

PARTICIPATION OF VICTIMS OF CRIMES IN JUDICIAL PROCEEDINGS IN NIGERIA: TOWARDS A PARADIGM SHIFT?

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Abstract

This article examines the involvement of crime victims in judicial process within the Nigerian context, emphasizing the evolving recognition of victim rights and the critical role they play in the criminal justice system. Historically marginalized, victims are now increasingly acknowledged as essential participants rather than mere witnesses. Ultimately, the paper answers the question of whether or not crime victims are allowed any sort of participation in judicial proceedings in Nigeria. The article explores the current legal frameworks, including the Nigerian Constitution, the Administration of Criminal Justice Act (ACJA), and the Violence against Persons (Prohibition) Act, highlighting their provisions for victim participation and rights. Despite these advancements, significant barriers remain, such as legal, psychosocial, and institutional challenges that hinder meaningful victim involvement. The paper also discusses recent reform efforts and the impact of civil society organizations in advocating for victims' rights. By adopting a doctrinal approach of methodology, the article aims to contribute to the discourse on enhancing the involvement of victims in the administration of criminal justice, by advocating for reforms that prioritize victim dignity and agency in the pursuit of justice. The paper concludes that effective victim participation not only empowers individuals but also enhances the overall integrity of the judicial process and then amongst many recommendations, the paper recommends that conscious efforts should be made in the legal systems to explicitly recognize and protect the rights of crime victims generally and in judicial proceedings particularly.

Keywords: victims of crime, victim participation, victim's rights, victim-centered justice, adversarial criminal justice.

1.0. Introduction

The involvement of victims of crimes in judicial proceedings is a critical aspect of the administration of criminal justice, as it embodies the principles of justice, accountability, and restorative practices. Historically, victims were viewed primarily as witnesses, with their interests frequently overshadowed by the state's prosecution.¹ However, recent reforms have begun to acknowledge the importance of victim participation as an essential component of a fair and equitable legal process. This change is influenced by both international norms² and local advocacy efforts aimed at enhancing victims' rights and roles within the judicial system. Despite the progressive legal framework, the implementation of these provisions remains inconsistent and fraught with challenges. Many victims are still unaware of their rights or feel intimidated by the judicial process, which can discourage them from actively participating. Additionally, the lack of adequate support services and resources limits the ability of victims to engage fully in proceedings. Several barriers hinder meaningful victim participation in the administration of justice. One significant obstacle is the cultural perception of victims and the stigma associated with certain crimes. In many cases, victims may feel shame or fear of retribution, leading them to withdraw from the judicial process altogether. In examining the Nigerian approach to victim participation, this article will explore the current legal provisions, the

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¹ Jo-Anne Wemmers, 'Where do they belong? Giving victims a place in the criminal justice process'(2009) 20(4) Criminal Law Forum 395-416.

² These international framework includes the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power,

effectiveness of implementation, and the impact on victims' involvement in the administration of justice. It will also highlight the barriers that hinder meaningful participation and suggest potential reforms to enhance the involvement of victims in judicial proceedings. Through this analysis, the article aims to contribute to the ongoing discourse on victim rights in Nigeria, advocating for a justice system that not only addresses crime but also prioritizes the dignity and agency of victims. However, the scope of this article is limited to the participation of victim in the administration of justice. It examines the various rights of these victims and the roles they play in the prosecution of offenders.

This paper is divided into eleven parts. It begins with the introduction of the work while second part contains the conceptual framework as the different concepts used in the paper are briefly defined. The third part of the paper contains an overview of victim rights generally whereas the fourth part examines the various laws that recognise victim participation in Nigeria. In the fifth part, the paper analyses the several rights which victims of crimes have under the Nigerian laws, while the roles which played by victims of crimes in trials are examined in the sixth part of the paper before the paper proceeds to examine some of the challenges which are faced by crime victims in judicial proceedings in the seventh part of the paper. In the Eighth part, the paper examine some of the recent development and reform efforts that have been made by the Nigerian government in ensuring the participation of crime victims in judicial proceedings which includes the brief examination of the Victims' Rights Bill of 2024 that is currently lying at the floor of the Nigerian National Assembly. To further justify the necessity of victim participation in proceedings, the paper examines the participation of crime victims in the United States and the United Kingdom in the Ninth part before concluding the paper and making some robust recommendations in the tenth and eleventh part of the paper respectively.

2.0. Conceptual Framework

A criminal proceeding involves a conflict between two equal parties: the state and the defendant, with an impartial judge overseeing the process.³ In criminal law, the term “victim” can be understood in two ways: in a concrete sense, it refers specifically to those who directly suffer from a crime, while in a broader sense, it encompasses both the immediate individuals affected and the wider community impacted by the crime. The definition of a victim often depends on the legal context and the specific laws governing the crime⁴. The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power distinguishes between “victims of crimes” and “victims of abuse of power.”⁵ In the context of criminal law, the crime victim is often seen primarily as a witness for the prosecution, traditionally taking a passive role and only providing testimony when required. However, in the past three decades, the involvement of victims in the adversarial criminal justice system has evolved significantly.⁶ While they still do not have full legal standing in the proceedings, victims are now more actively involved, being consulted and informed throughout the process.

