

# COMPARATIVE ANALYSIS OF THE LEGAL AND INSTITUTIONAL FRAMEWORKS FOR VICTIM COMPENSATION IN NIGERIA AND UNITED KINGDOM

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## Abstract

Nigerian laws recently made provisions for victim compensation through statutes such as the Administration of Criminal Justice Act 2015. This is because, over the years, *Nigerian criminal justice system has, as a result of this however, become punitive and its operators have grown increasingly insensitive to the plight and distress of victims of violent crimes. This paper explores the adequacy or otherwise of the legal and institutional framework for victim compensation within the Nigerian criminal justice landscape in comparison with the United Kingdom. The paper adopts the doctrinal methodology by examining existing legislation, case laws and the legal regime in UK. The paper recommends for a major policy reform for a body fully dedicated to care and rehabilitation of victims of crimes other than focusing on punishment of the convict. The paper finds that UK have a more robust mechanism for ensuring victim compensation from which Nigeria should draw workable lessons from.*

**Keywords:** Institutional framework, Legal framework, Victims of crime, Victim compensation,

## 1.0 INTRODUCTION

A perusal of laws like the Criminal Code<sup>1</sup> and even the Anti-terrorism Act particularly highlight what has been said so far that little to zero attention has been given to Victim compensation in Nigeria.<sup>2</sup> The law courts in Nigeria have also not done well because of their adherence to technical justice. Thus, our law reports in Nigeria are replete with many instances where gruesome crimes were committed against persons but the supposed offenders went free due to failure by the police to conduct necessary investigation before coming to court, therefore leaving the victim without being assuaged in any form. Some jurisdictions have been able to ensure justice for victims of crime through robust and effective victim compensation mechanism or models.

As a result, on a daily basis, victims of crimes in Nigeria are agonizing for further justice due to the fact that incarceration or payment of fines or some other forms of punitive measures on the convict does not remove the stigma off the victim of crime depending on the nature of criminal act committed not only against the State but the victim as well. Hence, the tripod of justice for the accused person, the state is seemingly achieved but without adequate victim compensation, one leg of the tripod for the victim of crime will not be straightened through adequate compensation.

This paper therefore, examine the applicable legal and institutional framework for victim compensation in Nigeria as well as draw lessons from jurisdictions such as the United Kingdom among others. The paper ends with summary of its findings as well as relevant recommendations for further criminal justice reforms in favour of victim compensation in Nigeria.

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<sup>1</sup> Criminal Code Act, Cap C38 LFN 2004

<sup>2</sup> Samuel Idhiarhi, 'Appraisal of the Law on Compensation for Victims of Crimes In Nigeria's' A Thesis Submitted to the Faculty of Law University of Jos for the Award of PhD in Public Law, p 30.

## **2.0 LEGAL FRAMEWORK**

### **2.1 Domestic Legal Frameworks**

#### **2.1.1. The Constitution of the Federal Republic of Nigeria (as amended), 1999**

Primarily, the constitution is often referred to as the grundnorm from which all other laws and authorities in the country derive their authority.<sup>3</sup> In fact, it is the case that where an organ of government exercises legislative or executive might outside the confines of the constitution, such acts are readily declared ultra vires.<sup>4</sup> While this is a pragmatic truism, it is indeed a sad reality to learn that this hallowed grundnorm makes no direct provisions for victim compensation under the Nigerian criminal justice system, not minding the unrests orchestrated by violent assailants in numerous quarters of the country. To some scholars, one can only find support for victim compensation under the economic, social, and cultural rights enshrined in Chapter Two of the constitution.<sup>5</sup> This set of rights is termed the Fundamental Objectives and the Direct Principles of State Policy.<sup>6</sup> This provision provides that the welfare and security of the people of Nigeria shall always be the concern of the Nigerian government.<sup>7</sup>

This notwithstanding, the legislature has at various points passed some legislation that borders on victim compensation such as the Criminal Procedure Act, Criminal Code which may give inkling that they are now justiciable in our corpus juris.<sup>8</sup> These laws would be examined below.

#### **2.1.2. The Criminal Procedure Act, LFN 2004**

The Criminal Procedure Act before the enactment of the ACJA, was the principal statute regulating criminal procedure in the states under the former Southern regions of Nigeria. While it is the case that the enactment was expected to provide for criminal procedures necessary for obtaining swift justice in the southern region of Nigeria, it is rather surprising to learn that the Act had inadequate provisions for victim compensation but was more of an effort to ensure that witnesses and prosecutors are compensated for facilitating the prosecution of an offender. This is aptly illustrated by some of its provisions. For instance, the Act provides that where an individual appears before a court based on a warrant of summons to give evidence against another in respect of a crime for which that other person is being tried, the court may order the payment of the costs to such witness for his troubles and loss of time.<sup>9</sup> In other instances where the Act provides for compensation, it appears that victims were never intended but people accused of offenses. This is well illustrated by the provisions of section 256 of the Act. This section provides that if at any time an accused or two or more persons are accused of an offense and the court discharges one or both of them on the opinion that he considered the accusation against them to be false or even discharges any of them on such basis, then the court shall in such consequence order the payment of compensation to the accused in a sum that may not exceed twenty naira.<sup>10</sup>

#### **2.1.3. The Criminal Procedure Code LFN 2004**

The criminal procedure code was enacted by the House of Assembly of the Northern region in 1963 to regulate criminal proceedings in such regions. The criminal procedure code, unlike the Criminal Procedure Act of the southern region, provides more detailed provisions for victim compensation in

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<sup>3</sup> The Constitution of the Federal Republic of Nigeria (as amended) 1999, s 1.

<sup>4</sup> *Inajoku v Adeleke* (2007) 4 NWLR (Pt. 1025) 42

<sup>5</sup> Chike Okosa, 'A Jurisprudence for Operation of Crime Victims Compensation in Nigeria's Criminal Justice System' *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* [2022] (13) (2) 156.

<sup>6</sup> Constitution of the Federal Republic of Nigeria (as amended) 1999, Chapter II.

<sup>7</sup> *Ibid.* s 14.

