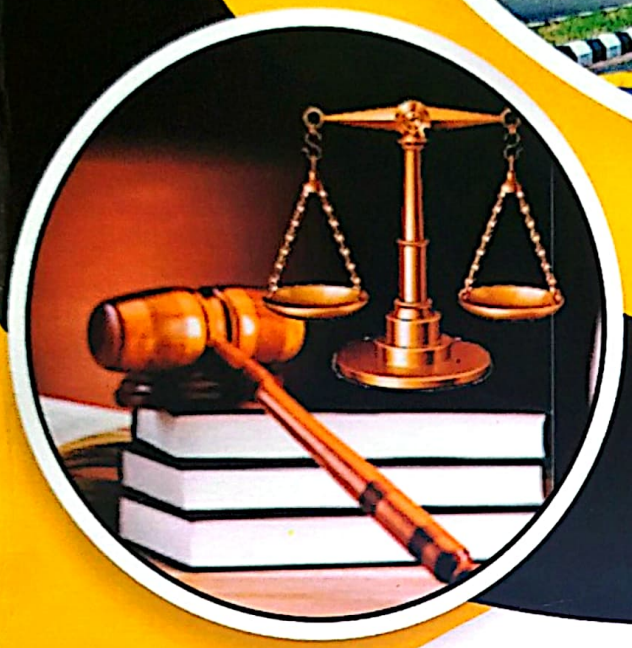




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RESTORATION AND LEGAL CARE FOR VICTIMS OF CRIMES UNDER THE NIGERIAN CRIMINAL JURISPRUDENCE

Shuaib Oniye* & Abdulfatai Abdulkareem**

Abstract

It is trite law that the ultimate goal of the administration of criminal system is to do justice and provide fairness to the offenders, victims and the larger society even though crime is deemed to be an offence against the society. This presumption brought one of the greatest loopholes in our criminal justice system in Nigeria. The United Nation Declaration recognises four major ingredients of the rights of victims of crimes i.e. access to justice and fairness, restitution, compensation and assistance. Thus, how far is our laws and those saddled with responsibility of administration of criminal justice in Nigeria conform to the norm of intentional standard set out by the U.N Declaration in order to help the victims to manage the material aspect of their psychological trauma and to show that society has not abandoned them. To this end, this paper, while adopting analytical research methodology, examines the administration of criminal justice system in Nigeria whether the existing laws on compensation and restitution orders are satisfactory or adequate in our present day society. Is there any legal care in existence that ensure enforcement of victims right when a court of competent jurisdiction ordered that the victims should be compensated for injuries or damages as a result of commission of crimes by the offender. The paper revealed that some victims were neglected in some instances owing to the fact that the offence is committed against the state and suggests way forward in order to ensure that right of victims of crimes are preserves and enforced in Nigeria.

Keywords: Crime-Victims; Restoration; Legal-Care; Criminal; Jurisprudence

. Introduction

t is trite law that the ultimate goal of the Administration of criminal system is to do justice and rovide fairness to the offenders, victims and the larger society as Justice is not a one-way traffic ven though crime is deemed to be an offence against the society.[1] This presumption brought one f the greatest loopholes in our criminal justice system in Nigeria. The United Nation Declaration recognises four major ingredients of the rights of victims of crime i.e. access to ustice and fairness, restitution, compensation and assistance.[2] The criminal justice system in nodern times appears to be more concerned with the criminal offender and dissatisfaction by ictims of crimes with the end result of a criminal trial is likely to breed further criminal ehaviour, retaliation, revenge or lead victims to take laws into their hands. Most especially vhere the offender is discharged or acquitted of the offence (s) charged either for want of

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Famous I, 'Challenges of Victims of Crime in Administration f Criminal Justice in Nigeria,' (2019) 7 (2) *nternational Journal of Business & Law Research*, 78-87, <www.seahipaj.org> accessed on 2nd June, 2021

The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power adopted by A/RES/40/34 f 29 November 1985 is based on article 18 of the Universal Declaration of Human Rights adopted and proclaimed y A/RES/217 A (III) of 10 December 1948