In Nigeria, there is no overarching statutory definition of a “victim” in criminal law.⁷ The understanding of who qualifies as a victim depends on the specific context of individual criminal offenses and their corresponding statutory provisions. Consequently, while there is no generic definition, it can be inferred that any person who suffers from a criminal act or omission is typically regarded as a victim in the legal sense.⁸ The Criminal Justice system is essentially a framework established by society to uphold conduct standards that safeguard individuals and the community.⁹ It

³ Edna Erez, Julian Roberts, 'Victim Participation in the Criminal Justice System' (2007) 3 *Victims of crime* 277-297.

⁴ Deborah D Adeyemo, 'Recognising the Rights of Victims in the Nigerian Criminal Justice System' (2021) 3(3) *International Journal of Comparative Law and Legal Philosophy* 64-73.

⁵ Adopted by United Nations General Assembly resolution 40/34 of 29 November 1985.

⁶ *Ibid.*

⁷ *Ibid.*, n3

⁸ *Ibid.*

⁹ Babajide Olatoye Ilo and Adekunbi Folashade Imosemi, 'Prospect and Challenges of Criminal Procedures in Nigeria: A Review' (2022) 8(2) *Unnes Law Journal* 279-312.

encompasses all activities undertaken to protect against actions deemed criminal.¹⁰ This system consists of various governmental components designed to enforce laws and address crime, including law enforcement agencies like the police, prosecutors, the judiciary, and correctional facilities.¹¹ In Nigeria, the criminal justice system is therefore the whole gamut of Criminal laws (substantive and adjectival), the institutions which include the Nigeria Police Force¹², the Attorney-General and Minister/Commissioner for Justice including prosecuting law officers,¹³ the Judiciary¹⁴ and the Nigeria Correctional Service Centers. All these are required to work hand in hand to address crime.

3.0 Overview of Victim Rights in Judicial Systems

Victims' rights encompass a set of entitlements granted to individuals due to their status as victims within the criminal justice system. These rights cannot be exercised or transferred outside of this context. The acknowledgment and implementation of these rights can vary significantly, and they are often viewed as contentious or even insubstantial. In essence, some argue that victims' rights may not hold real value or effectiveness in practice.¹⁵ The development of victims' rights varies significantly across different jurisdictions, with no single historical narrative globally.¹⁶ However, it is clear that the emergence of these rights arose from the need to include victims in the criminal justice process, ensuring their needs and interests are recognized alongside public interests.¹⁷ Some accounts trace the origins of victims' rights to the post-World War II era, influenced by the rise of human rights and the establishment of international criminal tribunals, which emphasized the importance of victim participation and support in legal proceedings.¹⁸

In Nigeria, efforts to enhance victims' rights began in the late 1980s, however, significant progress has been limited since then. While some criminal statutes mention remedies for victims, they do not establish general rights. The Criminal Procedure Act and Criminal Procedure Code do not explicitly outline victims' rights but imply a right to compensation and restitution in limited contexts. However, the Criminal Procedure Act have been repealed by the Administration of Criminal Justice Act 2015. Overall, aside from some inferred rights to remedies and a few provisions in the Administration of Criminal Justice Act 2015, there is a lack of comprehensive legal recognition of victims' rights in Nigeria. Victims have a right to protection of their identity¹⁹, the right to consent to or refrain from plea bargain²⁰, the right to recovery²¹, restitution²² and compensation.²³ Compensation for crime victims can be viewed from two main perspectives²⁴ First, the criminal who causes harm should be held responsible for compensating the victim for their losses.²⁵ Second, if the state fails to protect the victim from crime, it has an obligation to provide compensation. This shift in focus towards victim

¹⁰ Ibid.

¹¹ Ibid.

¹² The Nigerian Police Force is established by section 214 of the CFRN

¹³ the office of the Attorney General is created by section 174 and 195 of the CFRN

¹⁴ CFRN, S. 6

¹⁵ Beloof, D. E. 'Third Wave of Crime Victims' Rights: Standing, Remedy and Review' (2005) 2(2) *The Brigham Young University Law Review* 255–370.

¹⁶ Robyn Holder Tyrone Kirchengast and Paul Cassell 'Transforming Crime Victim' Rights: From Myth to Reality' (2021) 45(1) *International Journal of Comparative and Applied Criminal Law*. 1-13, 5

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ ACJA, S 232.

²⁰ Ibid, s.270.

²¹ Ibid, s. 336

²² Ibid, s. 314.

²³ Ibid, s 319.

²⁴ Chike B Okosa, 'A Jurisprudence for Operation of Crime Victims Compensation in Nigeria's Criminal Justice System' (2022) 13(2) *NAUJILJ* 158-172.