<sup>8</sup> *Okosa* (n 105) 14.

<sup>9</sup> Criminal procedure Act LFN 2004, s 195.

<sup>10</sup> *Ibid.* s 256

such regions. The Act particularly provided that whenever the court is to impose a fine on an offender in accordance with the provisions of any law in respect of any offense committed, the court may also, in addition to such fines, order the offender to pay any sum in compensation, either in whole or in part, for the injury resulting from the offense committed by him.<sup>11</sup> Also, where it relates to the medical treatment of an injury arising from such an offense, the Act similarly mandates that in addition to any such fine paid by the offender on account of his conviction, he is also to pay such sums to be ordered by the court as compensation for the medical treatment associated with his injury to his victim.<sup>12</sup> Thus, it behooves as such that the Criminal Procedure Code of the north has better provisions for victim compensation other than what is obtainable under its counterpart in the south. However, there is still a redundancy in respect of the determination of a scale for payment in that the law leaves the amount payable under the discretion of the judge.<sup>13</sup> This notwithstanding, the code is preferred to the Criminal Procedure Act, which slated a maximum sum of N20.00, which is rather ridiculous in these modern times.<sup>14</sup>

#### **2.1.4. The Penal Code, LFN 1990**

Factually, reports have it that the provisions of the criminal procedure code are more widely used by victims and lawyers alike when invoking the jurisdiction of the courts for victim compensation claims. This is more sustained on the ground that the Criminal Procedure Code has more detailed provisions for victim compensation unlike the penal code. This notwithstanding, it does not obviate the fact that the Penal Code still has broad provisions for victim compensation under its dispensation. The Act provides, particularly and very generally at that, for victim compensation. This is well captured by the provisions of section 78 of the Penal Code. Here, the Code provides that a person who has been convicted of an offense under the code may be required to pay compensation to any individual who is injured by reason of his offense and to add that such compensation may be in addition to or in substitution for any other such punishment imposed on him by the Act.<sup>15</sup>

#### **2.1.5. Violence Against Persons (Prohibition) Act, 2015**

The Violence against Persons Act, enacted in 2015, is the principal statute regulating violent crimes in Nigeria. This Act is enacted with the intention to not just eliminate violence but also to provide effective remedies for victims of such violence, as well as make sure that offenders who perpetrate such crimes get the requisite punishments deserving of their level of violence.<sup>16</sup> Among the list of crimes for which the Act provides compensation for is rape.<sup>17</sup> Despite the Act positioning itself as a key piece of legislation providing victims with effective remedies, the Act failed to provide specific of general amount regarding compensation that an offender must pay for the performance of the violent crime. The Act only provides that the court is to have the sole discretion to award any such compensation that they feel are due, especially as arising from the circumstances of the case.<sup>18</sup>

#### **2.1.6. Administration of Criminal Justice Act, 2015**

Presently, the ACJA is the most victim-friendly enactment in Nigeria as far as victim compensation is concerned. The Act was enacted to ensure the promotion of efficiency in the criminal justice system of Nigeria, and as such, victims' compensation is one of the innovations introduced by it. The ACJA,

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<sup>11</sup> Ibid. s 365.

<sup>12</sup> Ibid. s 365 (1) (d).

<sup>13</sup> Ibid. s 166.

<sup>14</sup> Ibid. s 256.

<sup>15</sup> The Penal Code LFN 1990, s 78.

<sup>16</sup> D. Gloria Shajobi-Ibikunle and Rahmat Muhammad Kassim, 'Domestic Violence: A Critical Review of the Violence Against Persons Prohibition Act (VAPP) 2015' (Springer, 19 October 2023) <[https://link.springer.com/referenceworkentry/10.1007/978-3-030-85493-5\\_2175-1](https://link.springer.com/referenceworkentry/10.1007/978-3-030-85493-5_2175-1)> accessed 11 May 2025.

<sup>17</sup> The Violence Against Persons (Prohibition) Act 2015, s 1.

<sup>18</sup> Ibid. s 1(3).

in its enactment in 2015, was passed to repeal the provisions of the earlier analyzed Criminal Procedure Code and Criminal Procedure Act. Nevertheless, the ACJA still preserves the criminal procedures that were previously in place and only makes them stronger with its comprehensive additions.<sup>19</sup> This means that the ACJA would be relied upon to fill in the gaps left by these enactments. This no doubt, is why they were also analyzed.

To start with, the Act provides that regardless of what may be the jurisdiction of any court, criminal or civil-wise, every court shall have the power to award compensation to a victim whilst still handing down judgment on an accused.<sup>20</sup> The court, as well, is also given the power to order such compensations, especially where there is a need to defray any expenses incurred by the medical treatment of any injury associated with the defendants' violence.<sup>21</sup> The fact that the court can always uphold a compensation order even in the absence of any other fine imposed on an accused person is what makes the ACJA's provisions so impressive.<sup>22</sup> More to add is the fact that any such ordered compensation can be enforceable in the same way a fine is enforced in a civil suit.<sup>23</sup>

### **2.1.7. The Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015**

Unlike most previously analyzed enactments, the TIPPEAA is one of such regulatory frameworks in Nigeria, enhancing the compensation of victims of human trafficking arising from physical, economic, or psychological harm associated with such activities of trafficking and, to add, regardless of the victim's immigration status.<sup>24</sup> What even makes the TIPPEAA more welcoming is the fact that it embodies all that is wished, especially for other enactments like the VAPPA and ACJA, to mention but a few. For instance, it provides for the establishment of a trust fund from which victims of human trafficking can be compensated as a result of any harm suffered from the trafficking process or activities.<sup>25</sup> Aside from this as well, a trafficked victim is further empowered after the criminal trial of the trafficker to bring a civil suit against the trafficker as well as any other public officer who abused the victim while being trafficked.<sup>26</sup>

## **2.2. Sub-national Domestic Laws**

This part of the paper would be analyzing the state laws regulating victim compensation in Nigeria. Particularly, an attempt would be made to peruse the administration of criminal justice laws of at least one state in each of the geopolitical zones of Nigeria. The goal is to ascertain if there is any substantial impact or divergence with the provisions of the ACJA, which is a federal enactment.