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1. Introduction

It is trite law that the ultimate goal of the Administration of criminal system is to do justice and provide fairness to the offenders, victims and the larger society as Justice is not a one-way traffic even though crime is deemed to be an offence against the society.[1] This presumption brought one of the greatest loopholes in our criminal justice system in Nigeria. The United Nation Declaration recognises four major ingredients of the rights of victims of crime i.e. access to justice and fairness, restitution, compensation and assistance.[2] The criminal justice system in modern times appears to be more concerned with the criminal offender and dissatisfaction by victims of crimes with the end result of a criminal trial is likely to breed further criminal behaviour, retaliation, revenge or lead victims to take laws into their hands. Most especially where the offender is discharged or acquitted of the offence (s) charged either for want of

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diligent prosecution or any form of technicality and the victim is not compensated for his loss injury.[3]

Again, the burden on the prosecution to prove its case beyond reasonable doubt is tied in t existence of certain thing such as evidence of an eye witness (in most cases, the victim himself relevant documents and any other exhibits that may be relied upon. The prosecution fac challenges in an attempt to invite the victim of a crime as an eye witness to prove his case. Son of these challenges include but not limited to lack of readiness by court, absence of the defenda on dates fixed for hearing, several adjournments at the instance of any of the parties involve issues of legal technicalities which are usually raised during the pendency of the suit and mar others. Victims of crime sometime often neglected or embarrassed to even report because, th investigation officer consider the cases of victims as too trivial or that the matter is only a wast of time or even where one is reported, the victigm may not be carried along when the matter eventually charged before the court save where the matter attracted public opinion/interest c assisted by media coverage.[4] Matters of compensation are also not taken by the court fc consideration in sentencing a convict.[5]

Thus, the Administration of Criminal Justice Act 2015 was passed into law in Nigeria, wit intent to revolutionise our criminal justice system. In order to checkmating the lacuna/loophol inherent in the old justice system even though the Act pay more attention to the welfare of the offender or the defendant to the extent of bargain[6] and minor regard to the victims of crime. It is against this background that this paper examines whether current criminal jurisprudence in Nigeria comply with international standard set out by United Nation as right of victims of crime i.e. access to justice and fairness, restitution, compensation and assistance[7], what are the legal instrument put in place for the protection of victims of crime? What are the attitudes of those saddle wit responsibilities to protect and defend crime-victims? and the challenges faced while protecting rights of victims of crime in Nigeria.

2. Rights for Victims of Crimes

Generally, victims of crimes have certain rights accorded to them in line with United Nations Declaration. These rights shall be duly examined together with Compensation for victims of crime which is an important aspect of criminal justice administration because, without a victim there is no offender, accused or defendant. The question is who is a victim of crime?

Victims of crime has been defined as Persons who individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial

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[3]Yusuf U.A, & Yahaya SS 'Crime Victims and Criminal Justice Administration in Nigeria' (2014) *Global Journal of Interdisciplinary Social Sciences* p 48.

[4]Ozoya.M.L .'Fraud Victims Reactions & Crime Prevention in Nigeria: The Role of a Knowledge Economy' 2016 *3rd International Conference on African Development Issues*.Covenant University Press. pp 519-20

[5]Agbede. A.O, 'Modalities for the Enforcement of Financial Compensation for Victims of Crimes' in: BP Ajibola., and S Adetiba., (eds) Compensation and Remedies for Victims of Crime in Nigeria . Federal Ministry of Justice.Lagos: 1990) .Also, MDO Alao., Sentencing Law and Practice in Nigeria. (Chembus Communication, Enugu: 2014) p199

[6]Section 270 of Administration of Criminal Justice Act 2015

[7] (n 2) UN Declaration

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.[8] Similarly, Victims of crime has been statutorily described to 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.[9] Again, a victim of crime could be a natural person who has suffered harm including physical, mental or emotional harm or economic loss which was directly caused by the criminal offence. The Canadian Victims Bill of Rights defines victim as an individual who has suffered physical or emotional harm, property damage or economic loss as a result of the commission of the offence or the alleged commission of an offence.[10] Justice Karibi Whyte also defines victim of crime as any person, dependant or institution who has suffered injury from the criminal act of the offender who has been found guilty in such acts[11]

A person can be a victim of crime even when the act or omission that constitutes an offence was not targeted at the victim irrespective of the circumstances surrounding the commission of the crime. Therefore measures should be taking to minimize inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation.