²⁵ Ibid

compensation, rooted in utilitarianism, redefines the primary goal of the criminal justice system. Instead of solely aiming to punish the offender or prevent future crimes, the system increasingly prioritizes the restitution of victims. However, this approach does not eliminate the element of retribution; the offender still faces consequences, particularly through the loss of property or resources used to compensate the victim.²⁶ In this sense, while victim compensation becomes central, it can coexist with the notion of retributive justice, balancing both the needs of the victim and the accountability of the offender.²⁷

4.0 Legal Framework for Victim Participation in Nigeria

In this part of the paper, the paper examines the laws that recognise victim participation in Nigeria for the purpose of deciding if Nigeria is truly moving towards a new dimensional approach.

4.1 The Constitution of the Federal Republic of Nigeria 1999

The Constitution of the Federal Republic of Nigeria 1999 does not expressly provide a legal framework for victim participation in Nigeria. However, it lays the foundation for the protection of victim rights. For instance, Chapter IV of the Constitution makes provision for the rights of citizens which are also applicable to the victims of crime. Section 36 of the Constitution provides for the right to fair hearing. In the determination of the rights of the victim, he is entitled to a fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such manner as to secure its independence and impartiality.²⁸ Furthermore, there is an inherent right to seek redress in a competent court of jurisdiction which can be interpreted to support victims' involvement in the judicial process. The Constitution vests the courts with the powers to determine all matters between persons, or between government or authority and to any persons in Nigeria, and to all actions and proceedings relating thereto, for the determination of any question as to the civil rights and obligations of that person.²⁹ This vests the victim with the right to seek redress where applicable. Additionally, the right to human dignity is a fundamental human right applicable to everyone.³⁰ For victims of crime, this right takes on heightened importance due to the violations they have endured. Crimes inherently undermine a victim's dignity, making it essential that they are treated with compassion and respect throughout the criminal justice process.³¹ This recognition involves acknowledging the harm they've suffered and ensuring that the system demonstrates empathy, thereby restoring the dignity that the crime has stripped away. In essence, victims should receive the respect and recognition they deserve at every stage of legal proceedings.³²

4.2 The Administration of Criminal Justice Act 2015

The Administration of Criminal Justice Act (ACJA), signed into law on May 25, 2015, serves as the cornerstone for criminal justice procedure in Nigeria. The Act was designed to harmonize and modernize criminal procedures across Nigeria. It serves as a crucial framework for modernizing Nigeria's criminal justice system, addressing past inefficiencies, and promoting justice parties. However, most states have enacted their various Administration of Criminal Justice Laws. It can be

²⁶ Ibid.

²⁷ Ibid.

²⁸ CFRN, s 36(1)

²⁹ Ibid, s 6

³⁰ Enyinna Nwauche, 'The Nigerian Fundamental Rights (Enforcement) Procedure Rules 2009: a fitting response to problems in the enforcement of human rights in Nigeria?' (2010) (10) 2 *African Rights Law Journal* 34-40

³¹ JI Mantu, 'A Critique of the Nigerian Administration of Criminal Justice Act 2015 and Challenges in the Implementation of the Act' (2019) 4 *AFJCLJ* 69

³² Ibid.

regarded as a framework for victim participation in criminal process. It recognises the rights and interests of victims in criminal proceedings. For instance, the Act empowers the court to grant orders of compensation and restitution to the victim during the proceedings or at the time of delivering the judgment.³³ This order for compensation may be made irrespective of the fines or punishment that may be imposed. This order may also be made where it is recoverable in a civil suit.³⁴ Furthermore, the court may order the defendant to pay a certain sum of money in defraying expenses incurred on medical treatment of a victim injured by the victim or in connection with the offence.³⁵ Additionally, the law also recognises the estate of the victim.³⁶ Thus where it is impossible to compensate the victim due to death or other unforeseen circumstances, the estate of the victim may be compensated. The law empowers the court, in addition or in lieu of any other penalty authorised by law, order the convict to make restitution or pay compensation to any victim of the crime for which the offender was convicted, or to the victim's estate. Hence the protection of the victim extends to his estate. Thus in the event of the death of the victim, his estate may be compensated.

4.3 The Violence Against Persons (Prohibition) Act, 2015

The Violence against Persons (Prohibition) Act was passed in May 2015 by the National Assembly as a law designed to address the issue of violence against individuals, particularly gender-based violence.³⁷ It aims to eliminate all forms of violence in public and private life, prohibit all forms of violence against persons and to provide maximum protection and effective remedies for victims and punishment for offenders and for other related matters.³⁸ The Act defines a victim as any person or persons, who, individually or collectively, have suffered harm, including –

1. Physical or mental injury,
2. Emotional suffering.
3. Economic loss, or
4. Substantial impairment of their fundamental rights, through acts or omissions that are in violation of this Act or the Criminal laws of the country.

