

**PROTECTION OF VICTIMS IN THE NIGERIAN CRIMINAL
JUSTICE SYSTEM: A COMPARATIVE REVIEW**

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BEING A LONG ESSAY IN PARTIAL FULFILMENT OF THE
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DECLARATION

I hereby declare that this work is the product of my own research efforts; undertaken under the supervision of Professor Ngozi Unuigbo and has not been presented elsewhere for the award of a degree or certificate. All sources have been duly distinguished and appropriately acknowledged.

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CERTIFICATION

This is to certify that the research work for this dissertation and the subsequent preparation for this dissertation by Xaviera Chiebuni Ashiedu (Law1704678) were carried out under my supervision.

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DEDICATION

I dedicate my work to God for his goodness and mercies.

ACKNOWLEDGMENT

I'm grateful to God for his love and protection throughout my journey in this school and while writing this project. I appreciate my project supervisor for her excellent tutelage. I am blessed to have caring and wonderful people as friends and colleagues. Last but not least, I am eternally grateful for the love, support, and wisdom of my amazing grandmother, Veronica Azekwo, and my amazing parents Barr and Mrs Ashiedu.

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LIST OF ABBREVIATIONS

ACJA- Administration of Criminal Justice Act

NAPTIP- National Agency for the Prohibit

U.S.- United States

U.K. - United Kingdom

VAPPA- Violence Against Persons (Prohibition)Act

ABSTRACT

A victim is a person who suffers harm due to the criminal actions of another individual. Acts that victimize people are often considered crimes by the law, therefore these actions are punishable by the state. Nigeria has always prosecuted criminals, but it is only recently that Nigeria started to actively protect victims. A victim has to travel down the various channels of the criminal justice system with the first point of call being the law enforcement officers. . A bystander on the outside may think that the pursuit of justice is all rosy for victims of crime, but that is not the case in reality. When Nigeria established the ACJA and VAPPA, victim protection laws were introduced to provide rights to victims as they seek justice. Victims have a role to play in the prosecution of their attackers, albeit a very minimal one. This is because the state prosecutes the accused, not the victim. Victims are relegated to mere witnesses throughout the prosecution. They do not have much say in the prosecution of their accused offenders. The case is left to the discretion of the prosecuting counsel with the hope that he executes it properly. The choices and opinions of victims are never taken into consideration, hence the feeling of hopelessness that victims often feel while seeking justice. The Nigerian criminal justice system easily neglects the victim despite the laws present in ACJA and VAPPA and focuses on the prosecution of accusers. This has an impact on the experience of victims. By default, victims and the general public do not have faith in the criminal justice system. By reviewing the legal frameworks in Nigeria and why they fall short in comparison to those present in the U.S. and U.K., we can identify its weak points. This is the first step in creating a more victim-sensitive and victim-focused justice system as well as creating a fertile ground for victim advocacy and victim support institutes.

CHAPTER ONE

INTRODUCTION

1.1 BACKGROUND TO THE STUDY:

All around the globe, several jurisdictions are shifting towards a victim-focused system of criminal justice. Nigeria is not left out in the turn of events. In 2015, the ACJA and VAPPA were passed into law. This action acknowledges the fact that victims of crime are a vulnerable class because of their ordeals and the sensitivity of their cases. Despite victim protection provided for these acts, they do not properly outline clear and concise stipulations for victims, neither do they properly outline clear and concise stipulations for victims, neither are they truly effective in protecting victims legal, financial, physical and psychological well being. Victims are a vulnerable class of people because they have gone through one form of violation or the other. The effects of their ordeal are often more than what meets the eye as they suffer not only physical wounds, but they suffer trauma, stigma, and extended targeted harassment. Nigeria enacted two revolutionary laws for this reason. The American justice system was once less victim-focused but the advent of the victim's rights movement and civil rights movement helped shift the landscape of victim's rights for the better. This reoriented judicial officers and practitioners on the role of a victim during prosecution as well as provided a more human approach to dealing with the victim's welfare.

This study seeks to examine victims' legal perspectives, roles, and real-life experiences as they go through the various channels of the criminal justice system. By applying ideologies and concepts rooted in victimology and comparing them with existing statutes and relevant case laws, this study will arrive at a conclusion that will describe whether or not the criminal justice

system in Nigeria is doing enough for victims of crime in comparison with the laws and systems set in place in the U.S. and the U.K.

1.2 STATEMENT OF THE PROBLEM:

A commonly held belief among Nigerians is that there is no help for victims of crime. The common notion is that victims shouldn't bother to seek legal redress because their word is useless and they may put themselves in harm's way without receiving any form of justice or compensation. This is a testament to the ineffective status of the legal protections in place for victims of crime in Nigeria.

The content of this study will explore the following questions:

1. What role do victims play in prosecuting their attackers in the criminal justice system of Nigeria, the United States, and the United Kingdom?
2. What form of protection do victims enjoy during and after the prosecution of their attackers?
3. What areas is the Nigerian criminal justice system lacking in the protection of victims compared to the US and UK?
4. What can be improved in the protection of victims' rights in Nigeria?

1.3 AIM AND OBJECTIVES OF THE STUDY:

The primary goal of this study is to draw up a model system in Nigeria that prioritizes victim welfare, justice, and rehabilitation by drawing inspiration from laws and systems present in the US and the UK in addition to the already existing but overlooked laws and systems in Nigeria.

Other objectives include

- a) Appreciating the positive traits of victim laws in the Nigerian criminal justice system
- b) Understanding why the ACJA and VAPPA do not properly ensure victim protection in Nigeria
- c) Following the positive footsteps of foreign jurisdictions and apply it to the Nigerian Criminal justice system
- d) Raising awareness of the plight of victims of crime
- e) Promoting much-needed legal reform.
- f) Stimulate conversation and inquiry into the forgotten aspects of victim rights and protection.

1.4 SCOPE AND LIMITATION OF STUDY:

The scope of victimhood is broad and inexhaustible because there are innumerable ways an individual can be victimized. If one is to look at all the ways an individual can be harmed by another, this study would be incoherent and clustered. That is why this essay will focus on victims of sexual assault, domestic violence, physical violence, and murder. This essay aims to identify how victims feel neglected by the criminal justice system by highlighting the strengths of the justice system available in other countries. Because there are close to 200 countries in the world, I will limit my study to only two countries, namely, the U.S. & U.K. The inspiration behind choosing those as mentioned earlier is because of their advanced laws set in place for

victims' rights and protections. Also, Nigeria is a common law country, hence it is easier to adopt laws and practices from fellow common law countries (the U.S.) as well as the country that we built our legal system around (the U.K).

1.5 SIGNIFICANCE OF THE STUDY:

- a) This essay will pinpoint the deficiencies and weaknesses in the Nigerian legal system. By comparing the legal frameworks present in the three countries that form the subject of study, the areas of victims' rights and protections that Nigeria is lacking will be discovered.
- b) This thesis is essential in a country like Nigeria because it will help raise awareness of the plight of victims as they battle for justice in our legal system. It will amplify the concerns and experiences of victims whose voices are often unheard or ignored.
- c) Research into this topic can promote the enactment of legislation and thereby spearhead change by positively influencing policymakers and stakeholders.
- d) Non-governmental organizations and social bodies can find areas that the government has neglected in the protection of victims and either fill the much-needed gap or advocate for positive change through campaigns and lobbying.

1.6 RESEARCH METHODOLOGY:

The data used in this research was meticulously sourced from statutes, books, articles, journals, and websites. Therefore, this is a study that employed the doctrinal methodology to come to its recommendations. This essay will draw legal information from primary sources of law such as the Constitution of the Federal Republic of Nigeria 1999, the Criminal Code Act, and the

Administration of Criminal Justice Act, as well as secondary sources of law including treaties and conventions.

CHAPTER TWO

CONCEPTUAL, THEORETICAL FRAMEWORKS, AND LITERATURE REVIEW

2.1 Definition of terms

According to the Cambridge Dictionary, in British English, a victim can be defined as someone who has been hurt, damaged, or killed or has suffered, either because of the actions of someone or something else, or because of sickness or chance. In American English, a victim is defined as a person who has suffered the effects of violence, illness, or bad luck¹.

Mariam Webster Dictionary defines a victim as one that is one that is injured, destroyed, or sacrificed under any of various conditions, one that is subjected to oppression, hardship, or mistreatment, or one that is tricked or duped².

¹ 'Victim' Cambridge Dictionary <<https://dictionary.cambridge.org/dictionary/english/victim>> accessed 17th July 2023

² 'Victim' Mariam Webster Dictionary <https://www.merriam-webster.com/dictionary/victim>> accessed 17th July 2023

Oxford's Advanced American Dictionary defines a victim as a person who has been attacked, injured, or killed as the result of a crime, a disease, an accident, etc.³

The definitions above are general and account for the meaning of victim when used in everyday parlance, but to understand the meaning of a victim in the legal sphere, it's important to consult case law.