Thus, the Declaration set out basic rights as follows:

(a) **Principle of Access to Justice and Fair Treatment**: This principle includes but not limited tothe following rights: right to be treated with compassion and respect for their dignity, right of access to justice, right to be informed of their rights, right to be heard and considered during proceedings, wherever appropriate, right to be heard and considered at proceedings involving release, parole, plea or sentencing, wherever appropriate, right to submit a Victim Impact Statement and for the same to be heard and considered in court, wherever appropriate, Right to proper assistance with legal process, right to security and to be reasonably protected from the accuse and right to conciliation/mediation/arbitration, wherever required among others.[12] Hence, in Delhi Domestic Working Women's' Forum v. Union of India[13] six women working as domestic servants in Delhi were raped by eight army personnel in a moving train between Ranchi and Delhi. The relative of the victims were denied access to the victims, approached the court for expeditious and impartial investigation of the offences. The court in its ruling directed that every complainants in sexual assault cases must be provided with legal representation, the legal representation so provided should be present at the police station since the victim of sexual assault might very well be in a distressed state upon arrival at the police station,the police was under a duty to inform the victim of her right to representation before any questions were asked of her and the police report should state that the victim was so informed and a list

[8] (n 2) UN Declaration

[9] United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985

[10] Canadian Victims Bill of Rights

[11] Karibi Whyte, 'National policy on compensation to victim of crime. How Desirable'. Federal Ministry of Justice, Lagos 1990

[12] (n 2) UN Declaration

[13] (1995) 1 SCC 14

of advocates willing to act in these cases should be kept at the police station for victi who did not have a particular lawyer in mind or whose own lawyer was unavailable.[14]

(b) **Principle of Restoration:** Restoration refers to the act or process of returning somethi to its original condition by repairing it or cleaning it.[15] It connotes steps or measures th try to restore the victim to the original situation before the offence was committed such restoration of liberty, identity, family life and citizenship, enjoyment of human right return to one's place of residence, restoration of property[16]etc. Restitution is a form compensation made by a person found guilty of a crime to a victim to compensate f certain financial losses the crime victims have experienced as a consequence of th crime.[17] Restoration to victims of crimes could be initiated at four main point administration of criminal justice system i.e. police level, prosecution stage, during tri in court or while the offender is at correctional centre.[18] It includes right to full a timely restitution from the accused i.e. return of property, payment for harm or los reimbursement of expenses, provision of services and restoration of rights, reconstructio of infrastructure, replacement of community facilities and reimbursement of the expens of relocation. In line with paragraph 8.[19] Offenders or third parties responsible for the behaviour should, where appropriate, make fair restitution to victims, their families dependants. Such restitution should include the return of property or payment for th harm or loss suffered, reimbursement of expenses incurred as a result of th victimization, the provision of services and the restoration of rights. Restitution ord only possible when the property/subject matter or money stolen is not perishable one a still available. It may not be viable solution in the case of violent crimes such as murd rape, kidnapping, sexual assault where there can be no reinstatement of rights.[20]

(c) **Principle of Compensation:** This principle confers upon the victims who have suffer significant bodily injury or impairment of physical or mental health and their family, th right to compensation from the state where compensation is not available or recovera from the perpetrator. The state should encourage the establishment of national funds f this purpose. The declaration further states that when an order for such compensation made by the court of competent jurisdiction and same is not fully available from t offender or other sources, States should endeavour to provide financial compensation Victims who have sustained significant bodily injury or impairment of physical or men health as a result of serious crimes, the family who depends on the persons who have di or become physically or mentally incapacitated as a result of such victimization.[21]

[14] The other parameters included the payment of compensation to victims of crime by the constitution of a Crimi Injuries Compensation Board

[15] Merriam Webster Dictionary available www.apache.org 2022

[16] Tijani Abubakar and Gilbert Tor 'revisiting the Legal Considerations for Victims of Crime in the Criminal Just Process in Nigeria' 2019/2020 *Benue State University Law Journal.* page 270

[17] 'Restitution Basics for Victims of Crimes' http://www.courts.ca.gov/documents/restitution_basics_adult_web.p (Accessed 8 October, 2021)

[18] James Hope, Restorative Justice; A Panacea To Crime Prevention In Nigeria 2019 availa https://www.researchgate.net/publication/ accessed on 10 October, 2021

[19] (n 2) UN Declaration

[20] Ibid

[21] Paragraph 12 and 13 of the Declaration

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[18] James Hope, Restorative Justice; A Panacea To Crime Prevention In Nigeria 2019 avail https://www.researchgate.net/publication/ accessed on 10 October, 2021

[19] (n 2) UN Declaration

[20] Ibid

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(d) **Principle of Assistance:** The victims are entitled to necessary materials, medical, psychological and social assistance through governmental, voluntary community based and indigenous methods. Right to information regarding available health and social services, right to access to health and social services if need be and right to assistance with regards to their special needs depending upon the nature of harm suffered.

