



*Victim Protection and Restorative Justice
in Criminal Justice Administration in
Nigeria*

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Objective of the Paper

- To discuss how we can achieve the objectives of restorative justice in Nigeria especially victim participation in criminal justice processes through victim protection.

Overview of the Paper

Introduction

Definition and Objectives of Restorative Justice

Victim and their Participation in Criminal Justice Processes

Reasons for Non-Participation of Victims

The Challenges of Victimization and Secondary Victimization

Victim Protection and Protective Mechanisms

Conclusion and Recommendation(s)

Introduction

Background

Aims of criminal law and justice in Nigeria: retributive justice and punishment of offenders.

Focus on the rights and interest of defendants with little or no recognition for rights and interest of victims of crime.

- ❖ Recent criminal justice reforms in Nigeria especially the ACJA enshrined restorative justice principles.
- ❖ Brings the rights and interests of victims of crime to the fore.
- ❖ See section 1 (1) ACJA 2015.

The reforms in the ACJA indicates a shift from extremely retributive justice system to one that adopts more restorative justice principles.

Victim protection- specific inclusion in the ACJA which this presentation recognises as key to enhancing victim participation in criminal processes which is central objective of restorative justice.

Definition and Objectives of Restorative Justice

Definition	Objectives
<ul style="list-style-type: none">❖ UNODC- ‘a process in which the victims and offenders and where appropriate any other individuals or community affected by a crime participate together actively in resolving the matters arising from the crime. ‘	<ul style="list-style-type: none">❖ Emphasizes the needs of the victims of crime, offender and community rather than focusing on punishment.
	<ul style="list-style-type: none">❖ Resolves crime by focusing on redressing harm done to victims, holding offenders accountable for their actions and engaging the community.
	<ul style="list-style-type: none">❖ Underscores the participation of the different parties as an essential process in facilitating reconciliation between the victim, offender and community.
	<p>Focus- victims should have an opportunity to express their needs and participate in criminal justice processes.</p> <p>Problem- in participating, victims are exposed to forms of victimization and secondary victimization</p>

Victims and Their Participation in Criminal Justice Processes

Definition of Victims

UN Declaration on Basic Principles of Justice for Victims of Crime (1985)

Article 1 & 18

'any person who individually or collectively have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of the fundamental rights through acts or omissions that are in violation of criminal laws operative within member states.

Administration of Criminal Justice Act (ACJA) 2015

- ❖ No definition.
- ❖ Defined in section 46 of the Violence Against Persons Prohibition Act (VAPPA) 2015 which adopts the definition in the UN Declaration.

Victims and Their Participation in Criminal Justice Processes

Victim Participation (Participation refers to the act of sharing or taking part)

In many ways the right to participate or right to be heard is central to the rights of victims.

Article 6(b) UN Declaration on Basic Principles recognises the rights of victims to participate in criminal processes.

The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by allowing the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interest is affected without prejudice to the rights of the defendant,

Participation in several stages: filing complaint, pre-trial (investigation/plea bargain), trial (testifying), post trial (sentencing)

Victims- take up different roles: complainant, informant, witness.

Reasons for Non-participation of Victims

Several reasons responsible for non-participation of victims in criminal justice processes.

A specific reason for their exclusion

- The very nature of adversarial justice systems which allows very limited roles for victims of crime.

Other reasons include:

- Lack of faith in criminal justice institutions (particularly the police and court).
- Ineffectiveness of the criminal justice system.

Paper accentuates the role of victimization and secondary victimization in hindering victim participation.

The Challenges of Victimization and Secondary Victimization

- Victimization- the suffering or physical, financial and emotional injury done to the victim or anything that aggravates the suffering, harm or injury that is being done to the victim.
- Victimization: primary and secondary victimization.
- Primary victimization: the actual harm experienced by the victim. That is, the victim's experiences of the crimes committed against them.
- Secondary Victimization: Council of Europe- the victimization that occurs not as a direct result of the criminal act but through the response of institutions and individuals to the victim.
- Secondary Victimization- includes interactions that may take place between the victim and others including the various criminal justice agencies with whom they may encounter; especially where the interaction has a negative impact on the victim.

The Challenges of Victimization and Secondary Victimization

- Examples of Secondary Victimization:
 - Where victims are discouraged from reporting certain offences (sexual offences) due to social stigmatization.
 - Intimidation by the offender or IPOs to opt for an out of court settlement.
 - Where police demand monetary inducements before investigating the crime.
 - Repeated interrogation about the facts by investigators and prosecutors.
 - Inappropriate modes of questioning by defence lawyers during cross examination.
 - Victim blaming.
 - Repeated exposure of victim to the offender.

The Challenges of Victimization and Secondary Victimization

- Examples of Secondary Victimization:
 - Where the media does not protect the victim's identity or information and instead media coverages focus on unduly on victim's actions/inactions rather than on those of the wrong doer.
 - Where the prosecution decides not to continue with prosecuting the offender or takes other decision about the matter without seeking the opinion of the victim in taking those decisions.
- Secondary victimization is identified as one of the major factors responsible for rape cases in Nigeria.
- Victimization takes place at different stages of the criminal justice process.
- The various forms of victimization could be physical , economic, and psychological.
- Requires measures that protect victims from all these forms of victimization.

Victim Protection and Protective Mechanisms

- Victim protection refers to a set of rights and guarantees that aim at preventing any further harms or intimidation on the victim either because of a subsequent crime or inappropriate criminal proceedings.
- Different provisions of the UN Declaration on Basic Principles of Justice for Victims of Crime recommend that states should adopt measures that ensure the protection and assistance of victims of crime. See principles 6(c) & (d), 14, 16 and 17.
- Victim protection recognises the overall needs of victims of crime regardless of their actual cooperation during a criminal trial as prosecution witnesses.
- The general aim of protective measures is to encourage participation in criminal processes.

Victim Protection in the ACJA

Section 232 (1)	Section 232 (2)	Section 232 (3) court during proceedings may adopt:
Trial in camera	Non-disclosure of names, addresses, phone numbers and identity of victims of crime.	<ul style="list-style-type: none">❖ Evidence by video link❖ Permit victims to be screened or masked,❖ Receive written disposition of expert evidence.❖ Any other measures the court considers appropriate in the circumstances.

Lapses in the ACJA

- The protective measures in the ACJA are limited only to procedural measures in court.
- It excludes other forms of victim protective measures especially psychological and victim assistance measures.
- Article 25 UNTOC-Psychological measures are measures that protect the emotional wellbeing of victims by preventing emotional harm and revictimization.
- They tackle implicit intimidation in the form of psychosomatic intimidation against victims.
- Examples include counselling, rehabilitation, administrative support and other forms of victim assistance measures.
- Other measures excluded include use of safe houses, surveillance and police escorts.

Conclusion & Recommendation (s)

- UNODC- In all restorative justice processes, it is important to protect the interests of the victim and ensure that re-victimization does not occur.
- Victims are generally in need of support and assistance, and this is often fundamental to their recovery and at minimizing or preventing the risks of victimization or secondary victimization.
- Victims in Nigeria should be provided adequate information about where they can get assistance and protection .
- In reviewing the ACJA, there is need to provide for a wholistic range of victim protection mechanisms. It should include mechanisms that protect victims at all stages of the criminal process.
- Special victim assistance units to support and assist victims to achieve restorative justice and to facilitate the participation of victims should be established by the ACJA.

Thanks for listening