Victimology according to Merriam-Webster Dictionary is the scientific study of crime victims including the study of the relationship between victim and offender and of the consequences and effects of being victimized.⁴

According to Collins English Dictionary, victimology is the study of the psychological effects experienced by the victims of crime.⁵

Victim blaming is defined by Oxford Learner's Dictionary as the practice of saying or implying that a person who has suffered harm or injury is responsible for it, rather than the person who caused the harm or injury.⁶

According to Law Insider, victim blaming means language or accusations that the person experiencing sexual violence could somehow have prevented it. Victim blaming can make it more difficult for the person to seek help or report the violence.⁷

3 'Victim' Oxford Learners Dictionary'

<https://www.oxfordlearnersdictionaries.com/definition/american_english/victim?q=victim> accessed 17th July 2023

4 'Victimology' Merriam Webster Dictionary' <<https://www.merriam-webster.com/dictionary/victimology>> accessed 17th July 2023

5 'Victimology' Collins English Dictionary <<https://www.collinsdictionary.com/dictionary/english/victimology>> accessed 17th July 2023

6 Oxford Learners Dictionary <<https://www.oxfordlearnersdictionaries.com/definition/english/victim-blaming>> accessed 17th July 2023

7 'Victim blaming' Law Insider <<https://www.lawinsider.com/search?q=victim+blaming>> accessed 17th July 2023

According to the Collins English Dictionary, victim support is the giving of help and advice to people who are victims of crime⁸

Cambridge Dictionary defines victim support as the act of providing emotional and practical help for people who suffer because of a crime, or an organization that provides this.⁹

2.2 HISTORY OF VICTIM RIGHTS IN THE US

To understand the state of victims' rights, and to appreciate or criticize the state of victim treatment in the US, it is essential that we take a deep dive into the history that brought the field to where it is today. Elements of American procedural law originated from British common law¹⁰. This is due to some of the founding fathers of the country originally being from Britain, hence British common law was a foundation that they built upon¹¹. Most laws have changed since the 1700s, regardless, some common law remains in the American Judicial system¹². It took years before the American justice system became truly empathetic to the plight of victims. Massive strides were made in the U.S. between the years 1950-1980. A discussion about the history of the victims' rights movement in the U.S. is never complete without the mention of the Civil Rights Movement, and the Feminist movement. The advancement of the

⁸ 'Victim support' Collins Dictionary' <<https://www.collinsdictionary.com/dictionary/english/victim-support>> accessed 17th July 202

⁹ 'Victim Support' Cambridge Dictionary <<https://dictionary.cambridge.org/dictionary/english/victim-support>> accessed 17th July 2023

¹⁰ Lawrence M, Friedman, "*History of American Law*" (Oxford University Press, 23 September 2019)

¹¹ *ibid*

¹² E. Alan Farnsworth, '*An Introduction to the Legal System of America*' (4th ed Oxford University Press 2010)

civil rights movement brought about awareness of every citizen's humanity and the Feminist movement emphasized the widespread victimization of vulnerable classes specifically women.

2.2.1 THE CIVIL RIGHTS MOVEMENT

Slavery in America was abolished in 1865 through the 13th Amendment of the American Constitution¹³. It resulted in the emancipation of thousands of slaves.¹⁴ This was after an anti-slavery movement, and during an era that benefitted from the international slave trade because so much of America was by slaves. The majority of the enslaved people captured from West Africa and their descendants took their place after they died.

The abolition of slavery was not an immediate happy ending for these American Descendants of Slavery (ADOS) who went on to be socially, culturally, and racially called various names such as negroes, colored, and blacks. Today they are identified as African Americans.¹⁵

After these slaves were freed and they started navigating society as free individuals, society did not fully embrace them. Though they were entitled to some constitutional and political rights due to the 14th and 15th Amendments of the Constitution that gave voting rights to African-American men, they were still shunned in society due to racial discrimination.

¹⁶African Americans lacked social and civil rights which made it hard for them to live just. White Americans were opposed to the idea that African Americans were equal to them.

¹³ Slavery is abolished <<https://education.nationalgeographic.org/resource/slavery-abolished/>> accessed 21st July 2023

¹⁴ ibid

¹⁵The Segregation Era 1900-1930 <>

¹⁶ Dr David Pilgrim 'What was Jim Crow?' <<https://jimcrowmuseum.ferris.edu/what.htm>> accessed 21st July 2023

Segregation in America separated public places and utilities for whites and for blacks, but it also isolated the black man and made him an outcast in his own country¹⁷. Facilities that were meant for African Americans were often either of poor quality or not in existence at all. Laws that promoted segregation are often referred to as Jim Crow laws.

There was a landmark Supreme Court case that pronounced these Jim Crow laws as constitutional, called *Plessey v Fergusson*¹⁸. In *Plessey v Fergusson*, A man named Homer Plessey was born with black and white ancestry, boarded a vehicle designated for only white Americans was arrested, and prosecuted. The arrest was based on his violation of the Separate Car Act 1890 passed in Louisiana¹⁹. This act ensured that white and black people entered different railroad cars. By the time the case got to the Supreme Court, he lost the case and the Supreme Court upheld the Separate but equal doctrine that was based on racial segregation²⁰.

2.2. THE FEMINIST MOVEMENT

The feminist movement in America was a campaign that fought for women's liberation and enfranchisement. Women in America lived with fewer rights than their male counterparts. This movement coincided with the civil rights movement.

The feminist movement in America is often categorized with the term waves, scholars have so far divided the movement into four waves of feminism.²¹

¹⁷ ibid

¹⁸ 163 U.S. 537 (1896)

¹⁹ Separate Car Act 1890

²⁰ N 33

²¹ Martha Rampton 'Four Waves of Feminism' <<https://www.pacificu.edu/magazine/four-waves-feminism>> accessed 22nd July 2023

The first wave of feminism started in the 1800s and the genesis of this wave intertwines with the push for the end of slavery. Two women named Elizabeth Cady Stanton and Lucretia Mott met at an anti-slavery conference in London. Though they traveled all the way from America, they were not allowed at the conference. Even though Stanton was the wife of a major slave abolitionist and Mott was a known Quaker preacher, a sect known for opposing slavery, their sex disqualified them from being accepted at the anti-slavery convention. Once these two women met at the conference, they rubbed minds on their dissatisfaction with the state of women's rights. Years later the two women, in conjunction with Martha C. Wright, Mary Ann McClintock, and Jane Hunt, formed the Woman's Rights Convention, the first of its kind in American history²². The aim was to promote better rights and conditions for women. This convention held on the 19th and 20th of July, 1848, birthed the Declaration sentiments. This was a manifesto detailing their grievances and wants. A major win in this wave was recorded when in 1920, women were given the right to vote in elections.²³

The second wave of feminism occurred between 1960'-1980s. After World War 2 left the country with a lot less men. This resulted in more women taking up industrial jobs. The occurrence spurred an awakening in women. This wave pushed for the social, economic, and reproductive rights of women.²⁴

The third wave of feminism sought to analyze and challenge the patriarchal ideas of how womanhood is expressed. This wave wanted a change in mentality compared to that of the previous waves. This wave of feminism zeroed in on the abuse and crimes that were committed

²² Seneca Falls Convention <<https://www.loc.gov/item/today-in-history/july-19/>> accessed 22nd July 2023

²³ ibid

²⁴ ibid

against women, for instance, sexual assault, rape, domestic violence, etc As the wave spread the word on the harm that women faced, they took up their grievances with different tiers of government and formed nongovernmental campaigns. ²⁵The result was the government recognizing the blind spot in the criminal justice system that did not soothe the pain of victims of sexual assault, rape, and domestic violence. This inspired the governments focus on victim's welfare and victim's rights. ²⁶

2.3 THEORIES OF VICTIMIZATION

Victimization is the process of becoming a Victim ²⁷On the surface, the common man thinks a victim is an individual who has been harmed, but scholars, legal professionals, criminologists, and many intellectuals like them see victimization through different lenses. The perspective they view victimization may not be universal and absolute but they seek to interpret and deconstruct the journey that takes an individual from being an average Joe to one who has been harmed and abused. These perspectives are called victim theories. In essence, they are theories that attempt to explain why someone has been victimized. These theories are:

²⁵ Marie Manikis, 'Contrasting the Emergence of the Victims' Movements in the United States and England and Wales' *Access to Justice: Historical Approaches to Victims of*

Crime [2019] <<https://www.mdpi.com/2075-4698/9/2/35>> accessed 23rd July 2023

²⁶ *ibid*

²⁷ <https://www.dictionary.com/browse/victimization> accessed

1. **Lifestyle Theory:** This theory believes a victim is a victim because of the lifestyle choices he makes²⁸. This school of thought believes a contributing factor to one becoming a victim is how he or she chooses to live their life²⁹. A commonly cited example of this theory is going out late or walking along lonely alleys at night, because if you do either of those you have a higher chance of getting robbed or getting kidnapped. Another example is a scenario where an individual willfully associates with a group of criminals especially when he or she isn't a criminal and has no cunny bone in their body. If an individual chooses to remain friends with scammers, it wouldn't take too long before they try to scam him as well, at least that's what the theory wants us to believe
2. **Deviant Place Theory:** This theory centers around a victim's location³⁰. This school of thought believes a person's location determines his chances of becoming a victim or not³¹. The deviant place theory posits that living in places with insecurity, poor law enforcement response, and low-income individuals can increase a person's chances of being victimized³². Some neighborhoods have above-average crime rates, when this occurs, these neighborhoods end up being notorious for this. Hence the name, deviant place theory, meaning being in a place with many deviants. An example of this is when a young man lives where there are many gangs. He will most likely end up being beaten up by a gang member when they try to go around intimidating people.

²⁸ Larry J. Siegal, *Criminology: Theories, Patterns and typologies* (West/Wadsworth Publishing Company, 1998)

²⁹ *ibid*

³⁰ *Ibid*

³¹ *ibid*

³² *ibid*

3. **Victim Precipitation theory:** This theory revolves around the idea that a victim has a hand in their victimization³³. Here, a victim is seen to have instigated his harm in one way or another. This theory is highly frowned upon because there is a direct pipeline between this theory and the ideas that victim blaming is built on. Victim blaming is retrogressive to the concept and goals of victim support and assistance. There are two types of victim precipitation and they are active and passive precipitation. Active precipitation is a situation where an individual actively provokes

³⁴Passive precipitation involves a victim having traits, status, or a position that an offender believes is a reason to victimize them³⁵. This is a vital aspect of hate crimes. This form of precipitation is conscious sometimes it is unconscious. An individual may know he is more susceptible to harm when he belongs to a particular group in the queer spectrum, i.e. being gay can lead to suffering violence from people that frown upon it. Being Christian or Jewish where there are anti-christian or anti-semitic people or being black around white supremacists in the U.S. These people know that they are susceptible to victimization by virtue of their existence and perception. Other people may not know that according to the passive precipitation theory, they are susceptible to harm For instance, a shop owner may be enjoying success in sales but a shop owner on the same street who isn't enjoying that level of success can harbor dangerous feelings. The

33 ibid

34 ibid

35 ibid

successful shop owner will become a victim of robbers, vandalization, and false allegations made by his less successful owner without knowing.