The Act also defines 'victim' to include the immediate family or dependents of the direct victim and any other person who has suffered harm in intervening to assist Victims in distress.³⁹ Thus it can be inferred that the word 'victim' extends to the estate or dependents of the individual whose right has been infringed or the person who has suffered harm. In the event of death, the estate of the victim has the locus to initiate civil and criminal proceedings against the offender. This Act is only applicable to the Federal Capital Territory, Abuja. Section 38 of the Act makes provision for the rights of victims. However, this right is restricted to the victims of violence. The section confers certain rights in addition to the rights guaranteed under chapter IV of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and any other international human rights instrument to which Nigeria is a part of. These rights include receiving the necessary materials, comprehensive, medical, psychological, social and legal assistance through governmental agencies or non-governmental agencies providing such assistance;⁴⁰ to be informed of the availability of legal, health and social services and other relevant assistance and be readily afforded access to them; rehabilitation and re-integration programme of the State to enable victims to acquire, where applicable and necessary, pre-requisite skills in any vocation of the victim's choice and also in necessary formal education or access

³³ ACJA, S 319.

³⁴ Ibid.

³⁵ Ibid, s 319

³⁶ Ibid, s, 321.

³⁷ The Explanatory Memorandum of the Act; see also Anthony N Nwazuoke, 'A critical appraisal of the violence against persons (prohibition) act, 2015' (2016) 47 *JL Pol'y & Globalization* 69.

³⁸ Ibid.

³⁹ Section 46 of the Act.

⁴⁰ Ibid.

to micro credit facilities.⁴¹ They should be informed about the availability of these services and have easy access to them.⁴² Additionally, the State is responsible for providing rehabilitation and reintegration programs, enabling victims to gain skills in their chosen vocations, pursue formal education, or access microcredit facilities. This comprehensive support aims to empower victims and facilitate their recovery and reintegration into society. While the enactment of the Act is a significant development in the recognition of victim participation in the criminal justice system, it is limited as it only applies to the FCT.

4.2 The African Charter on Human and Peoples' Rights (ACHPR)

The ACHPR, adopted in 1981 and ratified by Nigeria in 1983, is a cornerstone of African human rights law. This Charter emphasizes not only individual rights but also collective rights, reflecting the African context where communal well-being is paramount. It aims to promote and protect human rights across the continent, combining civil and political rights with economic, social, and cultural rights. It outlines the responsibilities of states to respect and ensure the rights within the charter, promoting accountability and governance. Thus, Nigeria must respect and protect the rights enshrined in the ACHPR. The government is required to prevent violations, investigate alleged abuses, and hold accountable those responsible for human rights violations. Article 7 of the Charter vests the victims of crime with the right to be heard. Furthermore, Article 9 of the Charter provides that every individual shall have the right to information. This right also extends to the right of the victim to be properly informed at various stages of the proceedings. Furthermore, states parties to the present Charter shall have the duty to promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in the present Charter and to see to it that these freedoms and rights as well as corresponding obligations and duties are understood.

5.0 Rights of Victims of Crime in Nigeria

A careful examination of some of the laws examined above would show that the laws indeed recognise the rights of victims of crimes in different parameters.

5.1 Right to Justice

Victims must be able to engage with judicial and administrative processes established by these laws to obtain redress.⁴³ To support this access, victims have the right to receive information about the crime committed against them, the available avenues for seeking justice, their involvement in the legal proceedings, and details regarding the scope, timing, progress, and outcome of those proceedings.⁴⁴ In line with this right, victims may request and obtain information about the criminal process or proceedings.⁴⁵ They are entitled to equal and effective access to justice, regardless of gender, age, status, or any discriminatory criteria. They have the right to utilize the justice mechanisms available to them and to seek full, effective, and timely remedies for the harm they have experienced, as outlined in national laws.⁴⁶

5.2 Right to Dignity

The criminal justice system must actively acknowledge and validate the experiences of crime victims.⁴⁷ This involves not only treating them with compassion but also ensuring that their dignity is

⁴¹ Ibid.

⁴² Ibid.

⁴³ Eva Brems and Charles Olufemi Adekoya, 'Human Rights Enforcement by People Living in Poverty: Access to Justice in Nigeria' (2010) (54) 2 *Journal of African Law*

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ CFRN, s36.

