## VICTIMS OF CRIME IN NIGERIA: A CRIMINOLOGICAL PERSPECTIVE

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#### Abstract

Victims of crime pertinently form an integral part of the subject matter of criminology. Nevertheless, they have really been accorded that due recognition. This paper therefore, examined the treatment of crime victims in the administration justice in Nigeria. The paper utilizes secondary data and it was discovered that victims of crime do not only suffer from the direct impact of crime but also suffer mistreatment and neglect within the criminal justice system in the hands of the police and courts; in the process of arrest, investigation and prosecution of offenders. This paper is an outcome of increased concern over crime victims in the 1970s till date, not only to victims' compensation and assistance programs in developing countries, but also in developed countries. It also studied victims and their roles in the criminal justice process. This has formed a new area of specialty in criminology called "Victimology". Victimologists look at physical, financial and emotional harm suffered by victims of crime, as well as how victims react from seeking retaliation against their perceived/confirmed offenders and also trying to get on with their lives. It helps to reshape future policies and programs to assist crime victims. The paper recommends, among other things, that crime victims should participate actively, not passively, in the adjudication of their cases. For that would give them a sense of belonging and reduce their level of frustration. They should also be compensated accordingly in order to restore them effectively. Their offenders should also be punished accordingly, this will guarantee justice and social reintegration.

## Keywords: Crime, Criminal Justice, Nigeria, Victims, Victimology

## Introduction

There are two major sources for statistics concerning victims. They are: the Federal Bureau of Investigation (FBI) which always release annual report called the Uniform Crime Report (UCR). Another one is the Bureau of Justice Statistics (BJS) which conducts National Crime Victimization Survey (NCVS). The FBI reports have been produced yearly since 1930 and its responsibility is to collect information from seventeen thousand law enforcement offices (law.jrank.org.2020). Critically, the unreported crimes are far higher in number, than the reported ones.

The uniform Crime Report concentrates on very serious crimes like murders, rapes, aggravated assaults, robberies, burglaries, larcenies and automobile thefts and provides statistics nationally and by State, country and community. These statistics include only crimes reported to the police. Historically, aside from murder cases, however, information on victims was not collected until the 1990s. The Federal Bureau of Investigation also reports on college campus crime, terrorism and hate crimes. The National Crime Victimization Survey collects data from a large survey, they collected data from a large sample of the population in order to estimate how many physical and sexual assaults robberies, automobile thefts, and other thefts have actually occurred. They also collects data on victims' sex, age, race, ethnic affiliation, income, level of education and residence. These statistics provide useful information on how certain groups of people are susceptible to crime. Such data assists citizens wishing to minimize their chances of being victimized or victimized a second time, such people can use these statistics to change their behavioural patterns or residential location. The study also helped individuals and government to identify behaviour or situations that might put people at higher risk of becoming crime victims. It includes but not limited to the following factors: flashing a large sum of money in public could attract a robber, females are more likely to be attacked or raped based on the way they dress, knowing the offender could lead to murder, drinking alcohol, arguing or fighting with the offender. Other similar studies discovered that victims might provoke crimes through carelessness like walking in a dark area at night, all these notwithstanding, does not remove any degree of responsibility from the criminal (Okorie, 2020).

The world is full of crime and criminals, tragedy and violence. Crime is a social phenomenon. No society both primitive and modern, no country whether under-developed, developing or developed is free from its clutches. The by-product of crime, which is victim of crime is equally bound to emerge. The focus has mainly and always been on criminals and crimes, none on victim. So the forgotten man in the legal world and society happens to be the "Victim". "The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true. Even so, crime victims have not been treated fairly. Somewhere along the way, the system began to see lawyers, judges and the accused treating the victim with institutionalized disinterest and total neglect and abandonment. Intellectual and government concern for victims of crime, however, are of recent vintage" (Amena, 2016). The victims of crime did not become a subject of criminological research until after the end of Second World War. The pioneering work of Benjamin Mendolson, Hans Von Hentig and Stephen Schafer has remedied this glaring defect in the field of criminology and appropriately made criminology 'total' in this respect.

Thus, the study of the victim, the analysis of his own victimization and his responsibility for crime prevention was taken up. Having traced the beginning to 1940s, victimology remained surprisingly on the periphery of the criminology research until recent years. The attention which has been directed in recent years to that "'poor relation' of criminal law", has led to crystallization of professional and public opinion in favour of alleviating the predicament of this forgotten figure of the contemporary criminal justice system (Amena, 2016). This paper seeks to examine various aspects of the victims and a host of obstacles in the way of getting their legitimate justice in Nigerian criminal justice system. The paper therefore seeks to depict various facets of the victims ranging from their roles and typologies, historical perspective to legislative and judicial attitude towards the idea of a victim. The idea is to explore the victim's present position in various criminal justice and legal system to future prospects for victims in Nigeria.