2.3.1 TYPOLOGY OF VICTIMS

According to Mariam Merriam-Webster dictionary, typology is defined as the study of or analysis or classification based on types or categories³⁶. According to Oxford Learner's Dictionary, typology is a system of dividing things into types³⁷. This system is used in describing the various individuals that fall under the victim descriptor. Selin & Wolfgang propounded a typology of victims that divides victims into five types³⁸. These five types include primary victimization, secondary victimization, tertiary victimization, mutual victimization, and no victimization³⁹.

- a) Primary victimization: This is when a specific person or group of people is targeted by an offender. For example, a person who is physically assaulted⁴⁰.
- b) Secondary victimization: Secondary victimization involves targeting and harming an impersonal party or entity such as an agency, business, company, or governmental body. For example, when miscreants vandalize a ministry headquarters⁴¹.

36 <<https://www.merriam-webster.com/dictionary/typology>> accessed

37 <<https://www.oxfordlearnersdictionaries.com/definition/english/typology>> accessed

38 Thornsten Sellin and Marvin E. Wolfgang, *The Measurement of Delinquency* (John Wiley & Sons 1964)

39 ibid

40 ibid

41 ibid

- c) Mutual victimization involves a situation where both parties are offenders and victims because they mutually target each other. For example when a road accident occurs and the drivers of two vehicles decide to fight each other over the accident⁴².
- d) No victimization: This involves a scenario where there is no clear victim. For instance, victimless crimes like drug use⁴³.

2.3.2 TYPOLOGY ACCORDING TO VON HENTIG

In 1948, Hans Von Hentig came up with a typology that considers the different biological, and psychological traits of victims⁴⁴. With this, he came up with 13 different types of victims and they are:

- a) The Young: It is easy for the young to become victims because they do not know any better, lack some amount of awareness, and are generally weaker than adults⁴⁵.
- b) Females: Females are easily victimized due to societal norms that treat women as less as well as the fact that they are generally weaker than men⁴⁶.

⁴² ibid

⁴³ ibid

⁴⁴ Hans Von Hentig, *The Criminal and his Victim* (New Haven: Yale University Press 1948)

⁴⁵ ibid

⁴⁶ ibid

- c) Old: The old may suffer more victimization because they aren't as strong as they used to be. They also have weaker minds and may not be up to date on current information⁴⁷.
- d) Immigrants: They do not understand the language or customs of the people so they are more likely to be harmed⁴⁸
- e) Depressed: They are emotionally vulnerable so it is easier to target them
- f) Mentally deranged: They suffer from mental illnesses or impairment so it is easier to harm them.⁴⁹
- g) Dull normal: These people are mentally fine but they are just easy to be deceived.⁵⁰
- h) Minorities: These are individuals who belong to a marginalized or discriminated group.⁵¹

2.4 FORMS OF VICTIMIZATION

Murder:

Murder is often regarded as one of the worst forms of victimization because it leaves the primary victim dead. Murder is the premeditated and unlawful killing of an individual or individuals. Across several civilizations, centuries, and cultural ties, murder is considered a very heinous offense. This is because if not for the murderer taking out their plan to kill the victim, they would still be alive. This form of victimization does not make it possible for victims to

⁴⁷ ibid

⁴⁸ ibid

⁴⁹ ibid

⁵⁰ ibid

⁵¹ ibid

fight for justice for themselves or receive redress after it. Family members, friends, and the State pursues justice for the victim.

In Nigeria, murder is defined as “Any person who unlawfully kills another is guilty of an offence which is called murder or manslaughter, according to the circumstances of the case⁵².

Aside from deceased murder victims, victimization is extended to the deceased’s partner, spouse, family members, friends, co-workers, business partners and staff. These people fall under the category of secondary victims. They go through a lot while coming to terms that their loved ones life has been unfairly cut short and are tasked with demanding justice while grieving.

Sexual Abuse and Rape:

Sexual abuse involves non-consensual and abusive sexual acts done to another person to display power imbalance, harm and humiliate them. Rape is a form of sexual abuse that involves non-consensual sexual penetration. Sexual abuse can take many forms like indecent touching, forced stripping, rape, flashing among others. Sexual abuse can happen across many demographics but young people are much more likely to be sexual abuse victims, with women being the most sexually victimized across age groups all over the world.

Physical Assault:

This involves unnecessary and unwarranted physical contact with another person. It involves physically harming an individual with the aim to force, intimidate, or inflict pain.

⁵² Section 315 Criminal Code Act

In the U.K. a person can have their physical assault divided into Battery, which is forceful contact that may or may not result in injuries⁵³, Grievous bodily harm which involves an intentional attack that results in very serious injuries like broken bones⁵⁴.

These divisions relate to the varying degrees a person can be physically victimized by another person.

Physical harm is often used as a tool for the perpetrator to get the victim to do his/her bidding. The fear of imminent harm can coerce a victim to do things he usually doesn't do. Victims of physical assault also fear expanded victimization that could go beyond injuries and progress to the loss of a body part or death. Victims here vary across demographics and contexts.

Sometimes all that is needed for a person to be victimized this way is if they are physically weaker, naive or have their guard down.

Domestic Violence: The United Nations defined domestic violence as “as a pattern of behavior in any relationship that is used to gain or maintain power and control over an intimate partner”⁵⁵.

Domestic Violence is abuse that happens in a domestic setting. In contrast, intimate partner violence specifically occurs when a person perpetuates violence against their intimate partner, that is a spouse or a person they are dating. Victims of domestic violence are victimized because of their close proximity to their attacker, that is they stand a high chance of being victimized

⁵³ Section 39 Criminal Justice Act 1988

⁵⁴ Section 20 Offences Against the Person Act 1861

⁵⁵ What is Domestic Violence? <<https://www.un.org/en/coronavirus/what-is-domestic-abuse>> accessed 15 September 2023

continuously because they live with their abuser. Their personal ties with the abuser make it hard for the victim to break the cycle or to accept the fact that they are a victim, at all. For instance, a partner who is a stay-at-home parent is more likely to be the victim of domestic abuse because of the fact that the abusive partner handles the finances of the stay-at-home parent, so reporting her spouse will entail being financially stranded. Aside from situations where an individual feels helpless, some domestic violence victims have their potential exit blocked by their abusive partner. Domestic violence victims often cast blame on themselves because they believe that since they chose their partner and consented to the relationship, enduring the violence and not seeking help is taking accountability for their decision making.

2.5 Effects of Victimization

Victims do not only suffer in the instance they are victimized, they suffer after the fact as well. Depending on the victim, and the context of the crime, there are a wide variety of negative effects that take a toll on victims. The criminal justice system and the public at large tend to look at the crime and the gravity of the crime as a one-moment experience for victims, but there is usually an untold story of the turmoil they face trying to recover from their victimisation. Though there are several, the negative effects of crime on the victim can be grouped into categories of physical, emotional, psychological, social, and financial.

Physical effects of crime: Violent crimes leave victims with physical injuries. Some injuries may be minor, and some may be major and life-threatening or life-altering. Injuries that a victim

may suffer include scratches, bites, lacerations, and bruises.⁵⁶ These injuries definitely cause soreness and possibly swelling and discoloration of the skin. Broken bones is another possible physical consequence of victimization that may be suffered by a victim, especially a victim of domestic violence or an orchestrated physical attack.⁵⁷ Internal bleeding and organ damage is a severe effect that is brought about by intense hitting or a heavy impact between the victim and an object wielded by the attacker. These effects cause pain to the victim, slow down physical ability, and disfiguration of their physical appearance⁵⁸. Physical effects may lead to the need for urgent medical attention and invasive medical procedures like surgery and stitches. However, medical care does not guarantee immediate alleviation of these injuries as they could progress to longer-term illnesses, for example, infections.

Emotional Effects: Even after a victim's bruises and broken bones are healed, there are scars that the outside world cannot see or measure and these are emotional and within the victim. Being on the receiving end of harm takes a deep emotional toll on a person. Only the victim can feel and truly understand these negative emotions that are brought about or heightened due to victimisation. Victims of crime are usually in shock and disbelief immediately after and could be in denial about the fact that they've been victimized⁵⁹. Victims will most likely be plagued with intense fear of their surroundings and fear of another attack. This fear may hinder a victim's ability to live their daily life. Shame is another debilitating emotion common among victims.

⁵⁶ Impact of Victimization <<https://www.crevc.ca/docs/victimization.pdf>> accessed 18 September 2023

⁵⁷ Ibid

⁵⁸ Ibid

⁵⁹ Ibid

Victims feel negatively about themselves because they've been violated⁶⁰. This shame is what holds them back from speaking up and seeking justice. Rage and anger is felt by victims who are intensely upset that they have been harmed. Rage and anger is unhealthy to live with and can negatively influence the victim to retaliate blindly. Victims may decide to take justice into their own hands by harming anyone that shares ties with their attacker, like their family members. An extreme form of retaliation is when a victim is fuelled by anger to attack people who share characteristics with their attacker like religion and ethnicity.

Psychological Effects: Victims internalize a lot of negative emotions due to their victimisation and sometimes without any support or justice, this usually weighs heavily on their psychological well-being. Victimisation negatively affects the mental health of victims and this can make the victim susceptible to mental illnesses and disorders⁶¹. Depression is a possible psychological consequence of victimisation⁶². The American Psychiatric Association described depression as a “common and serious medical illness that negatively affects how you feel, the way you think and how you act. Fortunately, it is also treatable. Depression causes feelings of sadness and/or a loss of interest in activities you once enjoyed. It can lead to a variety of emotional and physical problems and can decrease your ability to function at work and at home”In the U.K. the Office of National Statistics reported that victims of crime were two times

⁶⁰ ibid

⁶¹ ibid

⁶² ibid

more likely to suffer from depression compared to non victims⁶³. Another psychological effect victims suffer is Post Traumatic Stress Disorder, also known as PTSD⁶⁴. PTSD is caused by scary and violent incidents. The symptoms of PTSD last for a long time and affects a person's daily life.