⁴⁷ Kola Odeku and Sola Animashaun, 'Poverty, human rights and access to justice: Reflections from Nigeria' (2012) 6(23) *African Journal of Business Management* 6754-6764

preserved throughout the legal process.⁴⁸ Victims should be recognized as integral participants in the system, deserving of respect and support. By doing so, the system can help restore their sense of dignity that may have been compromised by the crime, fostering an environment where their rights and experiences are honored at every stage of the proceedings.⁴⁹

5.3 Right to Assistance and Support

Victims are entitled to receive thorough assistance during the criminal justice process, which includes access to medical, psychological, and social support.⁵⁰ This support should start from the point of filing a complaint and involve informing victims about the services available to them. These support services can include counseling, trauma care, and various health or social services, all provided at no cost and made easily accessible.⁵¹ Collaboration with NGOs or government programs can help deliver these essential services.⁵²

5.4 Right to Information

Victims are entitled to detailed information about their rights and available services throughout the criminal justice process, covering both pre-trial and post-trial phases.⁵³ This information should be delivered promptly by qualified authorities during initial contact and must include details on prosecution decisions, the victim's role in the trial, and available support services.⁵⁴ Additionally, victims should be informed about their rights to protection and compensation, as well as updates on their case's progress.⁵⁵ If the prosecution chooses not to proceed, victims should receive an explanation.⁵⁶ All information must be communicated in clear, accessible language that meets the specific needs of each victim, taking into account their age, language proficiency, and any disabilities.⁵⁷

5.5 Right to Participation

Victims have the right to engage in criminal proceedings by stating their views, concerns, and interests, while respecting the rights of the accused.⁵⁸ They are not required to take on an active role if it is impractical, but they can submit statements to be considered during sentencing and reparations.⁵⁹ The level of victim participation is determined by domestic legal policies, which should facilitate their ability to express their interests.⁶⁰ In common law systems, where criminal cases are generally seen as the state's domain, there is an increasing recognition of the need for greater victim involvement.⁶¹ While victims may lack formal legal status, they should still be allowed to present

⁴⁸ Ibid.

⁴⁹ Yinka Olomjob, 'Violation of Women's Right to Dignity in Nigeria' (2016) SSRN https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2716917 Accessed 18 January 2025.

⁵⁰ Tamar Dinisman and Ania Moroz, 'Understanding Victims of Crime; The Impact of the Crime and Support Needs'(2017) <https://www.victimsupport.org.uk/> Accessed 18 January 2025.

⁵¹ Ibid.

⁵² Ibid.

⁵³ Braun, K. Victim Participation: An Enhanced Focus on Legal Representation for Victims. In: Victim Participation Rights. (2019). Palgrave Studies in Victims and Victimology. Palgrave Macmillan, Cham. https://doi.org/10.1007/978-3-030-04546-3_8

⁵⁴ Ibid.

⁵⁵ 'The Rights of Crime Victims in the Criminal Justice System: Is Justice Blind to the Victims of Crime' (1990) (16) *New Eng. J. on Crim. & Civ. Confinement* 241

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Salvatore Zappala, 'The Rights of Victims v. the Rights of the Accused' (2010) 8 *Journal of International Criminal Justice* 137-164

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Miriam Cohen, 'Victims' Participation Rights within the International Criminal Court: A Critical Overview' (2009) 37(3) *Denver Journal of International Law & Policy* 351-377

impact statements about how the crime has affected them and their families.⁶² The victims can also play a significant role in identifying the suspects as they tend to have a direct interaction with the suspects.⁶³ Victims should receive timely updates on their cases and have the right to request this information.⁶⁴

5.6 Right to Speedy Trial

Victims have the right to a speedy and fair trial, similar to the rights of the accused. This includes timely interviews and investigations following a complaint, as well as prompt enforcement of court orders related to victim reparations.⁶⁵ While the defendant retains the right to appeal, any delays in executing court orders for victims can effectively deny them the benefits of those orders. Therefore, timely execution is essential to uphold victims' rights.

6.0 The Role of Victims in Criminal Trials.

The victims of a criminal trial play various roles in the prosecution of offenders. The various roles include:

6.1 Reporting Crimes

Victims can effectively prevent the arrest and prosecution of offenders by not reporting crimes to authorities.⁶⁶ At this stage, the victims may be the complainant. Victims often choose not to report crimes for various reasons: many believe there is insufficient evidence, think the crime is not serious enough, fear retaliation, or find the process too inconvenient.⁶⁷ In some cases, victims may have received compensation from the offender, which discourages reporting. While non-reporting can prevent prosecution, it is not definitive; crimes may still be reported by witnesses or discovered through police investigations.⁶⁸

6.2 Investigating Crimes

Victims can play a significant role in crime investigations beyond merely answering police questions. Although not a common occurrence, their involvement can be crucial for prosecutors.⁶⁹ In many situations, victims possess unique insights and information about the crime, including details that may not be readily available to law enforcement.⁷⁰ For example, victims may recall specific events leading up to the crime, identify the offender, or provide context about their relationship with the perpetrator. This firsthand knowledge can be invaluable in establishing a timeline and understanding the motivations behind the crime. In some cases, victims actively assist investigators by seeking out additional witnesses or gathering evidence that may have been overlooked.⁷¹

6.3 Arresting the offenders

In Nigeria, private citizens are allowed to arrest another person without a warrant under specific conditions.⁷² This provision recognizes the role of ordinary citizens in maintaining public safety and order, allowing them to act in situations where immediate law enforcement intervention may not be

⁶² Ibid.