Paragraph 14[22] provides that a victim should receive necessary material, medical, psychological and social assistance through governmental, voluntary, community-based and indigenous means.

Paragraph 17 of the Declaration further emphasizes that, in providing services and assistance to victims, attention should be given to those who have special needs because of the nature of the harm inflicted or because of factors such as discrimination on the grounds listed in paragraph 3 of the Declaration.[23] Hence, in FRN v Adebayo Ibrahim Abiodun,[24] the court held *inter-alia* the forfeiture of the Manager's Cheque of N400,000 (Four Hundred Thousand Naira) which the convict raised as restitution to his victims.

3. Legal Instruments on Victims of Crimes

As it was observed earlier that victims of crime were either neglected or abandoned across the globe because attention was given to the offender in the criminal jurisdictions in most nation necessitated the United Nations enactment, legislations or created programmes for victims of crimes to ensure a balance of treatment between the offender and the victim.[25] The United Nation also advice states to have legal framework on protection of victims of crime in their respective states[26]. Several countries such as the United Kingdom, Australia, the United States of America, India among others established their respective State victim's compensation or victim protection fund.

The Declaration states that Governments should review their practices, regulations and laws to consider restitution as an available sentencing option in criminal cases because many people across the world have suffered harm in one form or another owing to the criminal conduct of another person and such peoples' rights are not comprehensively catered for and recognised.[27]
Thus, paragraph 8 of the Declaration of Principles of Justice provides that:

> Offenders or third parties responsible for their behaviour should, where appropriate, make fair restitution to victims, their families or dependants. Such restitution should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights.

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[2] Paragraph 14 of the Declaration
[3] Paragraph 17 of the Declaration
[4] FRN v Adebayo Ibrahim Abiodun (unreported) delivered by Justice Sikiru Oyinloye of the Kwara State High Court sitting in Ilorin on Monday September 13th 2021, available at www.efcc.gov.ng accessed on 20th day of October, 2021
[5] The United Nations Convention on Justice and Support for Victims of Crime and abuse of Power, 14 November, 1006
[6] Opara L.C, 'The law and policy in criminal justice system and sentencing in Nigeria' (2014) 4(7) *International Journal of Asian Social Science* page 887.
[7] The UN General Assembly (UNGA), at its 96th plenary gathering on 29 November 1985,

The Declaration also stresses further that rights of victims have not been adequately recogn and that, frequently their families, witnesses and others who aid them are unjustly subjecte loss, damage or injury. The Declaration proposes establishment of a National Fund for provi compensation to victims and for payment of monitory compensation to the victims either mo paid as fine by the offender or alternatively from the State fund to be created for this purpose

This is to ensure that the victim is compensated regardless of whether the perpetrato identified, apprehended, prosecuted or convicted and includes the immediate family dependants of the direct victim and persons who have suffered harm in intervening to a victims in distress or to prevent victimisation.

Similarly, the Statute of the International Criminal Court (ICC),[29] is in line with the provisior the UN Declaration of Basic Principles of Justice for Victims of Crime because it recognises rights of crime victims to be compensated by the criminal offenders.[30] The Statute advises establishment of a government owned trust fund by member states for crime victims and t family members.[31] ICC can order a convicted offender to make appropriate restitutior compensation in respect of the crime victims. If the offender is, however, not able to n compensation available to the crime victims, the state ensures that such a crime victi compensated from the government owned Trust Fund established for that purpose.[32] The sta mandates State parties to treat compensation of crime victim in line with Article 21 t consistent with internationally recognized human rights. The basis for this is that, most of crimes that ICC deals with also constitute a breach of international human rights law. European Convention on the Compensation of Victim of Violent Crimes on the other l established the standards for the provision of state compensation to the victims of crime,[33] a generally ratified by member states. Consequently, member states started establisl compensatory schemes to compensate crime victims from public funds when compensation not available from the crime offenders or where the offender cannot be identified or apprehended.[34] Again, the United Kingdom (UK) is one of the first cities to have introduced concept of statutory compensations for victims of crime in 1964.[35] The Victims charter addre