### **2.2.1. The Adamawa State Administration of Criminal Justice Law, 2018**

The Adamawa State Administration of Criminal Justice Law was passed in 2018 by the Adamawa State House of Assembly to aid the administration of criminal justice in the state. The provisions and procedures here, in respect of victim compensation, do not differ from those that have already been encountered. This includes the fact that the Adamawa State High Courts are to have unlimited civil and criminal law jurisdiction in respect of making orders for compensation against a defendant, in addition to their power to hand down a judgment over such a defendant.<sup>27</sup>

Aside from these general provisions on jurisdictional power to order compensation, the courts are also vested with the power to order compensation specifically for any physical injury associated with

<sup>19</sup> The Administration of Criminal Justice Act 2015, s 493.

<sup>20</sup> Ibid. s 314.

<sup>21</sup> Ibid. s 319 (1) (c).

<sup>22</sup> Ibid. s 319 (3).

<sup>23</sup> Ibid. s326.

<sup>24</sup> The TIPPEAA 2015, s 65.

<sup>25</sup> Ibid, s 67.

<sup>26</sup> Ibid. s 100.

<sup>27</sup> The Adamawa State Administration of Criminal Justice Act 2018, s 315.

the offence of an accused, and it is immaterial whether or not the court has imposed any fine or sentence on such an accused.<sup>28</sup> The law does not mention compensation for any other form of injury apart from physical injury.

### **2.2.2. Kogi State Administration of Justice Law, 2019**

The Kogi State Administration of Criminal Justice Law comes up as the ultimate ACJL to be analyzed in this segment of the paper. Passed in 2019, clearly four years after the ACJA, the ACJL in Kogi shares the same provisions with all other state enactments on the administration of criminal justice that has been analyzed in this chapter. As is obtainable in other states, the ACJL in Kogi provides that the courts in the state, irrespective of the limits of their criminal and civil law jurisdiction, are still vested with the jurisdictional competence to award compensation to individuals even when delivering judgments against a defendant.<sup>29</sup> As has been revealed from the examination of other state Administration of Criminal Justice Law, it is also not surprising that the courts can always call for evidence to aid them in evaluating the quantum of compensation to be ordered as payable by a defendant, based on the peculiar circumstances of each case.<sup>30</sup> Notwithstanding these general provisions on jurisdictional competence to order compensation, the ACJL in Kogi upholds the fact that a court can, while passing judgment, require a defendant to pay some sums as compensation in respect of any injury associated with the offence or even in respect of the economic loss of the victim where the offence has to do with a defective title in a property.<sup>31</sup> Also, the court can always make an order in respect of this particular provision even if no punishment was meted out to the defendant as punishment for his offence.<sup>32</sup>

### **2.2.3. The Lagos State Administration of Criminal Justice Law, 2015**

Lagos State's Administration of Criminal Justice Law (ACJL) was originally passed first in 2011 and then again, in 2015 to tally with the provisions of the ACJA 2015. Therefore, it is important to note that the provisions of these enactments, as well as those of other enactments that have already been analyzed, do not differ significantly from one another. To start with, the Lagos State ACJL is more inclined towards compensating falsely accused defendants who have been imperiled on the account of the unmeritorious charges against them, and not strictly revolving around victims imperiled by crimes of others, especially those involving violence.<sup>33</sup> This is because, the law provides that where the court discharges or acquits an individual who has been summoned based on a warrant issued in favor of a complainant or a private prosecutor, the court may order the prosecutor to pay to such individual the amount of money deemed by the court, which may also mean any sum taken from such accused.<sup>34</sup> This provision appears to be ingrained in the fact that no charge was found sustainable against such an individual. This provision is also applicable where an individual is charged with a vexatious or false charge. In this regard, the law states that the court may order the private prosecutor to pay to the defendant such sum as the court may determine. This no doubt is to pacify the defendant whose liberty was tempered with on account of a false charge.<sup>35</sup>

### **2.2.4. The Kano State Administration of Criminal Justice Law, 2019**

Just as applicable in the ACJA, under the Kano State Administration of Criminal Justice Law, a court, regardless of its criminal or civil law jurisdiction, has power when delivering its judgment, to award compensation in the form of monetary damages to a victim.<sup>36</sup> To add, the court, while

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<sup>28</sup> *Ibid.* s 320.

<sup>29</sup> The Kogi State Administration of Criminal Justice Law 2019, s 312.

<sup>30</sup> *Ibid.* s 312 (2).

<sup>31</sup> *Ibid.* s 317 (1).

<sup>32</sup> *Ibid.* s 317 (3).

<sup>33</sup> The Lagos State Administration of Criminal Justice Law 2015, s 286.

<sup>34</sup> The Lagos State Administration of Criminal Justice Law 2015, s 285 (1).

<sup>35</sup> *Ibid.* s 286.

<sup>36</sup> *Ibid.* s 315.

determining the quantum of compensation payable to a victim in this regard, may always call for additional evidence to enable it to assess the quantum of compensation to be awarded to an individual.<sup>37</sup> It thus appears that this provision applies to give jurisdictional competence to all high courts and magistrate courts in respect of an order for compensation. This is because, the Act subsequently progressed to later sections to provide that while passing its judgment and irrespective of any other punishment or fine imposed on a convict, the court can still order the accused person to pay compensation to any other individual who is offended by his offense if substantial compensation is, in the opinion of the court, recoverable by civil suit.<sup>38</sup>

### **2.2.5. The Enugu State Administration of Criminal Justice Law, 2017**

The Enugu State Administration of Criminal Justice Law is not left out in the list of state laws with requisite provisions on victim compensation in the administration of criminal justice in the states of Nigeria. A perusal of the ACJL also reveals the same or similar provisions already examined as above. To start with, the law recognizes the fact that the courts can, while passing their judgment, order a convicted person or any other individual to pay a sum of money as compensation to another where such other person incurs injury as a result of the offense of the convicted.<sup>39</sup> Just as revealed in the perusal of other state laws, this sum to be ordered as compensation is to be satisfied irrespective of any other term or fine to be imposed on the defendant by the court.<sup>40</sup> It is requisite to note that it is not only individuals imperiled by physical hurts of an accused that can take benefit of this section. The Enugu State ACJL similarly provides that an individual who suffers economic harm as a bona fide purchaser of value without notice can still take benefit of the provisions of this section where he is compelled to give up possession as a result of the restitution of such property to the individual with a better title.<sup>41</sup> However, the law does not mention any form of compensation for psychological harm.