Social Effects: The adverse effects that victimisation brings does not just manifest in and on the victim, it extend to their relations with others. Aristotle popularly refered to man as a social animal ⁶⁵and across different walks of life and centuries, it has always been agreed that humans need community and kinship, but it is unfortunate how becoming a victim can take that away from you one way or another. Stigmatization is a common effect that victims face. Especially victims of rape, and sexual molestation⁶⁶. Erving Goffman defined stigma when he wrote on the stigma theory as “an individual with an attribute which is deeply discredited by their society is rejected as a result of the attribute.”⁶⁷ Victims who are supposed to be treated with care are treated with contempt and disgust. Stigmatisation suffered by domestic violence victims can

⁶³ Jemma Crew, ‘Crime Victims are about Twice Likely to Report Depression than Non- Victims- ONS’ *The Independent* (London,3rd March 2022)

⁶⁴ Post- Traumatic Stress Disorder <<https://www.nimh.nih.gov/health/topics/post-traumatic-stress-disorder-ptsd>> accessed 1st September 2023

⁶⁵ Aristotle, *politics*

⁶⁶ Sofie Rose ‘Stigmatisation and Social Death of Survivors of Wartime Sexual Violence’ *Global Studies Quarterly*,[2023] Volume 3, Issue 2, <<https://academic.oup.com/isagsq/article/3/2/ksad021/7150353?login=false>> accessed 20th September 2023

⁶⁷ Erving Goffman, *Social stigma: Notes on the management of spoiled Identity* (Prentice-hall 1963)

show up when a victim of domestic violence opens up to her wider circle or even reports her abusive spouse, they may try to poke holes in her story, reject her story as a lie, and believe she is conspiring against her husband. Society may react with anger that she reported a domestic matter to the police as opposed to trying to mediate at home. The society holds the view that a man shouldn't be punished for what he did to his wife and repercussions like jail time are unnecessary. Victim blaming is a common ingredient of stigmatisation. It places fault and causation on the victim. The general public reacts with victim blaming because it is a form of false consolation, in the sense that they feel that the problem is the victim's actions, so if they act differently from the victim, they and their loved ones won't be harmed⁶⁸. Patriarchal ideologies usually try to drag culpability of sexual violence from men and place it on their female victims or conveniently call it a mere accident. Places that uphold purity culture may treat a victim of sexual violence with abhorration because they would see her as impure and touches. There are various patterns that stigma follows a victim. Societal stigma usually leads to institutional stigma, that is bodies, organizations and governmental agencies that a victim may come across with would treat victims poorly. For instance, rape victims encountering victim blaming at the police station where they went to report their case. Aside from stigmatisation, victims may find it hard to connect with others due to their victimisation. Their social relationships may suffer decline because of their state of mind. Victims often isolate themselves

⁶⁸ Sofie Rose 'Stigmatisation and Social Death of Survivors of Wartime Sexual Violence' *Global Studies Quarterly*, [2023] Volume 3, Issue 2, <<https://academic.oup.com/isagsq/article/3/2/ksad021/7150353?login=false>> accessed 20th September 2023

while they try to come to term switch their attack⁶⁹. They may avoid people and places with a lot of people. Social activities they once enjoyed may lose their appeal. Victims may not be able to engage their friends, partners, and colleagues as they once did because they are trying to process their grief and trauma. Parents of young children may find it hard to fully cater for their kids emotional needs because of the stress and pain that comes from victimization.

Financial Effects of Victimization: Money doesn't grow in a vacuum, instead it is earned and moves from hand to hand in an endless cycle. When victims of crime already find themselves in a situation where it is hard to engage with society due to their victimisation, their sources of income eventually suffers. Victims due to their need to isolate, may not show up to work whatever their job may be⁷⁰. They may take a period of time for them to move through the stages of grief and acceptance of what they've been through. Ome victims may want to recover away from the prying eyes and questions that they may face at work. For instance, a victim of domestic violence with evident bruises on their face may stay away from work because they do not want their victimisation to be known to the outside world. Even if a victim may not be absent from work, due to the psychological effects of their victimisation, it may be hard for them to concentrate, and deliver on their tasks as usual. This can lead to subtractions from their salary, loss of their job, or loss of customers and clients. This leads to a dent on a victim's finance⁷¹. Victims who have injuries like broken bones, bruises, and lacerations need

⁶⁹ Understanding the Effects of Social Isolation on Mental Health <<https://publichealth.tulane.edu/blog/effects-of-social-isolation-on-mental-health/>> accessed 18 September 2023

⁷⁰ Impact of Victimization <<https://www.crcvc.ca/docs/victimization.pdf>> accessed 18 September 2023

⁷¹ ibid

professional medical care, but medical care comes with bills. Victims of violent crimes lose money due to paying for medical treatment and this is paid by them, not their attacker⁷². They may also pay for subsequent visits to the doctor for checkups or to change the dressing on their wounds. Also, they may have to pay for medication needed to make a full recovery. Some victims have to undergo a surgical procedure which costs a lot especially if it isn't covered by the victim's health insurance⁷³. For victims who suffer psychological symptoms and disorders following their victimization, they may have to undergo therapy with a psychologist or psychiatrist, and that incurs another set of bills for a victim to pay⁷⁴. These are not one-off appointments, but they are continuous sessions that extend over the months and possibly over the years.

CHAPTER THREE

LEGAL AND INSTITUTIONAL FRAMEWORK PROTECTING VICTIMS IN NIGERIA

3.1 HISTORY OF VICTIM RIGHTS IN NIGERIA

⁷² *ibid*

⁷³ *ibid*

⁷⁴ *ibid*

Victim rights in Nigeria have a much more recent history when compared to the U.S. and U.K. It can be inferred that victim rights in Nigeria gained attention as other countries took the lead and made headway in seeking better protections for their victims.

There have been attempts since the 1980s to legislate special laws for victims' rights in Nigeria⁷⁵. Yet there has not been major milestones or major turning points that speeded up the tide in victims rights legislation in Nigeria. So far, campaigns against gender based violence against women like rape, FGM and domestic violence, has improved the legislative outlook on these crimes and afforded victims some remedies⁷⁶. This cushioned the path for VAPPA that was passed into law in 2015⁷⁷.

Also, the EndSARS Social movement brought recognition to the very rampant and sad cases of victims of police brutality in Nigeria⁷⁸.

3.2 THE ROLE OF THE VICTIM IN THE NIGERIAN CRIMINAL JUSTICE SYSTEM

⁷⁵ Deborah D. Adeyomo 'Recognising the Rights of Crime Victims in the Nigerian Criminal Justice System' *International Journal of Comparative Law and Legal Philosophy* [2021] 3(3) 64-72

⁷⁶ *ibid*

⁷⁷ NAN, 'Minister Lauds President Johnathan for Signing VAPP Act into Law' *The Guardian* (Lagos, 26 May 2015) <<https://guardian.ng/news/minister-lauds-president-jonathan-for-signing-vapp-act-into-law/>> accessed

⁷⁸ Abosede George 'The Roots of the EndSARS Protest in Nigerias' *The Washington Post* (Viginia, 25 October 2020)

<<https://www.washingtonpost.com/outlook/2020/10/25/roots-endsars-protests-nigeria/>> accessed

Victims play a crucial role in Nigerian criminal trials because, with the aid of victims, the prosecution has the additional necessary information to convict an offender⁷⁹. Despite this benefit, they are not valued or given as many rights as the accused⁸⁰. When it comes to prosecution, victims take a secondary role⁸¹. That is because Nigeria runs on an adversarial system of prosecution⁸². This involves the public prosecutor trying the accused. With that said, the parties involved in a criminal trial are the accused and the prosecution, not the victim or victims of the criminal offense. Victims have no power during trials, they merely serve as prosecution witnesses⁸³. They give their account of the crime when called upon to give their witness testimony, but they do not have any actual legal status throughout the trial⁸⁴. The criminal justice process in Nigeria is focused more on the accused. This is evident when we look at the constitutionally provided rights of an accused person, meanwhile, victims have no constitutionally entrenched rights⁸⁵.

3.3 LEGAL FRAMEWORKS PROTECTING VICTIM RIGHTS IN NIGERIA

Victim protection laws in Nigeria can be found in the ACJA and in VAPPA. Coincidentally, they were both passed into law in 2015 in a bid too improve the Nigerian criminal justice system.

⁷⁹ Nwora Ike Obiora, 'Re-victimization of Victims in the Criminal Justice System' *UNLSJL* [2015] (2) 54-66

⁸⁰ Ibid

⁸¹ Deborah D. Adeyomo 'Recognising the Rights of Crime Victims in the Nigerian Criminal Justice System' *International Journal of Comparative Law and Legal Philosophy* [2021] 3(3) 64-72

⁸² Ibid

⁸³ Ibid

⁸⁴ Ibid

⁸⁵ Section 36 Constitution of the Federal Republic of Nigeria 1999

The creation of these Acts was a welcome development as it expanded the perspective of the law of various crimes like rape and provided much needed protection to victims of crime.

Despite this, the ACJA and VAPPA is not adequate or effective enough for the proper support and protection of victims rights in Nigeria. For instance, neither of the acts gave a clear definition as to who a 'victim' is. This brings the complicated debate about who should enjoy the protections and rights listed in these acts.

The content of these acts are not known to the average Nigerian and that is a pointer to the lack of effectiveness of the acts.

3.3.1 ADMINISTRATION OF CRIMINAL JUSTICE ACT 2015 (ACJA)

Victims of crime in Nigeria are protected by the rights provided in the Administration of Criminal Justice Act 2015⁸⁶. This act governs the criminal justice system in Nigeria and because victims are an integral part of criminal justice, their role and rights are covered by it⁸⁷.

The ACJA was signed into law by President Goodluck Jonathan on May 25, 2015, and came into effect in June 2015⁸⁸. It replaced the Criminal Procedure Act and Criminal Procedure Code due to outdated content⁸⁹. The ACJA was brought about to address holes in the Nigerian legal system and it attempted that by giving attention to victims of crime in Nigeria⁹⁰.