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[28] (n 11) paragraph 12 similar provision available under Article 1 of the European Convention on the Compens of Victims of Violent Crimes 1983 the section provides that when compensation is not fully available from sources the State shall contribute to compensate: a. those who have sustained serious bodily injury or impairme health directly attributable to an intentional crime of violence; b. the dependents of persons who have died as a r of such crime.

[29] the Rome Statute of 1998

[30] Rome Statute of the International Criminal Court Art 75 "The Court shall establish principles relatin reparations to or in respect of victims including restitution compensation and rehabilitation on this basis i decision the Court may either upon request or on its own motion in exceptional circumstances determine the s and extent of any damage loss and injury to or in respect of victims and will state the principles on which acting."

[31] Article 79

[32] Ibid

[33] Arts 2 & 4 European Convention on the Compensation of Victim of Violent Crimes 1983

[34] Art. 1. Of the Council of Europe European Convention on the Compensation of Victims of Violent Cr provides thus: This Convention puts upon States that become a Party to it the obligation to compensate the vic of intentional and violent offences resulting in bodily injury or death The obligation to compensate is limite offences committed on the territory of the State concerned regardless of the nationality of the victim.

[35] United Kingdom (UK) has enacted several laws on compensation of victims of crime such as Criminal Justice 1988, the Victims Charter of 1990, Criminal Court Sentencing Act, 2000 and Criminal Injuries Compens

the needs of victims of crime through the criminal justice system by virtue of the Criminal Justice Act, the Criminal Injuries Compensation Scheme and through a system of voluntary network of support schemes, the most visible of which is the Victim Support Schemes. Compensation for victims of crimes has also been addressed in England through enactments like the Powers of the Criminal Court Sentencing Act, 2000 which modified earlier laws and gave the criminal courts power to make compensation orders.[36] In 2008, UK also enacted law intended to compensate victims for loss of earnings or any extraordinary expenses incurred as a result of that crime and finally to compensate relative of a Victim of violent crime for their own lost earnings[37] as canvassed by UN Declaration on protection of victims of crime.

United States of America (USA)[38] laws focus on fair treatment of victims and witnesses in the criminal justice process including the use of victim impact statements in investigative and presentencing reports and the consideration of the interest of victims in making decisions for bail. Some other states law in USA also provides for victim's compensation and restitution which order for costs relating to physical injuries, mental health, lost wages and damages to property of victim and their close relatives.[39]

In India, compensation to victims of crimes comprises material as well as non-material damages. Material damages are medical expenses, loss of livelihood while Non-material damages include pain, suffering and mental or psychological trauma.[40] When an accused/defendant is convicted of the offence charged and the court sentence the defendant to term of imprisonment with an option of fine, the court can order that such fine or any part of it be paid to the victim of crime as compensation. Where however the defendant is sentenced to term of imprisonment only without an option of fine, the court can order the accused/defendant to pay damages, inform of compensation to the victim or payment of damages from state treasury i.e. under India Victim Compensation Scheme which was established in 2009 with the primary objective of making funds available for the purpose of paying compensations to victim of crime or their dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.[41]

Scheme (2008). in Great Britain Ministry of Justice ('GBMJ') (2012) The Criminal Injuries Compensation Scheme 2012 London: Stationery Office, 2012.

[36] Magurire, M., and Shapland, J., 'the victim movement in Europe' , in victims of crime; Problems Policies and Program, 1990

[37] Criminal Injuries Compensation Scheme available at <http:www.comepnsationculture.co.uk.criminalinjuries-compensation-scheme.html> accessed October, 7th 2021

[38] the United States of America laws on victim of crime includes: Victims and Witness protection Act; the Victims of Crime Act, 1984, Crime Control Act 1990 and the, Victims Right and Restitution Act 1990 Violent Crime Control (Law Enforcement) Act 1994 and the Mandatory Victims Restitution Act 1996.