### **2.2.6. The Rivers State Administration of Criminal Justice Law, 2015**

The Rivers State ACJL came into existence the same year the ACJA was passed, which was in 2015. The law has almost the same provisions in respect of justice administration as regards victim compensation, just as illustrated above. To start with, the law provides first that the jurisdiction of the courts, whether high courts or magistrate courts, is unlimited in respect of an order for compensation, as the court can, while awarding its judgment, similarly award compensation to any person, which is to be satisfied by the defendant.<sup>42</sup> As a further ado to this, the law also maintains, just as other statutes already examined, that the courts can always call other evidence when it is to determine the quantum of compensation it is to order in favor of the person for whom such compensation is in benefit of.<sup>43</sup>

## **3.0 INTERNATIONAL REGULATORY FRAMEWORK(S) REGULATING VICTIMS COMPENSATION IN NIGERIA**

This ambit of the paper would be seeking to analyze international commitments which Nigeria is a signatory to that seeks to complement its domestic frameworks on victims' compensation. Nigeria is yet to sanction some of these enactments in their corpus juris. This leaves us with just the African Charter which only but applies indirectly. As such, the African Charter would be looked into, below.

### **3.1. African Charter on Human and People's Right, 1981**

The African Charter, no doubt, is the first regional framework in Africa to categorize rights into economic, social, and political rights. Though victim compensation is not by any means directly

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<sup>37</sup> Ibid. s 315 (2).

<sup>38</sup> Ibid. s 320.

<sup>39</sup> The Enugu State Administration of Criminal Justice Law 2017, s 440 (1) (a).

<sup>40</sup> Ibid. s 440 (3).

<sup>41</sup> Ibid. s 440 (1) (b).

<sup>42</sup> The Rivers State Administration of Criminal Justice Law 2015, s 321(1).

<sup>43</sup> Ibid. s 321(2).

provided for under the charter as it is done in our domestic frameworks, it makes a provision relating to compensation for property due to undue disposition.<sup>44</sup> The charter as such provides that dispossessed victims who lost their properties during spoliations are entitled to recovery of such properties as well as to a right to adequate compensation.<sup>45</sup> It has been argued by some scholars that this provision would always come in handy where victims are dispossessed of their properties on account of fraudulent conduct or criminal perpetuation of an offender, in that the charter recognizes a victim's right to own a property as one of his socio-economic and individual rights guaranteed by the charter.<sup>46</sup> However, where this is accepted, the charter is still silent on the determination of the requisite compensation for which such victims are to pay when a victim makes a claim for compensation under the charter.<sup>47</sup> All these foreground the need for an improvement in the lots of the legal frameworks regulating the subject matter in Nigeria.

### **3.2. INSTITUTIONAL FRAMEWORK REGULATING VICTIMS COMPENSATION IN NIGERIA**

It is requisite to mention that Nigeria does not have any agency established pursuant to an enactment for the purposes of overseeing victim compensation in the Nigerian criminal justice system. However, recourse would be made to institutions who, by virtue of their calling, exercise a level of oversight over victim compensation and the administration of justice generally in Nigeria.

#### **3.2.1. The Judiciary**

The judiciary is at the forefront of the administration of justice in the Nigerian criminal justice system. Their role is strengthened by the provisions of section 6 of the constitution,<sup>48</sup> which creates them, as well as the provisions of section 46 of the constitution,<sup>49</sup> which vests them as the competent authority wherein an individual who alleges that his rights have been violated can seek redress.<sup>50</sup> As such, various laws, as already reviewed, have, in recognition of this section, provided salient roles that the judiciary is to spearhead when administering justice in Nigeria. For instance, under the already reviewed criminal procedure code, the courts are expected to award compensations to victims of crime if such is necessitated in the interest of justice, aside from the imposition of any other punishment or fines associated with the offense of an offender.<sup>51</sup> It is requisite to note that, minding that the CPC has been repealed by the VAPPA in 2015, this role of the court as itemized in the provisions of the Criminal Procedure Code is still relevant in that the ACJA sustains all procedures under the Criminal Procedure Code and the Criminal Procedure Act.

An authority that came after the enactment of the ACJA and the VAPPA was the popular *Osimibibra Warmate v. Senator Elisha Abbo*,<sup>52</sup> which happened in 2020, five years after the ACJA and VAPPA. The facts had it that the highly revered Senator Elisha severely assaulted the claimant in a sex toy shop for reasons attributed to a mere outburst between the parties. This occurred shortly after the election of the senator to the National Assembly. The CCTV footage reviewed gory physical assaults that sustained the claimant with numerous physical injuries. The claimant, taking benefit of the provisions of the ACJA and VAPPA, first instituted a criminal action against the senator, which failed for lack of diligent prosecution. It was in this regard that the claimant brought the civil action, claiming not just

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<sup>44</sup>The African Charter on Human and People's Rights 1981, article 21.

<sup>45</sup>*ibid.*

<sup>46</sup> Iheanyichukwu Achumba, Salome Ighomereho and Akpor-Robaro, 'Security Challenges in Nigeria and the Implications for Business' *Journal of Economics and Sustainable Development* [2013] (4) (2) 23.

<sup>47</sup> *ibid.*

<sup>48</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended), s 6.

<sup>49</sup> *Ibid.*, s 46.