⁸⁶ Administration of Criminal Justice Act 2015

⁸⁷ *ibid*

⁸⁸ Editorial 'Johnathan has Signs Criminal Justice Bill into Law' *Premium Times* (Lagos, 14 May 2015)

⁸⁹ Reason Abajuo, 'An Appraisal of the Criminal Justice Act' SSRN Electronic Journal

<https://www.researchgate.net/publication/314427263_An_Appraisal_of_the_Administration_of_Criminal_Justice_Act_2015> accessed 18 August 2023

⁹⁰ *ibid*

The following rights are accorded to victims of crime in Nigeria under the ACJA:

Compensation: The ACJA gives power to the court to order the defendant to pay the victim for the offense committed, especially if compensation would have been granted if it were a civil suit. Compensation is also given to victims of crime for the expenses they had to make for medical treatment needed due to the offense⁹¹.

Restitution: The court orders the defendant to pay the victim as a form of restitution for the victims losses⁹²

The court also orders the defendant to return stolen property or to pay the exact money that the property would have cost. In the case of destroyed property, the defendant will have to pay to restore the property to the victim⁹³.

Civil suit: A victim of a crime is allowed to pursue a civil suit against the defendant. The fact that a criminal trial exists does not stop the victim from pursuing a civil case.⁹⁴

⁹¹ Section 319 Administration of Criminal Justice Act 2015

⁹² Section 314 Administration of Criminal Justice Act

⁹³ Section 336 Administration of Criminal Justice Act 2015

⁹⁴ Section 320 (2) Administration of Criminal Justice Act 2015

Consent to Plea Bargain: Depending on circumstances, victims are given the opportunity to give consent or withhold it when a defendant offers a plea bargain to the prosecutor⁹⁵.

Identity protection: When an individual is a victim of defilement, incest, unnatural offenses, economic and financial crimes, terrorism offenses, and trafficking in persons, he or she shall have their identity protected in reports of the court proceedings. The court may also permit victims to be masked or screened as well as attend trial over a camera.⁹⁶

3.3.2 VIOLENCE AGAINST PERSONS (PROHIBITION) ACT 2015 (VAPPA)

The Violence Against Persons Act was created in response to the continuous national occurrence of violence. It was enacted by the National Assembly in 2013 and was signed by President Goodluck Ebele Johnathan in May 2015⁹⁷. The Act is an improvement on the existing legislation because it focuses on the violations that people face in their public and private life. Also, it is comprehensive and well-detailed legislation on the various cankerworms plaguing the country. VAPPA prohibits numerous acts such as rape, female genital mutilation, cyberbullying, child marriage, human trafficking, domestic violence and incest.

The Explanatory Memorandum of the Act says “This act prohibits all forms of violence against persons in private and public life and provides maximum protection and effective remedies for victims and punishment of offenders”. The protections it provides for victims include

⁹⁵ Section 270 (2) Administration of Criminal Justice Act 2015

⁹⁶ Section 232 Administration of Criminal Justice Act 2015

⁹⁷ NAN, ‘Minister Lauds President Johnathan for Signing VAPP Act into Law’ *The Guardian* (Lagos, 26 May 2015) <<https://guardian.ng/news/minister-lauds-president-jonathan-for-signing-vapp-act-into-law/>> accessed

Protection order: A protection order is “an official legal document signed by the judge that restrains an individual or state actor from further abusive behavior to a victim”. Victims of crime who complain of violence to the court will be granted a protection order against the offender. This protection is in place to prevent re-victimization by the same attacker.⁹⁹

Right to attend trials: Victims of crime have the right to attend criminal proceedings for any trial involving any of the crimes under the Act.¹⁰⁰

Support during the trial: Victims are allowed to have three individuals attend a court proceeding with them at different stages during the trial as a form of support to the victim.¹⁰¹

Protection officers: Protection officers are hired to help the court and police discharge their duties smoothly. They are to ensure victims have access to accredited service providers, access to an alternative safe residence, access to a medical facility for treatment, access to court orders, and access to any form of court interim protections¹⁰².

⁹⁸ Violence Against Persons Prohibition Act 2015

⁹⁹ Section 23 Violence Against Persons Prohibition Act 2015

¹⁰⁰ Ibid Section 38 (3) (b)

¹⁰¹ Ibid Section Section 38 (3) (h)

¹⁰² Ibid Section 46

Assistance: Victims have the right to receive support needed to make a full recovery, whether it is medical, legal, financial from the government or NGOs.¹⁰³

3.4 Effectiveness of VAPPA and ACJA in Protecting Victims Rights

The introduction of VAPPA and ACJA into the Nigerian legal system revamped the process of criminal justice, regardless they have still been criticised for their ineffectiveness in fulfilling their objectives.

As sources of victim protection laws, they provide only a handful of victim centered provisions. The ACJA as an act is concerned with the general administration of a criminal trial. VAPPA has the aim of protecting victims in its memorandum, also places focus on various offences and the punishment for offenders. The act splits its focus between offenders and victims alike. That is to say neither of these acts are solely victim focused.

Though VAPPA and ACJA recognise offences that affect children in Nigeria such as rape and female genital mutilation, they do not have well outlined provisions for the welfare of child victims before, during and after the trial. There are no provisions that ensure that child victims get definite access to child psychologists to help them recover from their victimization, neither do they outline ways for a criminal trial to be made child friendly when a child victim is involved.

Ambiguity is another problem that makes VAPPA and ACJA to be ineffective as sources of victim protection laws. Some provisions are not precise and can be open to interpretation by any

¹⁰³ Ibid Section 38 (1) (a)

judge referencing it. For instance, VAPPA made provisions for a protection order for victims of crime, but it did not outline the technicalities involved such as how to report when a protection order is disobeyed. Without clear redress in a situation like this, victims may be put in unnecessary harm's way.

These acts also fail to take into account the psychological health of victims as they pursue justice. They make mention of providing information and relevant services but do not explain how victims will pay for the said services.

Though VAPPA and ACJA are improvements in the criminal justice system, the general public do not know much about them and the victim protection laws they provide. When victim lack awareness about these laws, they wouldn't know when and how to seek redress. This defeats the purpose of the acts.

3.5 Institutional Framework for Victim Protection in the Nigerian Criminal Justice System

Institutional frameworks refers to the structures, networks, bodies and agencies put in place to support and promote a particular goal or interest. To promote the role and proper treatment of crime victims in the criminal justice system, there are necessary institutional frameworks that shapes its success in every jurisdiction. These come in different forms and it will be a herculean task to appreciate all of them, so it is best to look at the most active bodies within the Nigerian criminal justice system.

NAPTIP:

The National Agency for the Prohibition of Trafficking in Persons also known as NAPTIP for short is a governmental body set up in 2003 to tackle human trafficking in Nigeria¹⁰⁴. Though it was created through the Trafficking in Persons (Prohibition) Enforcement and Administration Act 2003 to fight the endemic of human trafficking and modern day slavery, NAPTIP provides protection and resources to victims of crime¹⁰⁵. Section 44 of the Violence Against Persons (Prohibition) Act 2015 pronounced NAPTIP as the body in charge of administering the provisions of VAPPA¹⁰⁶. NAPTIP is able to carry out this responsibility through the existence of VAPP department¹⁰⁷. This department performs specialized functions like investigating VAPPA offences such as rape, domestic violence and incest¹⁰⁸. The VAPP department also provides rehabilitation services, collaborates with faith based organizations, legal departments and the Sexual and Gender based departments in providing support to victims¹⁰⁹. They also conduct sensitization campaigns to foster and promote reorientation¹¹⁰. In addition, they help victims seek protection orders and and conduct rescue missions for victims of crime. NAPTIP also handles the Nigeria Sexual Offender and Service Provider Database¹¹¹. This is a database

104 About Naptip <<https://naptip.gov.ng/violence-against-persons-prohibition-department/>> accessed 17th October 2023

105 ibid

106 Section 44 VAPPA

107 Violence Against PERSONS (Prohibition) VAPP Department <<https://naptip.gov.ng/violence-against-persons-prohibition-department/>>accessed 17 October 2023

108 ibid

109 ibid

110 ibid

111 ibid

that that contains information on convicted sex offenders relevant for public safety as well service providers nearest to victims¹¹².

Federal Ministry of Women Affairs and Social Development:

This is a federal ministry in Nigeria that handles the welfare of women and girls across various sectors¹¹³. This ministry strives to achieve gender equality in Nigeria through well-designed initiatives. They are saddled with the goal of improving the quality of life for all women and girls in Nigeria¹¹⁴. This is not only through sensitization, educating the girl child and, providing soft skills sand financial help but through the protetion of female victims of crime. The ministry does this through the legal unit¹¹⁵. This unit provides legal aid to female victims of abuse and violence¹¹⁶.

CHAPTER FOUR

A COMPERATIVE REVIEW OF VICTIM PROTECTION IN THE U.S. AND U.K.

4.1 THE ROLE OF VICTIMS IN CRIMINAL TRIALS IN THE UK

112 ibid

113 Federal Ministry of Women Affairs <<https://www.womenaffairs.gov.ng/>> accessed 17 October 2023

114 ibid

115 Legal Unit of the Federal Ministry of Women Affairs and Social Development <<https://cvaw-global-database.unwomen.org/en/countries/africa/nigeria/2011/legal-unit-of-the-federal-ministry-of-women-affairs-and-social-development>> accessed 17th October 2023

116 ibid

The role of victims in a criminal trial in the U.K. shares similarities with the Nigerian criminal justice system simply because Nigeria mirrors its former colony in many ways¹¹⁷. The criminal justice system in the U.K. has evolved over the years and is still changing to increase victim participation. Notwithstanding, a victim's role in an English trial is still somewhat limited¹¹⁸. This is because the mode of trial is adversarial. The prosecution is between the prosecutor and the accused party called the defense¹¹⁹. The defense is the major focus in a criminal trial because the prosecutor's aim is to prove beyond reasonable doubt that the accused committed the crime¹²⁰. In criminal trials in the U.K. victims are not active participants in the prosecution process¹²¹. Instead, the State takes the place of the victim and pursues justice¹²². The state does this with the aim to protect society and ensure justice, and safety¹²³. Despite this, victims have some roles set aside to help successfully convict the accused party¹²⁴. They can serve as prosecution witnesses in court detailing what they witnessed¹²⁵. Another important role victims

117 Khairat Oluwakemi Akanbi 'Views of the Echoing Influence of the Common Law on the Nigerian Legal System' *International Journal of Law and Clinical Legal Education* [2022] 3 25-31

118 Johnathan Doak 'Victims' Rights in Criminal Trials: Prospects for Participation' *Journal for Law and Society* [2005] 32 (2) 294-316

119 *ibid*

120 *ibid*

121 *ibid*

122 *ibid*

123 *ibid*

124 *ibid*

125 *ibid*

take up during trial is the Provision of a Victim Personal Statement which is beneficial to the victim and the court during its decision-making process¹²⁶.