The analysis of criminal phenomena particularly in developing societies/countries has been reduced to basically two approaches. One of such concentrates on the analysis of criminal offender. According to this approach, crime is explained essentially in terms of physically identifying the features of the individual offender (Gyoung, 1989). The second approach concentrates on the circumstances outside the individual offender that precipitate the commission of the crime. This approach often points to the pattern of socialization, the socio-cultural process, the nature and extent of the distribution of political power, the type of development strategy adopted by a polity, etc.

Consequently, on the basis of these two approaches, whenever there is a crime problem, intellectuals and policy makers are quick to ask of what can be done to the criminals or the circumstantial events that precipitated such criminality. "Very few ever ponder over what can be done about the victim" or his/her circumstances. However, the total neglect of the victims of crime in either the study or understanding of crime is historical.

Historically, the trend that has characterized the development of criminology has been nurtured on a faulty foundation. Such a foundation has been characterized by a uni-dimensional approach to the study of criminal phenomenon. This has manifested clearly in the development of criminological theories (Goldstein, 1984) Starting from demo-logical explanation, down through the Bio-Psychological to the socio-cultural forces that produce the individual offender or the situation of crime, and to the radical or even the Marxist perspectives, one common theme characterized them all: these explanations concentrate on the analysis of the individual offender or the forces that motivated his/her action (McDonald, 1975 cited in Amena, 2016).

The historical anomaly reverberates most of the present day research efforts in criminology. After all, theories serve important guides in empirical research, but research efforts into crime and criminality have relegated the victim to the background. According to the United States President's Commission on Law Enforcement and Administration of Justice, "one of the neglected subjects in the study of crime is its victim" (Marek, 1984). Odekunle (1979) reiterated this fact and further noted that governmental interests and efforts in general criminology usually precede or forerun those in victimology. These points to the fact that most research efforts in the area of criminology have consistently seen the victim as playing a

distinctively passive role (Amena, 2016). However, the victims and the criminals are the main parties in any crime situation. In other words, in realistic term, an understanding of both the criminals and the victims should be encouraged. The passive role accorded to the victim in the study and understanding of criminal phenomenon is further reinforced by the Criminal Justice System (CJS). A remarkable consensus of opinions demonstrates that contemporary justice administration both in the developed and developing worlds "are doing badly with crime victim" (Marek, 1984). Right from the gate-way of the Criminal Justice System – the police through the courts and correctional services, the victim is subjected to a near-total neglect. The victim is saddled with the task of playing a distinctively secondary role of mainly reporting crime. While police is required by law to treat the accused as innocent until proven guilty beyond all "reasonable" doubt by a court of law, these legal rights are denied the victim. The victim is completely at the merciful discretion of the law enforcement agents. In cases where the police decide not to effect an arrest, and prosecute or even to allow the offender to "plea bargain", the victims' rights to legal recourse are limited (Siegel, 2005). Victims are required by law to serve as principal witnesses in courts.

In fact, in some jurisdictions Goldstein (1984) cited in Amena (2016) posits that the victim is told that crime is an offence against the state and therefore, it is the business of the state to prosecute the offender on behalf of the victim. "Still in some jurisdictions, notably in Nigeria, while still suffering the effects of personal injuries, loss of property or both, the victim is legally bound to attend court sittings at his/her own expense. If, and when, the offender is convicted and sentenced accordingly, the victim does not benefit directly from either. In fact, by this development, the victim has lost two-fold, one in favour of the offender, and two in favour of the state" (Amena, 2016).

## **Conceptual Clarifications**

The black law Dictionary defines victim as:

"The person who is the object of a crime or tort, as the victim of robbery is the person robbed. Person who court determines has suffered pecuniary damage as a result of defendants criminal activities, that person may be individual, public or Private Corporation, government partnership or unincorporated association".

The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power define crime victim as:

"Persons who, individually or collectively have suffered harm, including mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal law operatives within the members' states".

A crime victim is a person who suffered anything as personal injury, death or loss or injury to personal or real property, as a result of crime. In legal context, crime victim is defined in the following ways:

- 1. A person who suffered direct or threatened physical, emotional or primary harm as a result of commission of crime.
- 2. An institution or entity that had suffered any of the same harm by an individual or authorized representative of another entity (Karmen, 1992). Basically, crime victim can be classified into primary, secondary and tertiary crime victim. "Primary crime" victims constitute those who suffered the direct or threatened harm/injury first. Secondary victims are those who experienced the harm second hand, such as intimate partners or significant others of the rape victims or children of battered woman. Tertiary crime victims experienced the harm vicariously such as through media accounts or from watching television (Karmen, 1992). The implication of this classification is that at any point in time, everyone is a victim of one crime or the other. Odekunle (1989) asserts that the population of victims is remote and diffuse, but refers to the generality of Nigerians.