<sup>50</sup> *Ibid.*

<sup>51</sup> Criminal Procedure Code LFN 2004, s 365

<sup>52</sup> Unreported: (FCT/CV/239/19/2020, Federal High Court Maitama Judicial Division, 28 September 2020).

severe violence as against the provisions of VAPPA and ACJA but also a violation of her fundamental human rights. The court found the defendant senator liable and ordered him to pay a compensation of fifty million naira in damages to the claimant. While this is quite commendable, this authority shows that the courts are yet to dutifully take benefit of the provisions of the ACJA in its full vestiges. This is because the ACJA provides for the payment of compensation even different from any required fine. However, it does appear that the court awarded the N50 million sums as both compensation and a fine, as the records of judgment show that the payment was said to be both fine and compensation awarded against the Senator in damages. Summarily, while the court's activism is lauded, a much more thorough utilization of all the provisions of the ACJA and VAPPA is recommended for better benefits to crime victims, especially violent crimes.

### **3.2.2. The Nigerian Police Force**

The Nigerian Police Force is an institution that still stands crucial in regard to victims and their quest to gain justice in Nigeria. Though the Police Act,<sup>53</sup> which established them, gave them no role relating to the determination or payment of compensation by any amount to victims in Nigeria for any injury associated with crimes, they verily play a role in the rehabilitative bid of victims beyond their primary role of preserving order in the country. It is in recognition of this that the Violence against Persons Prohibition Act provides certain roles for the police in respect of victims of crimes.<sup>54</sup>

Some of these roles include assisting victims in being transported to a medical facility for urgent medical treatment; aiding them in activating the jurisdiction of the courts through filing a complaint for the prosecution of assailants,<sup>56</sup> as well as the consequent need for compensation of their victims; and making the victims aware of their numerous rights under the provisions of the Act, which include seeking compensation, to mention but a few.<sup>57</sup>

## **4.0 COMPARATIVE ANALYSIS OF SELECTED JURISDICTIONS**

This ambit of the paper will make a comparative analysis of one carefully selected jurisdiction, as it relates to the regulatory frameworks for victim compensation. In this regard, the United Kingdom is selected. To avoid jurisdictional bias, this choice is predicated on the often-discovered similarity of a legal system shared between the UK and Nigeria. This, no doubt, is associated with the legal transplantation of a *corpus juris* inherited by Nigeria from the United Kingdom.

### **4.1. The United Kingdom (UK)**

In 1963 and 1964, New Zealand and Great Britain adopted the first modern crime compensation programs. These programs compensate for injury and death caused by a criminal attack upon an innocent victim. Cutting into the chase, the United Kingdom's bid to have a viable system of laws for victim compensation can be first traced to its status as a signatory to the European Convention on the Compensation of Victims of Violent Crimes.<sup>58</sup> This convention, which was entered into force on the 1st of February 1988, was called up to be a response against the numerous cases of violent crimes in the various member nations of the European Union, which left victims nearly incapacitated to lead a normal life. Thus, the convention was a clarion call on members to designate a state policy through which member states can step in and rehabilitate such victims with a robust compensation beyond what their (victims) basic means could fetch them.<sup>59</sup> Particularly, the convention provides that state

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<sup>53</sup>Nigeria Police Act, 2020.

<sup>54</sup>Violence Against Persons (Prohibition) Act 2015, s 32.

<sup>55</sup>The Violence Against Persons (Prohibition) Act 2015, s 32 (1) (a).

<sup>56</sup>*Ibid.* s 32 (1) (f).

<sup>57</sup>*Ibid.* s 32 (1) (d).

<sup>58</sup>Council of Europe, European Convention on the Compensation of Victims of Violent Crimes (adopted 24 November 1983, entered into force 1 February 1988) ETS NO 116.

<sup>59</sup>Laura Begley (ed), *Criminal Injuries Compensation Claims* (2<sup>nd</sup> edn, The Law Society 2012).

parties must undertake to take necessary steps to ensure that where compensation is not available from other sources, the states would provide compensation to victims of violent crimes who suffer severe physical injuries or impairment of health as a result of any such violent crimes.<sup>60</sup> It is in respect of honoring this commitment that the Criminal Injuries Compensation Act of the United Kingdom, came about.<sup>61</sup>

Under this Act, the United Kingdom's government established the Criminal Injuries Compensation Scheme to serve as a blueprint through which victims of violent crimes are to be compensated.<sup>62</sup> The scheme as such contains provisions on the circumstances in which the authority can reduce or withhold compensations,<sup>63</sup> the time frame within which a claim for compensation can be made,<sup>64</sup> as well as a right of appeal against decisions made by the compensation authority in pursuance of the compensation scheme.<sup>65</sup> Before delving into the detailed provisions of the scheme, it is requisite to mention that the scheme in itself is not a statutory instrument or enactment in the strict sense but, however, a blueprint through which the state makes tariff-based compensation to victims of violent crimes on an *ex gratia* basis. The UK Home Office has stressed that extending compensation to such victims through public funds is the only means through which the state can express sympathy for their plight.<sup>66</sup> This particular motive itemizes the fact that the scheme is operable because of a public trust fund through which the states extend their sympathy to such victims. Going by lessons from the previous chapter, this is unlike the situation in Nigeria, where the court depends on the imposition of fines on the accused to compensate a victim.<sup>68</sup> The legislations on Victim Compensation in the United Kingdom will be examined below.

#### **4.1.1 Criminal Injuries Compensation Act 1995**

The Criminal Injuries Compensation Act 1995 is a key legislative instrument in the United Kingdom that provides a statutory framework for compensating victims of violent crime. The Act is central to the Criminal Injuries Compensation Scheme (CICS), which serves as the mechanism through which individuals who have suffered physical or mental injury as a result of violent crime may receive financial compensation from the state.<sup>69</sup> Rooted in the broader objectives of criminal justice and social welfare, the Act recognizes the state's moral obligation to support innocent victims who suffer harm due to criminal conduct.<sup>70</sup>

Eligibility for compensation under the 1995 Act is subject to strict conditions. A person must have sustained an injury that is directly attributable to a violent crime committed in Great Britain.<sup>71</sup> This

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<sup>60</sup>Convention on the Compensation of Victims of Violent Crimes 1983, art 1.

<sup>61</sup>The Criminal Injuries Compensation Act, 1995

<sup>62</sup>Ibid. s 2.

<sup>63</sup>Ibid. s 3 (1) (b) & (f).