4.1.2.VICTIM PERSONAL STATEMENT IN CRIMINAL TRIALS IN THE UK

A Victim Personal Statement is a written or oral statement made by victims of crimes presented before the court detailing the impact the crime has had on them whether physical, mental, professional, or financial¹²⁷. Victim Personal Statements are also made before Parole Boards to help decide whether the convicted offender should be granted parole or not¹²⁸. This statement is an opportunity for victims to make their voices heard in the criminal justice system¹²⁹. It creates a space specifically in the trial for victims only¹³⁰. Through this statement, victims indirectly influence the sentencing of the convicted offender¹³¹. Bereaved close relatives also fall under the category of victims allowed to make victim personal statements¹³². Their statements narrate their ordeal following the death of the victim. When a victim is a minor (below 18 years), their victim statements can be presented by their parent or guardian. VPS are either taken when giving a witness statement or later on but usually have to be before it's too late in a trial¹³³. That

126 *ibid*

127 Victim Personal Statement <<https://www.gov.uk/government/publications/victim-personal-statement>>accessed

128 *ibid*

129 *ibid*

130 Making a Victim Personal Statement <<https://assets.publishing.service.gov.uk/media/5a7cd21040f0b6629523c02e/victims-vps-guidance.pdf>> accessed 23rd September 2023

131 *ibid*

132 *ibid*

133 *ibid*

being said, a VPS is only usable when the defendant has been found guilty or pleaded guilty¹³⁴. A VPS cannot be changed but a second VPS can be added to it within the appropriate time. A victim can come to court to read aloud their VPS or a recording of it can be played. In a situation where a victim cannot physically make it to¹³⁵ court in time to read his VPS, the victim will submit it and have it read out loud for him. There are situations where the court decides in the best interest of the victim whether or not they should read it aloud.¹³⁶ The role of a victim in a criminal trial in the U.K. does not include dictating what the punishment should be. Therefore, VPS should not include the victim's opinions on punishing the defendant. A VPS is also not an opportunity for the victim to throw obscenities or unfounded claims about the defendant¹³⁷. It is important to note that your VPS can be reported in the media. It will also be added to the court files excluding the victim's personal information¹³⁸.

4.1.3 IMPACT BUSINESS STATEMENTS IN CRIMINAL TRIALS IN THE UK

This is a statement made by businesses that have been victimized explaining how the business has suffered from the crime—for instance, financial loss or damage to its brand. Any business can make this statement as long it is not a public sector. An ISB is presented in court by a representative of the business and taken into account during sentencing.¹³⁹

¹³⁴ ibid

¹³⁵ ibid

¹³⁶ ibid

¹³⁷ ibid

¹³⁸ ibid

¹³⁹ Victim Personal Statement <<https://www.gov.uk/government/publications/victim-personal-statement>> accessed

4.2.1 THE ROLE OF THE VICTIM IN CRIMINAL TRIALS IN THE US

At the beginning of the 20th century, victims were sidelined during criminal trials until the 1960s when a number of movements and campaigns redirected focus to the feelings and lived experiences of victims in America¹⁴⁰. Now the criminal justice system in America is much more victim inclusive. When a person is victimized, the first step to take is to report it to the police. The police embark on investigations, hence the victims answer the necessary questions that the police ask them. Also, the victims help the police gather evidence and identify suspects. When enough evidence is gathered, the police hand it over to the prosecutor who presses charges against the accused. The victim speaks to the prosecutor and helps them build the case by relating the extent of the crime. Victims also have a special role created for them and this is the making of a victim impact statement¹⁴¹. Victims assist the judge in making a verdict by conveying their victim experience in the form of a Victim Impact Statement¹⁴².

4.2.2 VICTIM IMPACT STATEMENT IN AMERICAN CRIMINAL JUSTICE SYSTEM

A victim impact statement is a written or oral statement made by the victim and included in the judicial process explaining the emotional, physical, and financial toll the crime had on him or her¹⁴³.

140 Marie Manikis, 'Contrasting the Emergence of the Victims' Movements in the United States and England and Wales' *Access to Justice: Historical Approaches to Victims of Crime* [2019] <<https://www.mdpi.com/2075-4698/9/2/35>> accessed

141 Victim Impact Statement <<https://www.justice.gov/criminal/criminal-vns/victim-impact-statements>> accessed 13 August 2023

142 *ibid*

143 *ibid*

Victim impact statements are important because they give victims their own place in a criminal trial. It ensures criminal trials are humanized instead of mechanical and insensitive. VISs give a realistic view during prosecution as opposed to a built on only arguments and technicalities¹⁴⁴.

When victims give a VIS, it paints a picture of the impact that the crime caused the victim. It allows the victim to have a voice and give their input¹⁴⁵.

If a victim wants to present a VIS, they have to send it to the United States Attorney's Office¹⁴⁶.

This statement is now sent to the U.S. Probation Office and included in the Presentence Investigation Report¹⁴⁷. Then finally, it is sent to the judge who carefully reads it to form his opinion for sentencing¹⁴⁸.

Victim Impact Statements are protected documents. They are protected under seal and kept away from the public and away from the media. The only parties outside the judicial officers listed above who see it are the defendant and his attorney. They have the right to read it and cross-examine the victim based on their statement¹⁴⁹.

4.2.3 PRESENTENCE INVESTIGATION REPORT

144 ibid

145 ibid

146 ibid

147 ibid

148 ibid

149 iid

This is a report prepared by the U.S. Probation Office that helps the judge decide the appropriate sentence to give someone convicted of a crime¹⁵⁰. They are all the factual findings about the defendant's history as well as the victim's experience gathered together to decide how harsh or lenient the defendant's punishment should be¹⁵¹.

The probation officer interviews the defendant for the Presentence Investigation report, as well as his family, friends, and colleagues¹⁵².

The Presentence investigation report is a professionally respected mechanism used during sentencing. According to a recent survey, 94.7% of judges were satisfied by the reports presented to them¹⁵³.

This report includes a variety of essential information required to make a suitable sentencing. Some of this information includes other pending criminal charges, criminal history, juvenile record, ties to the community, skills, financial situation, physical health, mental health, the financial, emotional, and physical impact of his crime on the victim (Victim Impact Statement)¹⁵⁴.

By including the VIS in the Presentence Investigation Report, it ensures the toll on the victim is not forgotten and makes it central to the punishment meted to the defendant. This report

150 *ibid*

151 History of the Pre-sentence Investigation Report <https://www.cjcb.org/media/import/documents/the_history.pdf>.

152 *ibid*

153 James L. Johnson, Carrie E. Kent 'Federal Presentence Investigation Report: A National Survey' *Federal Probation - a journal of correctional philosophy and practice*

(83)(3) 28-31

154 *ibid*

recognizes victims' life after the crime and makes sure the defendant, to the best of his/her capacity, pays for his crimes against the victim especially finance-wise.¹⁵⁵

4.2.4 WHAT TO INCLUDE IN A VICTIM IMPACT STATEMENT

The tips provided by the U.S. Attorney's Office are in the form of questions. They form a suitable guide for writing a simple and descriptive Victim Impact Statement. These questions border on whether you suffered injuries, whether you or your family has received counselling, the cost of medical care for injuries, the general financial cost being a victim entails, the emotional weight as well as several others.

4.2.5 HISTORY OF VICTIM IMPACT STATEMENT IN THE U.S.

The foundation for what is today known as the Victim Impact Statement in America was laid down as far back as the 1970s-1980s.

In the year 1969, Sharon Tate was a budding Hollywood career married to her director husband, Roman Polanski. While eight months pregnant, she was gruesomely killed, along with four others in her home by the Manson family. The Manson family was a violent cult headed by Charles Manson¹⁵⁶.

The murders turned into a grim national sensation and attracted so much attention. The prosecution of the murders is what is known as People of the State of California v Charles Manson et al¹⁵⁷.

¹⁵⁵ *ibid*

¹⁵⁶ Greg King, *Sharon Tate and the Manson Murders* (Open Road Media 2016)

¹⁵⁷ 61 Cal.App.3d 102

In 1986, one of the killers, Leslie Van Houten, gathered close to a thousand signatures to support his bid for parole. Sharon Tate's traumatized mother, Doris Tate, embarked on a nationwide campaign to stop this¹⁵⁸. She went on television to talk about the case and her opinion on the state of the criminal justice system¹⁵⁹. Doris Tate gathered over 350000 signatures supporting the continued imprisonment of Houten.¹⁶⁰

Doris Tate participated in a number of victim support groups, one of them worked to get the Victims Rights Bill passed in 1982¹⁶¹.

This led Doris Tate to become the first person to make a Victim Impact Statement in California after the bill was passed¹⁶².

4.3 DECLARATION OF BASIC PRINCIPLES OF JUSTICE FOR VICTIMS OF CRIME AND ABUSE OF POWER

The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power is a United Nations universal instrument adopted on 29 November 1985 at the General Assembly¹⁶³. It is a non-binding but authoritative resolution with principles on the proper treatment of victims

158 *ibid*

159 *ibid*

160 *ibid*

161 *ibid*

162 Today in History: The First Victim Impact Statement <<https://paar.net/today-in-history-feb-24/>> accessed 15 August 2023

163 Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power <<https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-basic-principles-justice-victims-crime-and-abuse>> accessed 15 August 2023

of crime and abuse of power¹⁶⁴. It is an international document that sets down standards in victim support and is a guiding instrument for member states when they seek to build victim-centered legislation and policies.