## **Criminal Justice Issues**

Bohm and Haley (2002) described criminal justice system as both an institution and a system. The criminal justice system is essentially an instrument of social control; society considers some behaviour so dangerous and destructive that it either strictly controls their occurrence or outlawed them out-rightly (Siegel, 2005). Like the family, schools, organized religion, media and the law, criminal justice is an

instrument of social control. As an institution of social control, criminal justice is seen as "an organization that persuades people, through subtle and non-subtle means to abide by the dominant value of the society" (Bohm and Haley, 2002).

The subtle means of persuasion includes gossip, and peer pressure, whereas, expulsion and incarceration are examples of extra-judicial means. As an institution of social control, the criminal justice is said to differ from others in two important ways. First, the role of criminal justice is restricted officially to persuading people to abide by limited range of social values: those whose violation constitutes crime. Thus, although courteous behaviour is desired of all citizens, rude behaviour is of no concern to criminal justice, unless it violates the criminal law. Dealing with non-criminal rude is primarily the responsibility of the family. Secondly, criminal justice is generally the society's "last line of defense" against people who refuse to abide by dominant social values and commit crimes. Usually, society turns to criminal justice only after other institutions of social control have failed.

On the other hand, criminal justice is also seen as a "system". A system is usually viewed as an organized or complex whole, an assemblage or combination of things or parts forming – a complex or unitary whole. It is an entity which comprises of interconnected and interdependent parts which collectively constitute the whole, and still collectively work or function to ensure the maintenance and continuity of the whole system.

Based on this systemic idea or reality, criminal justice, as a system, is defined as a machinery which a criminal, or someone suspected to have committed a crime, is processed and subsequently disposed (Dambazau, 1999). The criminal justice system is responsible for the regulation and control of criminal behaviour. According to Dambazau (2007), criminal justice system is said to be valuable in two ways. First, that the system is an instrument of practical purposes, accountable for the sufficient and effective reduction of crime largely through distinct mechanisms, deterrence, incapacitation and rehabilitation. Secondly, the system is also an instrument of justice, as means of holding criminals accountable for their crimes, and simultaneously protecting their constitutional rights, which means that it is designed to produce justice (Amena, 2016).

# **Components of Criminal Justice System**

Basically, the police, the courts, and prison or correctional centre constitutes the major components or agencies of criminal justice system. To understand how the criminal justice system works, it is necessary to grasp the working relationships of all its agencies: the use, functions and decision making process of the police, the structures of the court system and how judges reach decisions; and the intricacies of penal institutions should be of great concern (Dambazau, 2007). Criminal justice agencies are the main actors in the fight against crime.

The Police are responsible for detecting crime and apprehending people who violate criminal law. They are the entry point of the criminal justice system, the Court decides guilt or innocence, and sentence those who are convicted or those who pleaded guilty while The Prison or Correctional centre carry out the sentence of the courts and rehabilitate criminals.

## **Problems of Crime Victims in Nigeria Criminal Justice Administration**

It is only in recent times that the role of the crime victim in the criminal justice system has risen into prominence. It is in this wise that there is plethora of studies in the world, especially in the developed societies, considering the victim's experience, his views and his attitudes. Yet this recent upsurge of interest is in many ways surprising. We have known for some time how vital the victim is to the operation of the criminal justice system. In a simplistic way, one might consider the system, and all the jobs and workings of the professionals within it as being built upon the actions of two people – the offender and the victim (Shapland, 1986). The number and types of cases entering the system and thereby providing the workload for the courts, prison service and the other conventional agencies, appear to be largely determined by the reporting behaviour of victims and witnesses, not action initiated by the police, Maguire (1982). Basically, there are two contradictory facets of the role of the victim – his practical importance and, in contrast, an ignorance of law ignoring of his attitudes and experiences by the professional in the criminal justice system. It is this paradox which is fundamental to our understanding of the victim's attitudes to the system. First and foremost, it is argued that victims of crime are significant to the criminal justice system in

the area of crime detection and reporting. In a study of victims of violent crimes, it was found that victims were vital in the reporting and investigation of cases and were also essential as providers of evidence for the courts (Sharpland, 1986). In the said study, between 31% and 41% of cases were found to be reported by the victim himself, while another 50% were reported by other civilians such as passers-by, neighbours, friends or those in charge of places where the offences happened. This high percentage of the involvement of others is probably due to the violent nature of the offence itself. Only 3% and 4% of cases were found discovered by the police. Indeed, the importance of victims to the reporting of crime has been shown in many studies (Amena, 2016). The English Royal Commission on Criminal Procedure (1981), has stated: the overwhelming majority of offences is not discovered by the police, but by the public (Fattah, 1986). Some studies also revealed that the victims are important not only in crime but also in detection of crime and offenders (Maguire, 1982; Shapland, 1986).