<sup>64</sup>Ibid. s 3 (1) (a).

<sup>65</sup>Ibid. s 5.

<sup>66</sup>Scottish Home Office, *Compensating Victims of Violent Crimes: Changes to the Criminal Injuries Compensation Scheme, 1993* (Cm 2179, 1993)

<[https://assets.publishing.service.gov.uk/media/5a74c563e5274a3cb28670bd/2434.pdf&ved=2ahUKEwiBg6\\_pbuMAxUQYEEAHTMTJmcQFnoECB4QAQ&usg=AOvVaw1scnhV7zFvih3H2aAlUFqT](https://assets.publishing.service.gov.uk/media/5a74c563e5274a3cb28670bd/2434.pdf&ved=2ahUKEwiBg6_pbuMAxUQYEEAHTMTJmcQFnoECB4QAQ&usg=AOvVaw1scnhV7zFvih3H2aAlUFqT)> Accessed 3 April 2025.

<sup>67</sup>ibid.

<sup>68</sup>See for instance, the provisions of the Administration of the Criminal Justice Act 2015 s 314 & 319, where the courts order compensation through imposition of fines of offenders, though separate from fine imposed as punishments for their crimes.

<sup>69</sup>Criminal injuries compensation: a guide' (Gov.UK, 1 May 2025) <<https://www.gov.uk/guidance/criminal-injuries-compensation-a-guide>> accessed 11 May 2025.

<sup>70</sup>Ibid.

<sup>71</sup>David Miers, 'Compensating deserving victims of violent crime: the Criminal Injuries Compensation Scheme 2012' (Cambridge, 2 January 2018) <<https://www.cambridge.org/core/journals/legal-studies/article/abs/compensating-deserving-victims-of-violent-crime-the-criminal-injuries-compensation-scheme-2012/64DB9F1944DAF1CF3E2CC54D6FB03B17>> accessed 11 May 2025.

includes acts such as assault, sexual abuse, and domestic violence. It also covers certain secondary victims, such as individuals who witness traumatic incidents or are bereaved as a result of homicide. Notably, the Scheme under the Act does not require a conviction; what matters is whether, on the balance of probabilities, the injury was caused by a crime of violence.<sup>72</sup> This civil standard of proof distinguishes it from the criminal trial process.

However, the compensation system under the Act is not without limitations. The award is subject to a tariff-based structure, meaning that injuries are classified and assigned predetermined compensation amounts, reducing discretion and ensuring consistency.<sup>73</sup> While this promotes administrative efficiency, critics argue that it may not fully reflect the individual nuances of victims' experiences or the long-term consequences of their injuries.

Importantly, the Act and the Scheme it supports also extend recognition to psychological harm, acknowledging that not all injuries are physical. Victims of sexual violence or those who witness traumatic events can receive compensation for mental injuries, provided they can demonstrate a medically recognized psychiatric condition arising directly from the incident.<sup>74</sup>

#### **4.1.2 Criminal Injuries Compensation Authority (CICA)**

The Criminal Injuries Compensation Authority (CICA) is a government agency in the United Kingdom tasked with administering the Criminal Injuries Compensation Scheme (CICS), which provides financial compensation to victims of violent crime. Established in 1996 as the successor to the Criminal Injuries Compensation Board, CICA operates under the framework provided by the Criminal Injuries Compensation Act 1995. It plays a pivotal role in acknowledging the harm suffered by innocent victims of criminal acts and serves as a key component of the UK's victim support system. The fundamental philosophy behind CICA's work is the recognition that victims of crime should not be left to bear the consequences of injuries—physical or psychological—sustained through no fault of their own.<sup>75</sup>

CICA assesses and awards compensation based on a tariff system that assigns fixed monetary values to a wide range of physical and mental injuries. These tariff levels, reviewed periodically, are intended to bring consistency and efficiency to the compensation process, although they have also attracted criticism for being inflexible and sometimes failing to capture the unique nature or long-term impact of specific injuries.<sup>76</sup> The agency considers claims for injuries such as stab wounds, sexual assault, fractured bones, and psychiatric trauma. It also considers bereavement damages, funeral expenses, and loss of parental services for family members of homicide victims.<sup>77</sup> While CICA does not require a criminal conviction for compensation to be granted, it must be satisfied that the applicant was a victim of a crime of violence, and this is assessed on the balance of probabilities rather than the stricter criminal standard of beyond reasonable doubt.<sup>78</sup>

CICA also administers awards for mental injuries, which must be medically diagnosed and typically stem from witnessing a violent incident or being closely connected to a victim who suffered serious

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<sup>72</sup>Ibid.

<sup>73</sup>Christian Günther, 'Compensating Injuries Through the British Welfare State: Arriving at a Coherent System of No-Fault Compensation' (2023) 7 *Max Planck Institute for Social Law and Social Policy Research Paper* 1.

<sup>74</sup>Ibid.

<sup>75</sup>Dennis Foster, *Claiming on the Criminal Injuries Compensation Board* (2nd edn, LexisNexis UK 1997).

<sup>76</sup>James Megarry, 'The Supreme Court Hands Down Definitive Guidance On Calculating Damages In 'Mixed' Claims: *Hassam & Anor v Rabot & Anor* [2024] UKSC 11' (7BR, 5 April 2024) <<https://www.7br.co.uk/2024/04/the-supreme-court-hands-down-definitive-guidance-on-calculating-damages-in-mixed-claims-hassam-anor-v-rabot-anor-2024-uksc-11/>> accessed 11 May 2025.

<sup>77</sup>Ibid.

<sup>78</sup>Ibid.

harm or death. Claims of this nature require substantial documentation, including medical reports and sometimes confirmation from psychiatrists or psychologists.<sup>79</sup> In all cases, CICA emphasizes documentation and evidence as critical to a successful claim. The process, though designed to be accessible, is often perceived as bureaucratic and lengthy, with some victims finding it emotionally taxing to relive traumatic experiences through paperwork and interviews.<sup>80</sup>

CICA's operations are funded by the Ministry of Justice, and its work is situated within the broader context of the UK's criminal justice and victim support policies. It works in parallel with other support services, including Victim Support and specialized charities, although its role is primarily financial rather than therapeutic or advisory.<sup>81</sup> Nonetheless, its significance cannot be understated, as for many victims, especially those without private means or legal recourse against offenders, a CICA award represents the only tangible acknowledgment of their suffering.