⁶³ *Chijioke Ugwu v The State* (SC) 26842; *Kabir Almu v. The State* (2003) 7 SC 129

⁶⁴ This is entrenched in the Constitutional Right of Appeal.

⁶⁵ CFRN, S 6(6)

⁶⁶ Donald J Hall, 'The Role of the Victim in the Prosecution and Disposition of a Criminal Case' (1975) 28(5) *Vanderbilt Law Review* 932-980

⁶⁷ Ibid.

⁶⁸ *Shoneye v. State* (2015) LPELR-25862(CA)

⁶⁹ Wells, G.L., Wright, E.F., Bradfield, A.L. 'Witnesses to Crime.' In: *Roesch, R., Hart, S.D., Ogloff, J.R.P. (eds) Psychology and Law. Perspectives in Law & Psychology*, (1999). 10. Springer, Boston, MA. https://doi.org/10.1007/978-1-4615-4891-1_3 Accessed 18th January 2025.

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² This is provided in s. 20 ACJA, s. 12 ACJL of Lagos and also s. 42 ACJL Kano.

feasible. However, the specific rules and requirements can differ by state, and citizens must be aware of the legal implications and responsibilities involved in making an arrest.⁷³

6.4 Victims as witnesses in Criminal Proceedings

The victim's role in the arrest decision overlaps another distinct stage of the criminal justice process: the initiation of formal prosecution by the state. Victims play a crucial role as witnesses in criminal proceedings, as their testimonies can significantly influence the outcome of a case. Their firsthand accounts provide essential evidence about the crime, helping to establish facts, context, and the emotional impact of the offense.⁷⁴ Acknowledging victims as witnesses also underscores their dignity and importance in the justice system. However, their participation can be challenging. Many victims may experience trauma, anxiety, or fear when testifying, which can affect their ability to recount events accurately. It is essential for the legal system to support victims throughout this process, providing resources such as counseling, legal assistance, and a safe environment for testimony.

7.0 Challenges faced by Victims in Judicial Proceedings

7.1 Legal Barriers

Victims of crime often encounter various legal barriers in judicial proceedings that can hinder their access to justice and support. Many victims cannot afford legal counsel, leaving them vulnerable during proceedings. Without adequate representation, they may struggle to navigate the intricacies of the legal system. Justice is essential for achieving ideal societal standards. The phrase “access to justice” refers to the ability of individuals to seek and obtain fair treatment within the legal system.⁷⁵ It also means access to a fair and equitable set of law.⁷⁶

Victims of crime, particularly those from disadvantaged backgrounds, often face significant barriers in their pursuit of justice.⁷⁷ Their social standing can hinder access to legal resources and support, making the quest for justice a daunting experience.⁷⁸ To achieve equitable access to justice, it is essential to establish both procedural and substantive mechanisms within the criminal justice system. These mechanisms should empower all individuals, instilling confidence in their ability to enforce their fundamental human rights. This ensures that justice is not only a privilege for the few but a right accessible to all members of society.⁷⁹

7.2 Psychosocial Barriers

The impact of crime on the people affected by it can be profound.⁸⁰ Victims may suffer from psychological harm, from which some may never recover. Injuries may be threatened or inflicted upon victims, witnesses or their families, and threats may even be made against lives. When a crime is committed, there is a breach in the law, and it must be brought to the attention of the courts and society.⁸¹ There is another party that is affected by this breach, the victim, who must deal with more than just the incident.⁸² Crime can bring about fear to the public and trigger emotions among those

⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ Muhamed Toafiq Ladan, 'Women Rights, Access to Administration of Justice under the Sharia Law in Nigeria' in Joy Ngozi Ezeilo, Muhamed Toafiq Ladan and Abiola Afolabi Akiyode (eds), *Sharia Implementation in Nigeria: Issues and Challenges on Women's Rights and Access to Justice* (Women's Aid Collective 2003) 19.

⁷⁶ Oluyemisi Bamigbose, 'Access to Justice through Clinical Legal Education: A way Forward for Good Governance and Development' (2015) 15 *African Human Rights Law Journal* 378, 382

⁷⁷ Sofo C A Ali-Akpajiak and Toni Pyke, *Measuring Poverty in Nigeria* (Oxfam 2003) 63.

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ David Kurgat, 'Challenges facing victims of crime during the trial process in Nakuru court of law, Nakuru town, Kenya' (2019) *Egerton University* <<https://ir-library.egerton.ac.ke.com>> Accessed 30th December 2024.

⁸¹ Leah Cummins, 'Victims of Crime: The Emotional Impact of Crime and The Court's Response' (2023) *National University of Ireland Maynooth*.