In the study of burglary victims and violent crime victims respectively, it is discovered that over 60% of cases were detected as a result of definite information (name or address) supplied by the victim. Another 8 to 13% were detected as a result of definite information supplied by the witness, while only 14 to 25% of detection was the result of police actions. However, this is not of course to deny a role for the police. Because without quick response by the police where victims have themselves been apprehended, the offender, or fast action, a name or address has been supplied, offenders would not be caught. The police may not be a major detection agency in these offences, but they are responsible for gathering evidence such that the offender, once caught, can be prosecuted. In addition Igbo (2006), has tried to summarize the role play or functions of crime victims in the criminal justice administration. He thus stated: The functions which victims perform are three-fold, to report the crime to the police, to assist the police in carrying out their investigations by providing vital information about the crime and the offender, and to assist the courts in prosecuting offender by providing witness testimony against accused persons (Igbo, 2006). These contributions are fundamental inputs into the criminal justice process, and they go a long way to determine the degree of success achieved by the criminal justice system in its crime prevention and control task. On the other hand, crime victim is said to be neglected or ignored in the criminal justice process.

A good demonstration of the treatment of the victims is expressed in the Mcbarnet (1984) observation of 105 cases in Scottish courts. The study, which has universal application, reveals that criminal trials take the form: 'State versus Offender'. It shows that the offence is treated as against the state rather than the victim. Thus, the state is not just the arbiter but the "victim." In short, the victim is just another witness and cannot appear unless called (Marek, 1984). The Nigerian Criminal Law treats the criminals as bad people who need to be punished and deterred. The approach is to immediately remove them from the community either by imprisonment or extermination (put to death) by the state. The idea is to clean the society of evil people. In short, the criminals are the focal subjects of the court, while the victims are marginalised and perhaps forgotten, except that they are needed as witnesses. Succinctly, the ideology is "Jail criminals – Forget the victims". In a study that involved 800 (400 males and 400 females) respondents drawn from category of respected Nigerians resident in Abeokuta, the state capital of Ogun State, on whether victims of robbery be compensated/remunerated, there is general agreement that victims should be remunerated/compensated, gender-wise, there are variations as to who should compensate the victims. More women than men feel that the state should compensate the victims (Amena, 2016).

The crime victims are not given that official recognition by the criminal justice system, just like their counterpart, the offender/victimizer. Dambazau (1999), maintained that "crime victim is an observer or a passive participant in the criminal justice process. He is always represented by the state, and as such acts as a prosecution witness. He is rarely consulted in any decision-making during the process. However, emphasis is so much laid on the rights of the accused, who enjoys some fundamental protection in order to ensure fair trial. The victim of crime does not enjoy such legal protection, and in fact, he is made vulnerable to other victimization whenever he stands as a prosecution witness."

This clearly reveals the fact that the legal process does not consider interests, rights, welfare, and all other needs of a crime victim which are usually informed by the impact of their victimization, but rather concentrates substantially on the needs and interests of the crime suspect or offender. In the criminal justice system, the victim has an ideological interesting position. In its early stages, the criminal justice system

may have been clearly victim-oriented (in offence with individual victims), but in today's industrialized countries, all the decisions on how to deal with offences, even those offences with individual victims, are regarded as the concern of the state; its prerogative and duty (Shapland, 1986). Evidently, all these treatments given to crime victims have certain significant impacts in the relationship between the crime victim and the criminal justice system. In a study of victims of rape, it was found that the victims rated the police high, only those that were disturbed about insensitive questioning and any attempt on the part of the police to regard the victim not as a person, but as evidence (Kelly, 1982). However, in the middle of the investigation, in the same study, the initial high level of victim satisfaction with the police started to decline. This was due largely to lack of information for which the police was blamed. By the end of the police and court process, there was a significant decline in satisfaction with the handling of the case by the police and also the decline in attribution of positive qualities to the police generally. In that case, the police was described as being less – efficient, less over – worked, more offensive, less fair, less bureaucratic, more crooked, and less helpful (Fattah, 1986). In the criminal justice process, the victims are always obsessed with the need for information. Victims will like to know whether the offender is caught, what the charges are, whether he is in custody or bail, when the court appearances would be, whether the victim would have to give evidence, whether the offender is convicted, and what the sentence are. The most important of these is however, the outcome, whether it is conviction and sentence or just that the offender has not be caught, the police have no further leads and are filing the case. Similarly, of the total victims of rape studied, 88% felt that they should have received notification of the result of the case. Criminal justice system can make more positive response to victims by keeping them better informed, and treatment of offender appropriately.