According to The Declaration of Basic Principles for Justice for Victims of Crime and Abuse of Power, a victim is defined as thus-

1. "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.¹⁶⁵

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The declaration is sectioned into two parts titled Victims of Crime and Victims of Abuse of Power with the former being section A and the latter being section B¹⁶⁷.

Section A gives numerous principles for victims of crime including

- Treating victim cases with compassion and consideration¹⁶⁸
- Giving victims the right to seek legal action ¹⁶⁹

164 ibid

165 ibid

166 ibid

167 ibid

168 ibid

169 ibid

- Making sure the judicial process is as fast as possible¹⁷⁰
- Victims should be informed of their rights, role and all the available options and courses to take in their pursuit of justice.¹⁷¹
- Keeping victims up to date on the progress of their case.¹⁷²
- Utilizing victim experiences and opinions during trial as allowed in the national legislation. ¹⁷³
- Making sure victims and their loved ones are protected and away from intimidation and harm.¹⁷⁴
- Ensuring there are legal provisions of restitution to victims of crime by the offender¹⁷⁵
- Providing State compensation to victims of crime who suffered ¹⁷⁶
- Facilitating the necessary assistance needed by victims to recover from their ordeal. This assistance could be governmental or non-governmental, but providing both is ideal and necessary.¹⁷⁷

¹⁷⁰ *ibid*

¹⁷¹ *ibid*

¹⁷² *ibid*

¹⁷³ *ibid*

¹⁷⁴ *ibid*

¹⁷⁵ *ibid*

¹⁷⁶ *ibid*

¹⁷⁷ *ibid*

On the other hand, Section B sets principles that governments should adhere to for the benefit of citizens who have been abused by power. Some of them are:

- States should prevent abuse of power against citizens ¹⁷⁸
- Provision should be made for victims of abuse of power to receive restitution and compensation. ¹⁷⁹
- Abuse of power as a crime should be recognized by national law with an appropriate punishment set. ¹⁸⁰
- States should ensure that their legislation is up to date and covers victim issues

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4.4 LEGAL FRAMEWORKS PROTECTING VICTIM RIGHTS IN THE UK

4.4.1 VICTIM'S CODE

The major legal framework protecting victims of crime in the U.K. is the Code of Practice of Victims of Crime also known as the Victim's Code and it has been in effect since 2006¹⁸². It is a

¹⁷⁸ *ibid*

¹⁷⁹ *ibid*

¹⁸⁰ *ibid*

¹⁸¹ *ibid*

¹⁸² Fact sheet: The Victims Code <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1148407/fact-sheet-victims-code.pdf>

accessed 17 October 2023

statutory code outlining the minimum standard of rights and assistance that victims of crime in the U.K. should be entitled to¹⁸³. It was created by the Domestic Violence, Crime, and Victims Act in 2004¹⁸⁴.

The rights under the Victims Code are enjoyed by individuals despite their current residential status in the U.K.

It consists of 12 core rights accorded to victims of crime in the U.K. These rights include

1. The right to be able to understand and be understood¹⁸⁵
2. Right to be able to have details about the crime recorded without unjustified delay ¹⁸⁶
3. The right to be provided with information while reporting the crime ¹⁸⁷
4. The right to be referred to services that support victims and have services and support tailored to your needs. ¹⁸⁸
5. The right to be provided information on compensation ¹⁸⁹
6. The right to be provided information about investigation and prosecution¹⁹⁰

183 Victim's Code - The Supreme Court <<https://www.supremecourt.uk/procedures/victims-code.html>> accessed 17 October 2023

184 Fact sheet: The Victims Code <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1148407/fact-sheet-victims-code.pdf> accessed 17 October 2023

185 Code of Practice for Victims of Crime in England and Wales (Victims Code) <<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 17th October 2023

186 *ibid*

187 *ibid*

188 *ibid*

189 *ibid*

190 *ibid*

7. The right to make a victim statement¹⁹¹
8. The right to be given information about the trial, trial process, and your role as a witness¹⁹²
9. The right to be given information about the outcome of the case and any appeals¹⁹³
10. The right to be paid expenses and have property returned¹⁹⁴
11. The right to be given information about the offender following conviction:¹⁹⁵
12. The right to make a complaint when your rights are not being met¹⁹⁶

The Code makes provision for Enhanced rights¹⁹⁷. These are accorded to victims who are classified as vulnerable, victims and relatives of victims of serious crimes and victims that are continuously targeted. This classification exists because it is understood that they may need specialized services.¹⁹⁸

Vulnerable victims are made up of victims under 18, victims with mental impairments, limited social functioning, and physical disabilities as well as if a victim is under fear about testifying in court¹⁹⁹. Victims of the most serious crimes are eligible for enhanced rights if they are a victim

¹⁹¹ ibid

¹⁹² ibid

¹⁹³ ibid

¹⁹⁴ ibid

¹⁹⁵ ibid

¹⁹⁶ ibid

¹⁹⁷ Code of Practice for Victims of Crime

<https://www.cps.gov.uk/sites/default/files/documents/legal_guidance/OD_000049.pdf> accessed 19 August 2023

¹⁹⁸ ibid

¹⁹⁹ ibid

of domestic abuse, hate crime, terrorism, sexual offenses, human trafficking, modern slavery, attempted murder, kidnap, false imprisonment, arson with intent to endanger life and wounding or causing grievous bodily harm with intent²⁰⁰. Persistently targeted victims that are eligible for enhanced rights are victims that are continuously targeted in crimes like harassment and stalking²⁰¹.

4.5 LEGAL FRAMEWORKS PROTECTING VICTIM RIGHTS IN THE U.S.

4.5.1 CRIME VICTIM RIGHTS ACT

The Crime Victim Rights Act is a part of the Justice for All Act established in 2004²⁰². Its long title is Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims' Rights Act named after victims of murder²⁰³. Initially, Congress tried to include victim rights in the United States Constitution, but both houses of Congress couldn't reach a common ground to make this desire a reality.²⁰⁴ A statutory bill was then considered the best alternative²⁰⁵. Hence, this bill was introduced and passed into law.

200 *ibid*

201 *ibid*

202 18 U.S. Code § 3771

203 *ibid*

204 Crime Victims' Rights Act: A Summary and Legal Analysis of 18 U.S.C. § 3771 <<https://sgp.fas.org/crs/misc/RL33679.pdf>> accessed 20 August 2023

205 *ibid*

The Act bestowed the following eight rights to victims:

1. The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding²⁰⁶.
2. The reasonable right to confer with the attorney for the Government in the case²⁰⁷.
3. The right to full and timely restitution as provided in law²⁰⁸.
4. The right to proceedings free from unreasonable delay²⁰⁹.
5. The right to be treated with fairness and with respect for the victim's dignity and privacy²¹⁰
6. The right to be reasonably protected from the accused²¹¹.

206 18 U.S.C. § 3771

207 *ibid*

208 *ibid*

209 *ibid*

210 *ibid*

211 *ibid*

7. The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused²¹².
8. The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding²¹³.

4.5.2 Child Victims and Child Witnesses Rights in the U.S code

Child victims are victims of crime who are under the age of 18 years and have suffered a crime²¹⁴. The U.S. code made provisions for the protection of child victims that testify or have their case go to trial in a Federal court in the U.S²¹⁵. These rights include but are not limited to:

Alternative to live in court testimony: Child victims and child witnesses who the court deems to be too young and fragile to undergo the grueling process of testifying in a court are given the opportunity to testify through alternatives. This could be through video footage or through two way closed circuit television. Before this route is taken, it has to be determined that a child can not withstand the court without undergoing emotional distress that would impair their conduct in court²¹⁶.

212 Ibid

213 Ibid

214 18 U.S.C § 3509 §(2)

215 18 U.S.C § 3509

216 18 U.S.C § 3509

Adult attendant: Aside from their attorney, a child is allowed to have an adult guardian follow them to all the court seatings for emotional support and guidance²¹⁷.

Speedy Trial: Child victims have the right to speedy trials because being a victim of a crime on trial and to an extent a testifying witness causes stress and children deserve a speedy trial so as not to elongate the pressure and stress trial causes them²¹⁸.

Child appropriate language: The court should protect child victims by employing child appropriate language especially while determining their compellability²¹⁹

Privacy protection: Confidential information about child victims should be protected from the public. Files that contain child victim information is protected under seal and hidden away from the vital parties of the case²²⁰. A protection order may be moved before the court with adequate reason to provide even more protection of the child's information. Though certain information regarding the child's identity will not be hidden from the defendant and the multidisciplinary child abuse team²²¹.

Testimonial aids: Child victims are allowed to narrate the nature of what they experienced or witnessed with the use of puppets and toys²²².

217 Ibid (h)

218 Ibid (j)

219 Ibid (c)(8)

220 Ibid (d)(2)

221 Ibid (d)(3)

222 Ibid (l)

Closed court room: The court may order a closed court while child victims testify in court. This means that the only people present are the essential and key role players in the case whereas, members of press wont be present at that moment in time.²²³

4.6 INSTITUTIONAL FRAMEWORK PROTECTING VICTIMS IN THE U.S & U.K.

In the U.S. some states have a special unit in their police departments called the Special Victims Unit. They handle crimes that include victims who need special care and assistance like molestation of children, the elderly and the disabled²²⁴.

In the U.K. there is the Criminal Injuries Compensation Scheme (CICS). This is a governmental scheme handled by the the Criminal Injuries Compensation Authority (CICA) to provide compensation for victims of crime. This scheme reviews requests and compensates those who are considered eligible²²⁵. Victims of crime are awarded compensation if their victimization made them suffer

mental and physical wounds, a lower ability to work and earn, or death²²⁶

It is necessary for victims who want compenation under this scheme to request for payment within two years after the crime, and if it exceeds two years after the crime, they need to provide a reasonable explanation as to the timing of the request²²⁷. A conviction of the crime in a

223 Ibid (4)(e)

224 Special Victims Unit| New York State Police <<https://troopers.ny.gov/special-victims-unit>> accessed 23 August 2023

225 Crimiinal Injuries Compensation: a guide <<https://www.gov.uk/guidance/criminal-injuries-compensation-a-guide>> accessed 23 August 2023

226 ibid

227 ibid

court is not necessary for compensation. The evaluators award compensation on balance of probabilities as opposed to beyond reasonable doubt²²⁸.