⁸² Ibid.

affected.⁸³ When there are worries about a particular crime occurring in a neighborhood, it often leads to a sense of dread about the future. People may feel anxious about the safety of their loved ones and fearful that inadequate measures are being taken to address the problem.⁸⁴ The mere possibility of crime based on local trends can instill fear in residents and significantly affect their emotional well-being which can in turn affect victim participation in criminal process.⁸⁵

7.3 Institutional Barriers

Corruption within the judiciary presents a significant challenge to Nigeria's criminal justice system.⁸⁶ The public strongly believes that justice should not only be served but also be visibly upheld. This corruption often arises when court administrative staffs bypass formal or informal procedures for personal benefit.⁸⁷ This poses as a challenge to victim involvement in the administration of justice. Furthermore, inadequate funding is a major barrier within the judiciary, the judiciary in Nigeria has long suffered from a lack of necessary funding, leading to significant neglect by successive administrations.⁸⁸ As a result, many courtrooms are inadequate, often using unsuitable spaces for legal proceedings. Essential office supplies are frequently missing, and libraries contain outdated materials.⁸⁹ Most court facilities lack modern amenities like fans, air conditioning, and technology, and there is often no reliable electricity for courtrooms or the residences of judicial officers.⁹⁰ This lack of resources has severely hindered the effective functioning of the justice system, with the government being held responsible for the situation.⁹¹

8.0 Recent Developments and Reform Efforts in Nigeria

While there is no statute that regulates the treatment of victims in Nigeria's judicial process, there have been recent developments and reform efforts that recognise the involvement of victims of crime in the court proceedings. A significant legislative reform is the Victims' Rights Bill 2024. The Victims' Rights Bill 2024 aims to enhance the legal protections and support available to victims of crime.⁹² It seeks to establish clear rights for victims, including the right to be informed, to participate in legal proceedings, and to receive timely and compassionate assistance.⁹³ The bill emphasizes the importance of recognizing the dignity of victims and ensuring their voices are heard within the criminal justice system.⁹⁴ Additionally, it proposes measures for trauma-informed care, legal aid, and access to restorative justice options, ensuring that victims are not further marginalized in the aftermath of crime and can begin the healing process.⁹⁵ Furthermore, the Violence against Persons (Prohibition) Act (2015) represents a landmark enactment which emphasizes the rights of victims to seek justice and support. Additionally, the ACJA is also a significant piece of legislation in Nigeria aimed at reforming the administration of criminal justice and it recognizes the importance of victims' involvement in court proceedings, allowing them to make statements during hearings and participate actively in the justice process.

⁸³ Ibid.

⁸⁴ Dean G Kilpatrick and Others, 'Criminal victimization: Lifetime prevalence, reporting to police, and psychological impact' (1987) 33(4) *Crime & delinquency* 479-489.

⁸⁵ Ibid.

⁸⁶ Bright Bazuaye and Desmond Oriakhogba, 'Combating Corruption and the Role of the Judiciary in Nigeria: Beyond Rhetoric and Crassness' (2016) 42(1) *Commonwealth Law Bulletin* 125-147.

⁸⁷ Mark S Gaylord, Danny Gittings and Harold Travers (eds), *Introduction to Crime Law and Justice in Hong Kong* (Hong Kong University Press 2009) 42

⁸⁸ Ibid.

⁸⁹ Ibid.

⁹⁰ Ukatu James, 'A Corruption in Nigeria Criminal Judicial System. Assessment of The Predisposing Situational Factors.' (2024) 11(11) *The International Journal of Social Sciences and Humanities Invention*

⁹¹ Ibid.

⁹² Lukman Olabiyi, 'National Assembly gives nod to Victims' Rights Bill' *The Sun* (August 2024) <https://www.google.com/amp/s/thesun.ng/national-assembly-gives-nod-to-victims-rights-bill/> Accessed 30th December 2024.

⁹³ Ibid.

⁹⁴ Anene Chidi Pensive & Iyala Obinna Theodore, 'Corruption in the Nigerian Judicial System: The Way Forward' (2023) 4(1) *International Journal of Advanced Research in Global Politics, Governance and Management* 157-165.

⁹⁵ Ibid.

9.0 Victim Participation in Judicial Proceedings in the USA and the UK

Both the United States of America and the United Kingdom have made significant progress in integrating victim involvement into the administration of criminal justice, notable differences persist in legal frameworks, participation mechanisms, and support services.⁹⁶ In the USA, the legal framework surrounding victim participation has evolved significantly, particularly with the introduction of the Victims' Rights Movement in the 1980s.⁹⁷ The Violent Crime Control and Law Enforcement Act of 1994 and subsequent laws have established certain rights for victims, such as the right to be informed about the proceedings, the right to be heard at sentencing, and the right to receive restitution.⁹⁸ While some states have enshrined these rights in their constitutions, the federal system does not provide uniform protections, leading to variability across states⁹⁹ Victims can participate in various ways, including victim impact statements during sentencing and parole hearings. These statements allow victims to articulate the emotional, physical, and financial impacts of the crime.¹⁰⁰ Additionally, many states offer victim advocates who assist victims in navigating the legal system. However, the effectiveness of these mechanisms can vary significantly based on state laws and resources.¹⁰¹ The USA offers a more fragmented system with substantial variability. On the other hand, the UK has established a more centralized legal framework through the Crime Victims' Code, introduced in 2015, which outlines the rights of victims in the administration of criminal justice. This code ensures that victims are kept informed, have access to support services, and can make a victim impact statement.¹⁰²