#### **4.1.3 Comparative Analysis of the Legal Framework in Nigeria and the United Kingdom**

Victim compensation represents a key component of criminal justice systems around the world, reflecting society's commitment to alleviating the harm suffered by victims of crime. Both Nigeria and the United Kingdom recognize the importance of compensating victims for the losses and trauma they experience, but the legal frameworks and institutional arrangements for doing so differ in significant ways.

In Nigeria, victim compensation is still evolving. Although the Nigerian legal system provides for restitution and compensation within its criminal procedure laws, the implementation is far from systematic. The primary legal foundation can be found in the Criminal Code Act, Penal Code, and Administration of Criminal Justice Act (ACJA) 2015. Section 319 of the ACJA permits a court to order the payment of compensation to victims of crime in appropriate circumstances.<sup>82</sup> Similarly, under the Nigerian Constitution, particularly section 6(6)(b),<sup>83</sup> courts have the authority to entertain civil claims which may include claims for compensation. However, in practice, compensation awards are infrequent and inconsistently applied. Courts tend to focus more on punishing offenders than on ensuring that victims are restored to their previous state as much as possible.<sup>84</sup>

Additionally, the Victims of Trafficking and Violence (Protection) Law and the Violence Against Persons (Prohibition) Act (VAPP) 2015 have incorporated provisions for victim compensation. Under the VAPP Act, victims of domestic violence and sexual abuse can apply for compensation through the National Agency for the Prohibition of Trafficking in Persons (NAPTIP). Yet, despite these legislative provisions, the absence of a national compensation scheme specifically designed and funded to aid victims across the board remains a significant gap. The responsibility often falls on the offender, and if the offender is indigent or remains unidentified, the victim may never receive any form of redress.<sup>85</sup>

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<sup>79</sup>'Can you claim CICA compensation for psychological injury?'(CICA, ,17 September 2024) <<https://cica-criminal-injury-uk.com/can-you-claim-cica-compensation-for-psychological-injury/>> accessed 11 May 2025.

<sup>80</sup>'What is CICA Compensation for Psychological Injuries' (ConciseMedico, 26 July 2024) <<https://concisemedico.co.uk/blogs/cica-psychological-injury-claims/>> accessed 11 May 2024.

<sup>81</sup>Greg Oxley and Francesca Cooney, 'Criminal Injuries Compensation for Criminal Injuries' (House of Commons Library, 25 April 2025) <[https://commonslibrary.parliament.uk/research-briefings/cdp-2025-0085/#:~:text=The%20Criminal%20Injuries%20Compensation%20Scheme%20\(CICS\)%20is%20a%20state%20scheme,Ministry%20of%20Justice%20\(MoJ\).](https://commonslibrary.parliament.uk/research-briefings/cdp-2025-0085/#:~:text=The%20Criminal%20Injuries%20Compensation%20Scheme%20(CICS)%20is%20a%20state%20scheme,Ministry%20of%20Justice%20(MoJ).>)> accessed 11 May 2025.

<sup>82</sup> Administration of Criminal Justice Act 2015, s 319.

<sup>83</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended), s 6(6)(b).

<sup>84</sup> Chikodi Gideon Samuel Elendu and Beatrice Nkechi Okpalaobi, 'Reforming Nigeria's Criminal Justice System through Compensation for Victims of Crimes: Challenges, Gaps, and the Way Forward' (2025) 1 (9) *African Journal of Law and Human Right* 48.

<sup>85</sup>Ibid.

Conversely, the United Kingdom has a long-established and more structured victim compensation regime. The foundation of this regime is the Criminal Injuries Compensation Scheme, which was first introduced in 1964. The current Scheme operates under the Criminal Injuries Compensation Act 1995 and is administered by the Criminal Injuries Compensation Authority (CICA).<sup>86</sup> This scheme is publicly funded and is designed to compensate blameless victims of violent crimes, including sexual assault, physical assault, and mental trauma arising from these incidents.<sup>87</sup> Unlike Nigeria, where compensation is often dependent on the outcome of a criminal trial or the financial capacity of the offender, the UK's system places the burden of compensation on the state. Victims are not required to sue the offender or prove their guilt beyond reasonable doubt; instead, they must meet eligibility criteria and demonstrate that they have suffered harm directly resulting from a criminal act.<sup>88</sup>

The compensation awarded under the UK scheme is calculated based on a tariff system that outlines fixed amounts for various types of injuries. In addition to compensation for physical and psychological injuries, the scheme also provides for loss of earnings, special expenses, and bereavement damages.<sup>89</sup> While the scheme does have eligibility limitations and has faced criticism for bureaucratic delays and restrictive provisions, it nonetheless provides a reliable and institutional means of redress that is largely absent in Nigeria.

Another point of contrast lies in the recognition of victims' rights within the justice systems of both countries. The UK has adopted a more victim-centered approach, particularly after the enactment of the Victims' Code which outlines a set of entitlements for victims of crime. It ensures that victims are treated with dignity, are given timely information, and have access to support services including compensation. Victims in the UK are entitled to updates on the progress of investigations, the prosecution of offenders, and decisions related to parole. This comprehensive support system reflects a broader commitment to victim welfare that goes beyond financial compensation.<sup>90</sup>

Nigeria, on the other hand, has made progress in legal reforms such as the ACJA and the VAPP Act, but practical enforcement and support mechanisms remain inadequate. Most victims are not informed of their right to seek compensation and legal aid is often unavailable. The criminal justice process in Nigeria is largely offender-focused, and victims are frequently left out of decisions that affect them directly. Without institutional support and accessible procedures, victims struggle to engage with the system or to obtain compensation.