[39] Lamborn L. L, 'Victims in the Criminal Justice Process: An American Perspective in Compensation and Remedies for Victims of Crime in Nigeria' (ed Bola Ajibola) Federal Ministry of Justice Law Review Series, Vol. 5. (1990)

[40] Report of Committee on Reforms of Criminal Justice System. (Ministry of Home Affairs, Government of India.[1] (2003)

[41] Anusree A, 'Right To Compensation of Victims of Crime In India: Need For A Comprehensive Legislation' Available at https://blog.ipleaders.in/compensation-victim-crime-india accessed on 24th day of October, 2021

4. Legal care for victims of crimes in Nigeria

From the above highlighted jurisdictions, it is obvious that rights of victims of crimes adequately addressed which is lesson for Nigeria. The protection of victims of crimes is one the main purpose and objective of enactment of the Administration of Criminal Justice Act[42].

The Act in Section 1 provides thus:

> The purpose of this Act is to ensure that the system of Administration of Criminal Justice in Nigeria promotes efficient management of criminal justice institutions, speedy dispensation of justice, protection of the society from crime and protection of the rights and interests of the suspect, the defendant and the victim

Under the Act,[43] the court is empowered to order for compensation to the victims of crimes addition to any other punishment the court might have imposed on the defendant.[44] The co may decide and order the defendant/convict to pay compensation to an innocent purchaser value without notice of any property in respect of which the offence has been committed who has been mandated to surrender same. Hence, in practice compensation to victims of cri is commonly order in non-violence crimes i.e. offences such as obtaining money under fa pretence and other related financial crimes. Thus, in FRN v. Osho Olalekan Micheal,[45] de defendant was found guilty of falsely representing self to be an American citizen named Jac using same to defraud one Maria. He was sentenced to six months in prison and ordered to ma restitution of $200 (two hundred United States Dollars) to his victim. He is also to forfeit to Federal Government of Nigeria items recovered from him in the course of investigation.[46] Th are certain provisions regarding the rights of victims under the Act such as: the right to have th identity protected;[47] the right to give consent (or not) to a plea bargain application;[48] the righ recover their property forfeited as a result of their victimisation;[49] the right to restitution from defendant for losses; the right to compensation from the defendant for injuries suffered;[50] right to have restoration of possession of any immovable property lost as a result victimization.[51] In Mustapha V FRN,[52] the court was of the opinion that compensation may order to be paid to the victim of crime and a term of imprisonment may be awarded for failure pay the compensation. There is a procedure which must be follow before compensation may awarded and it lies in the fact that the entitlement to same must first be established and the ot side must be heard before the award. Consequently, the court held that the entitlement to award for compensation was neither proved nor justified and therefore was unwarranted

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[42] Administration of Criminal Justice Act 2015

[43] Sections 319 and 328 of the Administration of Criminal Justice Act, 2015

[44] Usman A. Y & Sarkinnoma S. Y 'Crime Victims and Criminal Justice Criminal Administration in Nige (September-October, 2014 Vol.3(5) *global journal of interdisciplinary social sciences* G.J.I.S.S., 48-52

[45] FRN v. Osho Olalekan Michael (unreported) delivered by Justice Joyce Abdulmalik of Federal High Co Ibadan on Thursday, September 26, 2019. Available at www.efcc.gov.ng accessed on 20th November, 2021

[46] Ibid

[47] Section 232 ACJA. 2015

[48] Section 270 ACJA 2015.

[49] Section 314 ACJA 2015.

[50] Section 319 ACJA 2015.

[51] Section 336 ACJA 2015.

[52] Mustapha v FRN (2020) LPELR-500037 CA

[53] Ibid

See also British Airways V. Atoyebi[54] it was held that compensation cannot be paid twice for same injury sustained by the victim.

Also, in line with the provision of the Act, the Court can despite the fact that offence is committed against the state, Order restoration of the property (if any) so criminally acquired where the owner of the property is not in doubt,[55] and there is no reason to suspect the property as abandoned or unclaimed one in concomitant to payment of damages to the victim of crime.[56] Where there is a dispute as to who the owner of a property is, the issue of ownership will have to first be resolved before order for restoration can be validly made in line with provision of Administration of Criminal Justice Act 2015.[57]

However, despite the above provisions, there are *lacunas* which the Act failed to adequately address. For instance, section 270 of the ACJA is meant to favour defendant by exercising plea bargaining at the detriment of the victim's right especially in the cases of corruption, cybercrimes and other financial related offences. Similarly, the Act fail to provide for state owned institutional body to address payment of compensation to victims of crimes especially where the identity of the accused/defendant is in doubt in line with United Nation (UN) Declaration and as it has been the practicedin other jurisdictions.[58] Even in cases where compensation is awarded same is based on discretionary power of the court without necessarily considering whether same is adequate/appropriate for the affected victim.