The UK's focus is more on standardizing victim rights across England, Wales, Scotland, and Northern Ireland, thereby creating a more uniform approach.¹⁰³ Victim participation is facilitated through measures such as the Victim Personal Statement (VPS), where victims can express the way the crime has impacted them.¹⁰⁴ This statement is considered during the sentencing process and can influence the judge's decision. Furthermore, the UK has implemented restorative justice programs, enabling victims to meet offenders in a controlled environment, promoting healing and accountability.¹⁰⁵ This approach is more structured than many initiatives found in the USA, where restorative justice varies widely in implementation and acceptance. The government funds various victim services through local authorities, ensuring that support is more uniformly accessible.¹⁰⁶ The National Victim Strategy emphasizes the need for tailored support based on individual victim needs, which helps to create a more comprehensive support system. However, challenges remain, particularly in addressing the needs of marginalized communities.¹⁰⁷

⁹⁶Mary Graw Leary, 'A Crime Victim Rights Framework in the USA' in Charles J. Scieluna | Myriam Wijlens [Eds.], *Rights of Alleged Victims in Penal Proceedings; Provisions in Canon Law and the Criminal Law of Different Legal Systems* (1st edn, The Deutsche Nationalbibliothek 2023) 118

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹Ian Edwards, 'Victim Participation in Sentencing: The Problems of Incoherence' (2001) 40(1) *The Howard Journal of Crime and Justice* 39-54

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

¹⁰² Rebecca Banwell Moore, 'Restorative Justice : Understanding the Enablers and Barriers to Victim Participation in England and Wales' (2019) <https://dl.acm.org/doi/abs/10.5555/AAI28128147> Accessed 18th January 2025.

¹⁰³ Ibid.

¹⁰⁴ 'Victim Participation and Sentencing in England and Italy: A Legal and Policy Analysis' (2003) 11 *Eur. J. Crime Crim. L. & Crim Just.*

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

10.0 Conclusion

The involvement of crime victims in judicial processes is a critical aspect of achieving justice in Nigeria. Despite advancements in legal frameworks, victims often face significant barriers to meaningful involvement in the justice process. This exclusion can lead to a sense of injustice and frustration, undermining public confidence in the legal system. Effective victim participation not only empowers individuals but also enhances the overall integrity of the judicial process. By incorporating victims' perspectives, the courts can ensure that their experiences and needs are considered, which may contribute to more equitable outcomes. Moreover, recognizing victims as active participants can foster a sense of closure and healing, essential for their recovery. To improve the current system, it is imperative that Nigerian authorities prioritize the establishment of policies and mechanisms that facilitate victim engagement. This includes providing adequate support services, legal representation, and accessible information about proceedings. By addressing these challenges, Nigeria can move toward a more inclusive and responsive justice system that upholds the rights and dignity of crime victims, ultimately strengthening the rule of law and enhancing public trust in judicial processes. Emphasizing victim participation is not just a legal obligation but a moral imperative for a just society.

11.0 Recommendations

1. The Nigerian legal system should be amended to explicitly recognize and protect the rights of victims. This includes enshrining victim participation rights in the Constitution and relevant legislation. Clear legal provisions should outline victims' rights to be informed, to make statements, and to participate meaningfully in proceedings without compromising the accused's rights.
2. The government should establish dedicated victim support services to assist individuals navigating the criminal justice system. These services can provide psychological counseling, legal advice, and information about available resources. By collaborating with non-governmental organizations, the state can ensure that victims receive comprehensive support, which can assist them to cope with the trauma of their experiences and empowering them to participate effectively in proceedings.
3. It is essential to train law enforcement and judicial officials on the importance of victim participation. Training programs should emphasize the need for sensitivity and understanding when dealing with victims, as well as the legal obligations to inform them of their rights. By fostering a culture of empathy and awareness among officials, the system can become more victim-centered, leading to improved interactions and outcomes for victims.
4. Victims should have the freedom to make impact statements in the course of court proceedings. These statements should be given due consideration during sentencing and reparations. Courts must be equipped to facilitate the submission of these statements in a manner that respects the dignity of the victims, perhaps through written submissions or private hearings if necessary. This practice would not only provide victims a voice but also offer the court insight into the personal ramifications of the crime.
5. Victims should be informed about the progress of their cases and any decisions made by the court. Clear and accessible communication strategies should be implemented to ensure that victims understand the legal processes and their rights. This could involve regular updates through a designated victim liaison officer or online platforms where victims can track the status of their cases.
6. Incorporating restorative justice practices into the Nigerian judicial system can offer victims an opportunity to engage in a more holistic form of justice. Such practices would allow victims to confront offenders in a controlled environment, share their experiences, and seek reparations.