The Institutional architecture in the United Kingdom also facilitates access to compensation through well-developed structures like victim support services, legal aid, and advocacy groups that assist victims in filing claims and navigating the legal process. Nigeria lacks comparable structures on a national scale. While non-governmental organizations sometimes step in to fill this void, their reach and capacity are limited.<sup>91</sup>

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<sup>86</sup>Damian Wayne Williams, 'Right vs Entitlement: Criminal Victim Compensation in the UK' (Research Gate, 13 February 2018) <<https://philarchive.org/archive/WILRVE-2#:~:text=The original compensation scheme was,of the probabilities%2C the board>> accessed 10 May 2025.

<sup>87</sup>Richard Harriman, 'What is the Criminal Injuries Compensation Authority?' (AJS, 9 April 2024) <[https://allanjanes.com/-/What-is-the-Criminal-Injuries-Compensation-Authority#:~:text=Richard%20Harriman%20The%20Criminal%20Injuries%20Compensation%20Scheme,\(%E2%80%9CCICA%E2%80%9D\)%20only%20applies%20to%20England%20and%20Wales.](https://allanjanes.com/-/What-is-the-Criminal-Injuries-Compensation-Authority#:~:text=Richard%20Harriman%20The%20Criminal%20Injuries%20Compensation%20Scheme,(%E2%80%9CCICA%E2%80%9D)%20only%20applies%20to%20England%20and%20Wales.)> accessed 10 May 2025.

<sup>88</sup>David Miers, 'Victims, Criminal Justice and State Compensation' (2019) 9 (2) *UK Societies* 29.

<sup>89</sup>Ibid.

<sup>90</sup>Code of Practice for Victims of Crime in England and Wales (Victims' Code)' (Gov.UK, 29 January 2025) <<https://www.gov.uk/government/publications/the-code-of-practice-for-victims-of-crime/code-of-practice-for-victims-of-crime-in-england-and-wales-victims-code>> accessed 10 May 2025.

<sup>91</sup>Ibid.

Furthermore, the source of funding for victim compensation differs significantly between the two jurisdictions. In the UK, the compensation fund is sourced from general taxation and managed by a centralized authority. This ensures sustainability and uniformity in the administration of the scheme. In contrast, Nigeria does not have a central victim compensation fund. The responsibility is either placed on the offender or a specialized agency dealing with a particular class of victims, such as human trafficking. This fragmented approach limits the scope and effectiveness of victim compensation efforts.

In terms of judicial discretion, Nigerian courts have the power to order compensation or restitution under criminal law provisions, but such orders are rare. Often, these are overshadowed by custodial sentences which the courts prioritize. In the UK, while judicial orders for compensation can be made under the Powers of Criminal Courts (Sentencing) Act 2000, they exist alongside the statutory Criminal Injuries Compensation Scheme. This dual approach ensures that even where offenders are not in a position to compensate victims, the state steps in to offer redress.

## **5.0 SUMMARY OF FINDINGS**

### **5.1. Enactment of a clear-cut specific legislation on victims' compensation**

A perusal of the legal concerns bedeviling the growing jurisprudence of victim compensation in Nigeria reveals that they largely stem from the absence of a clear-cut statute regulating the applicability of the subject matter in Nigeria. It is not to say that there is no tall list of impacting statutes. Numerous statutes are scattered here and there, but none provides a detailed or adequate guideline for the mechanisms of victim compensation, such as processes, eligibility requirements, and more. Just as seen in the UK,<sup>93</sup> the presence of a clear-cut statute helps to ensure certainty regarding who can make a claim, the process to follow, the sum to be awarded by the court for certain types of injuries, to mention but a few. With such a clear-cut statute, Nigerian judges would be properly guided in assessing a victim's claim for compensation by paying cognizance to well-laid-down guidelines and not just their subjective entertainment of personal opinions.

### **5.2. Removal of Judicial Discretion in the Award of Compensation**

An examination of various laws on victim compensation in Nigeria reveals a legal framework that permits judges to exercise discretion in determining whether compensation can be awarded for criminal injuries. Similarly, some provisions grant judges sole discretion in deciding the amount of compensation a victim deserves, even when the victim is burdened by incapacitating injuries.<sup>94</sup> Our view is that this is not a just application of the law, as such discretion is unheard of in more advanced legal systems. A judge should by no means have the power to determine an individual's rightful compensation based on subjective metrics that may not even be disclosed in open court. These are matters of welfare that should not be decided based on personal opinions but on clearly established statutory criteria.<sup>95</sup> This further underscores the need for a clear statute on victim compensation, especially one that comprehensively addresses all peculiarities without leaving room for judicial discretion.

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<sup>92</sup> Ibid.

<sup>93</sup> The Criminal Injuries Compensation Act, 1995.

<sup>94</sup> Adebayo Suleiman, Ebeloku Iyanda and Babafemi Blessing 'Insecurity in Nigeria: Causes, Consequences and Solutions' *Wukari International Studies Journal* [2024] (2) (8) 11

<<https://wissjournals.com.ng/index.php/wiss/article/view/312>> accessed 5th March, 2025.

<sup>95</sup> Ibid.

## **6.0 CONCLUSION AND RECOMMENDATIONS**

This paper made a comparative analysis of a review for victim compensation under the Nigerian criminal justice system and the English criminal justice system. It highlights the strengths and weaknesses of both legal frameworks, offering insights into the workable methodology of UK jurisdiction for victim compensation enforcement. The paper contributes to a deeper understanding of the practical difficulties in compensating victims of crimes, particularly in Nigeria, where issues like lack of uniform and definite legislation on victim compensation in Nigeria. In contrast, it also explores the more developed victim compensation system in the UK, offering lessons on a definite legislation which states regarding who can make a claim, the process to follow, the sum to be awarded by the court for certain types of injuries, Criminal Injuries Compensation Scheme, to mention but a few. The paper also serves to highlight areas for reform within Nigeria's victim compensation system, thereby guiding policymakers and legal practitioners towards creating a more effective means to ensure the enforcement of such compensation. Ultimately, this paper enriches the legal discourse on victim compensation, especially in emerging criminal justice systems like Nigeria. The paper recommends adoption of the UK's legal and institutional framework for victim compensation taking into consideration our cultural diversity, sense of justice and the overall interest of the victims of crime across Nigeria.