nigerian criminal justice is adversarial and more accused-centered. The victim who engineers the legal process by lodging the complaint and who is the first to know and feel the act constituting the crime is a stranger in the conflict between the state and the defendant. There is no particular place for their comfort, either in the courtroom or within the court premises.

In the context of the universality of human rights, one is forced to ask whose right has been infringed in the offender-victim interaction that gives rise to crime. To my mind, any crime committed against a person or property is an infringement on a particular right of the victim, which in the context of the Nigerian criminal justice is arguably not addressed. Instead, a different bundle of rights is developed and given to the defendant. However, the Nigerian criminal

justice system suffers from this because victim confidence in the system and cooperation with the criminal justice system agencies is quickly being eroded. The situation could be better. Respectful treatment of the victim by the various actors in the Nigerian criminal justice system, incorporation of victim compensation into the system, and allowing victims to seek this during trial through submission of Victim Impact Statement to a sentencing judge will not only reduce their pains but will allow them to play an active role. There should be a victim complaint mechanism to attend to complaints from victims about any unfair treatment received from any of the system's agencies. For this to develop and be effective, the victims deserve to be given some enforceable rights. The legal framework of the Nigerian criminal justice system needs to be adjusted to accommodate the interest of the victim.

Like other adversarial criminal justice systems, the Nigerian criminal justice system is grounded in a combative atmosphere where advocates too approach their job in that sense. Even the few measures put in place in the procedural laws that empower the trial judge to intervene discretion by protecting victims from being subjected to inappropriate questions during cross-examination are in themselves inadequate, coupled with the fact that the judge runs the risk of being branded impartial (Hall 2012, 33). The English Code of Practice for Victims of Crime 2015 is, however, commendable and worthy of emulation by the Nigerian policymakers to rework the approach of the Nigerian criminal justice system to the treatment of crime victims to bring it up to the global best practices. In particular, in the area of cross-examination, which is the most traumatizing experience that victims often get at the trial of their offenders, the English Code of Practice presents a good example to copy from. In addition, the Code of Practice now offers a variety of service rights to the victim of crime before, during, and after the offender's trial.[1]Hall suggests that what we need is not a fundamental alteration of the system but rather a shift away from the crude method of eliciting evidence from victims of crime to the civilized style. Such civility implies treating victims with utmost courtesy, and professionals too approach their job with equal respect for victims by treating them as people rather than sources of evidence and avoiding interrupting them during their testimonies. He acknowledges that such civility of not interrupting when another is airing h/his views is well-rooted in other professions, including the academia (Hall 2012, 34).

In sum, a Code of practice for victims of crime law is proposed for Nigeria. This law is proposed to create service rights for victims of crime in Nigeria. The law should spell out the rights of victims of crime and impose obligations on all the criminal justice service providers towards service to victims of crime.[2]It is, however, recommended that the law should contain the necessary safeguards against abuse of the rights by any victim to ensure proper protection for service providers against innocent mistakes or undue apprehension of litigation at victims' instance in the discharge of their duties.

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[2]See Hambali, 'Finding voice for victims of crime' (n 81) 25

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