4.7 Enforcement of Victims' Rights in Courts in the United States

In the case of *Booth v Maryland*, the question of the victim Impact statement in a murder trial was well answered. Booth and Reid broke into the home an elderly couple to steal money to purchase heroin. Irvine and Rose Bronstein, the elderly couple in question, were 78 and 75 respectively and were Booth's neighbours. Booth knew he could be easily recognised by the couple, so he tied them up gagged them then stabbed them with a knife till they died. The Bronstein's remains were not discovered till two days later. Booth was found guilty of two counts of first-degree murder, two counts of robbery, and conspiracy to commit robbery. The Prosecution wanted Booth to receive the death penalty so Booth chose the Jury to be the one to decide his sentencing. The State DPP prepared a presentence report for his sentencing and by provision of Maryland Statute, a presentence report must contain a victim impact statement. The statute dictates that a victim impact statement must include who the victim is, the injuries, if any, financial loss and negative change in lifestyle of the victim. The victim impact statement was made by the Bronstein's son who found their remains, their daughter, son in law and grand daughter. They all emphasized the deceased couple's qualities and how much they miss them. Also part of the victim impact statement was the trauma and emotional toll that the murder caused them. The son talked about suffering from depression and an inability to sleep. Their daughter talked about her inability to sleep and how he became withdrawn after the crime. Their

²²⁸ ibid

granddaughter's statement included how the crime came few days before a family member's wedding and as a result the ceremony was a depressing affair. This same granddaughter relayed how she had been going to counselling for months but stopped due to lack of progress she felt. The defendant's lawyer wanted to minimize the presence of VIS in the trial as he tagged it irrelevant and inflammatory. This was most likely because it emphasized the barbaric heartless extent of the defendant's crime. The defence claimed it was against the 8th amendment. The court rejected this argument from the defense and said "any and all evidence which would bear on the [sentencing decision]" was allowed²²⁹.

In the case of *Maryland v Craig*, Samantha Craig was accused of abusing a six-year-old girl. Before the case went to trial, the prosecutor opted to utilize a technique that involved taking the testimony of a child abuse victim through one way closed circuit television. The factor essential for this step to be taken is to determine whether face-to-face testimony as mandated by the Confrontation clause would cause the child victim emotional distress such that the child cannot communicate reasonably. The motion to use this technique was accepted for multiple child sexual abuse victims in the case. Craig disputed this on the grounds of the confrontation clause, but the trial court rejected this because the foundations of the confrontation clause of the essence of the right of confrontation," the right to observe, cross-examine, and have the jury view the demeanor of the witness." Craig was convicted of all charges against her²³⁰. Unfortunately, this decision was reversed on appeal due to the absence of the confrontation clause. They

229 482 U.S. 496 (1987)

230 497 U.S. 836 (1990)

cited the case of *Coy v Iowa*²³¹ where it was said that "the Confrontation Clause guarantees the defendant a face-to-face meeting with witnesses appearing before the trier of fact."²³²

In the case of *Simon & Schuster, inc v Members of the New York State Crime Board et al*, a serial killer was on the rampage in the Summer of 1997. Before he was caught, he was popularly called "Son of Sam", and after he was arrested and identified to be David Berkowitz, his crime and capture drew so much public interest. The rights to his criminal story was valued to be worth a lot. The fact that David Berkowitz was about to make so much money for his barbaric and sick actions was obviously twisted and wrong to the New York state lawmakers so they acted fast by ensuring the proceeds of his stories were diverted to the murder victims' families instead. They made a law called Son of Sam law that passes the profit from a criminal's story detailing his crimes be put in an escrow account for the use by victims and victims families²³³.

4.8 Enforcement of Victims' Rights in Courts in the United Kingdom

In the case of *Commissioner of Police of the Metropolis v DSD and another*, A London cab driver named John Worboy committed sexual assaults to several women between the years

²³¹ 487 U.S. 1012 (1988)

²³² United States Const. Amend. VI

²³³ 502 US 501 (1991)

2003 and 2008. DSD reported her assault but Worboy was not identified as the culprit, NBG on the other hand reported and had Wornly arrested as a suspect, yet he was released without charge. In 2008, when the police revisited past sexual offences, they ideennified a modus operandi among some assaults. This helped the police identify DSD and NBG as John Worboy's victims. These two women instituted a case against the police for failure to properly investigate their victimizations. The victims' argument was that the police violated their rights recognised under article 3 of European Convention on Human Rights. The issue in this case was deciding the degree which article 3 imposes responsibility on states effectively to investigate reported crimes perpetrated by private individuals. Also whether this obligation included both systemic and operational failures. Both the High court and Court of Appeal decided that the police had a positive obligation to investigate the victims' assaults and hence, the victims were granted compensation. Consequently, the Supreme court upheld this judgment because the police violated victims rights by not investigating properly²³⁴.

Victims have the pretrial right to review the Crown Prosecution Service's decision to not prosecute²³⁵. In the case of *R v Christopher Killick* two men, Mr Robins and Mr Hardy who struggle with cerebral palsy were sexually assaulted by Mr Edwards who also suffers from cerebral palsy, but to a lesser degree. The suspect was arrested soon after the report, but the decision on the progress of the case was not made till a year later. By this time, CPS made the decision not to prosecute the accused. Due to this decision not to prosecute, the victims asked for a review on the decision to not pursue this case. Three years after the arrest, it was decided

234 [2018] UKSC

235 Victims Right to Review Scheme <<https://www.cps.gov.uk/legal-guidance/victims-right-review-scheme>> accessed 27 August 2023

that there was a case to prosecute and a trial on the matter resumed. This case solidified victims rights in the U.K. to seek a review of the courts decision not to prosecute. Originally, crime victims could only report an attack and hope for justice. That is, the state prosecutor had the discretion to handle a case anyway they deem fit, giving the actual victims of crime little room or say in the matter. Now, victims can request a review that involves a new judge to review the case and decide whether the previous judge who decided not to prosecute made the right choice or not²³⁶.

The Criminal Injuries Compensation Authority has discretion when it comes to awarding victims who apply for compensation²³⁷. That is, there would be applicants who do not get their applications approved. In the case of *A and B v The Criminal Injuries Compensation Authority*, Lithuanian twin brothers both received convictions that resulted in custodial sentences for the crime of burglary and theft respectively. Subsequently, they were trafficked from Lithuania to the U.K. where they suffered abuse and exploitation. Their traffickers were found guilty and sentenced. A and B applied for compensation under the Criminal Injuries Scheme but it was dismissed due to the exclusionary rule. A and B felt that the exclusionary rule was against the provision prohibiting discrimination in the European Convention on Human Rights which is ratified in the U.K. The case was dismissed at the trial court, the appeal court and the Supreme court because it was ruled that discrimination in the ECHR particularly means discrimination that hinders enjoyment of freedom and rights in the convention.

236 [2011] EWCA Crim 1608

237 Criminal Injuries Compensation: a guide <<https://www.gov.uk/guidance/criminal-injuries-compensation-a-guide>> accessed 27 August 2023

CHAPTER FIVE

CONCLUSION

5.1 Summary of Findings

1. VAPPA as an act covers a lot of contemporary crimes and social ills plaguing Nigeria and does a good job highlighting victims of these overlooked offenses.
2. ACJA understands the sensitivity of victimhood and it is demonstrated in the provisions protecting the victim's identity and giving conditions to have a closed court room trial.
3. VAPPA and ACJA expanded on victim laws in a way that the Criminal Code and Penal Code could not.

5.2 Recommendations

1. Nigeria should create a government-financed victim fund to compensate victims of crime.
2. States in Nigeria that domesticated VAPPA and ACJA should ensure it is duly applied and abided to.
3. VAPPA and ACJA should be amended to to include more victim protection laws.
4. The general public needs to be sensitized and educated on the rights accorded to them in the ACJA and VAPPA.
5. The Nigerian Police Force should have a special victims unit that specialises in handling victim cases that requires specialist care.

6. Victim protection laws in Nigeria should emulate the strengths of victim protection laws in the U.S. and U.K.
7. Victimology as a study should be imbibed in the training process required in the different facets of the criminal justice system in Nigeria. That is the police force and other related armed forces, legal personnel and paralegals, correction officers and by extension hospital staff.
8. There needs to be more victim centered legislation and bills that focus on the role, treatment and protection of victims in the criminal justice system.
9. There needs to be measures in place to ensure the safety of crime victims to protect them from intimidation and further victimization.

5.3 Contributions to Knowledge

The Nigerian criminal justice system is far behind its peers in other jurisdictions in regards to victim roles and protections. Nigerian legislation is lacking in terms of its provisions for victims. There are no landmark cases that lay the foundation for victim inclusivity and victim relevance in the Nigerian legal system. There are no efficient institutional frameworks advancing the rights, interests and welfare of victims as they seek justice in the justice system, Victims in Nigeria have no framework set in place to express their dissatisfaction in the handling of their cases.

5.4 Areas for further studies

This essay has shun a light on the role and protections of victims in Nigeria as well as the U.S and the U.K. Through it, we have come to see the existing legal and institutional framework available in all three jurisdictions. While studying these three jurisdictions, this essay exposed the social, theoretical, and historical journey that brought these jurisdictions to where they are in their jurisprudence regarding victims. Giving this new found knowledge, research should be made into the satisfaction that victims have with the criminal justice system, the comparison of victims rights and defendants rights.

5.5 Conclusion

Crime victims are the direct recipients of crime, despite this they are usually forgotten and neglected. Due to trauma, intimidation, the possibility of revictimization, and the stress of criminal trials, victims should have their safety and interests protected. Nigeria introduced victim protection laws with the enactment of the ACJA and VAPPA. Though the victim protection laws in these acts are a step in the right direction, they are not effective enough in safeguarding the rights of crime victims. There are several factors that the ACJA and VAPPA should cover to properly cater to and protect victims interests and this can be done by observing and emulating the strengths of victim protection laws in foreign jurisdictions like the U.S. and U.K.

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