In Nigeria, despite plentiful and sufficient constitutional provisions, the criminal justice system in Nigeria seems to impose a mindless permissiveness towards the accused and the convicted criminal with the corollary of subordination to the rights of the victims, and it appears that for all intents and purposes they are overlooked. For example, Section 78 of the penal code provides thus:

"Any person who is convicted of an offence under this penal code may be adjudged to make compensation to any person injured by his offence and compensation maybe either in addition to or in substitution for any other punishment".

The procedure for enforcing award of compensation under section 78 of the penal code is governed by sections 304 and 367 of the criminal code which states:

"Any compensation adjudged to be payable under section 78 of the penal code and the payment of any money, other than a fine, payable by virtue of any order under this criminal procedure code, may be enforced as if it were a fine"

Since the compensation is to be enforced as if it were a fine, it is imperative to see the legal provisions for enforcing a fine. Sections 74 and 75 of the penal code provide concerning fine that:

"74, if an offence is punishable with a fine or with imprisonment and fine "the court may direct that in default of payment the offender be imprisoned for any term not exceeding the maximum fixed in the following scale... 75, where a fine is any part thereof remains unpaid, the offender or his estate, if he is dead, is not discharged from the liability to pay the fine or the unpaid part thereof not withstanding that, he has served the term of imprisonment in default of the payment of the fine".

From the legal provisions, the law sounds very serious about compensation and fine. Even death of offender does not excuse him/her from fine or compensation. His/her estate stands in; provided he/she was convicted before death occurred. On the other hand too, a jail term in default of fine or compensation, neither free the offender, his estate stands in after his jail term. Ironically, compensation of victims, which is specifically stated in our law books has surprisingly developed bottlenecks and is becoming almost impossible. If the role of victims as initiated at the discretion of police and court are possible, why not

more of the rights of victims (compensation) in the penal and criminal procedure codes as law of the land? (Amena, 2016).

#### Conclusion

From the foregoing, it is evident that victims are not fully given adequate consideration, despite the fact that they are one of the important elements and integral part of any crime and criminality. For any discussion on crime and criminal behaviour would be fragmentary without reference to the people who are affected by the crime in question. However, it is these significant elements, the crime victims that are mostly found to suffer a wanton neglect in the hands of the agencies of the criminal justice system. The crime victims are most found to be relegated to the background with reference to the criminal justice processes, all in the name of being represented by the state. While the state does not in any way, in practice, act as a true representative of the crime victims. The victims of crime suffer both physical harm and economic loses, but nothing is provided for them in terms of compensation. Based on the above, this paper therefore draw the attention of the criminal justice system as well as the government to the fact that crime victims are very significant as far as criminal justice administration is concern.

## Recommendations

- 1. The criminal justice system should be made in such a way that crime victims participate actively, not passively, in the adjudication of their cases. For this will give them sense of belonging and reduce their level of frustration.
- 2. Moreover, the criminal justice administration should endeavour to introduce some practical service programmes to the crime victims to ensure balance of treatment between the offender and the victim, by the criminal justice system.
- 3. Since offenders receive reformation and rehabilitation training, the victims should be provided with certain compensatory rehabilitative programmes. Because in addition to various financial needs, victims of violent crime, for example, may also require immediate or even long-term medical consideration as well as other forms of assistance. These needs are seriously recognized in paragraph 14 of the "United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power".
- 4. The declaration states that "victims should receive the necessary materials, medical, psychological and social assistance through government, voluntary organizations, community-based and indigenous means". Paragraph17 of the same declaration further emphasized that "in providing services and assistance to victims, attention should be given to those who have special needs because of the nature of the harm inflicted". Therefore government should efficiently allocate adequate resources to the criminal justice agencies (especially the police and the court), to ensure effective crime prevention and control as well as effective and reliable administration of criminal justice in this area.
- 5. Finally, attention must also be drawn to similar laws that are obsolete especially those concerning fines and compensations. For example, section 74 of the penal code after 55 years of independence still provides for fines and compensation in shillings and pounds. This is completely unacceptable.

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