The provision is also silent on jurisdictional limits of each court to award cost because some courts have limited jurisdiction, others have unlimited jurisdiction. In Mustapha V FRN (supra), it was held that in order to be entitled to compensation under section 78 of the penal codeand section 365 (1) (b) of the criminal procedure code, the following must be satisfied by the prosecution:

(i) Ensure that the prosecution leads evidence to establish the injury caused in whole or part;
(ii) Establish that the accused benefitted in whole or still partly retains the subject matter of the crime;
(iii) Establish and form an opinion in writing that the substantial compensation can be recoverable through a civil suit; and
(iv) The prosecution must have must have lead credible evidence to warrant granting of same.[59]

Similarly, the Violence against Persons (Prohibition) Act, 2015[60] described violence under section 2 of the Act as "any act or attempted act, which causes or may possibly cause any person physical, sexual, psychological, verbal, emotional or economic harm' and such acts are

[54] British Airways V. Atoyebi (2014) LPELR-23120 SC
[55] Akinseye G.Y, 'An Overview of the Changes and Application of the Administration of Criminal Justice Act, 2015'. in A Adekunle, Issues in Criminal Justice Administration in Nigeria, (NIALS Press, 2016)p 3-4
[56] Ibid
[57] Administration of Criminal Justice Act 2015
[58] Shapland, J. 'Victims Assistance and the Criminal Justice System: The Victim's Perspective' (1986) in Fattah, E. A. (ed) From Crime Policy to Victim Policy: Reorienting the Justice System. London: Macmillan Press.
[59] (n 33) Mustapha v FRN
[60] The Violence against Persons (Prohibition) Act, 2015

prohibited under the Act whether they occur in the private or public sphere".[61] The highlighted some forms of violence that have become rampart across the globe such as; rap other sexual violence, psychological violence; harmful traditional practices and socio-ecor violence.[62] The Act further classifies violence/harm into private and public harm. P violence means an act or attempted act perpetrated by a member of a family, relative, neig or member of a community, which causes or may cause any person physical, s psychological, verbal, emotional or economic harm, while violence in the public sphere ref an act or attempted act perpetrated by state or non-state actors before, during and after elec in conflict or war situations, which threatens peace, security and well-being of any person nation as a whole.[63] The Act provides that the Court shall award appropriate compensation victim as it may deem fit in the circumstance.[64]Again, the combine effect and meani sections 14 (2)[65] and 11[66] empower the court to order for compensation, restitutio prevention of dissipation of assets or property obtained from victims of fraud. For exa section 11[67] provides that in addition to any other penalty prescribed under this Act, the Court shall order a person convicted of an offence under this Act to make restitution t victim of the false pretence or fraud by directing that person (a) where the property invol money, to pay to the victim an amount equivalent to the loss sustained by the victim; in any case (b) to return the property to the victim or to a person designated by him; or (c) to p amount equal to the value of the property, where the return of the property is impossi impracticable.[68] (d) An order of restitution may be enforced by the victim or by the prosecu behalf of the victim in the same manner as a judgment in a civil action.[69] Thus, in FR Adesina Adewale Fatolu (aka Gold Crumb),[70] the defendant was arrested and charge obtaining money under false pretence and engaging in advance fee fraud. He pleaded guilt entered into a plea bargain agreement with the prosecution.[71] The court sentenced him t year imprisonment with effect from June 20, 2019 when he was arrested. He was also orde return the sum of $500 (Five Hundred United States Dollars), through the Federal Repub Nigeria, to his victim and to equally forfeit his iPhone 6, Nokia 103 and HP Laptop t Federal government of Nigeria, being part of the benefit he derived from his fraudulent act.[7]

The order of the court for restitution of the sum involved even in the absence of the victim was not even aware of apprehension of the defendant is in line with the dictate of the rel law in this regard. However, in NPF & Anor V. State[73] the issue for determination among is whether the court can*suo moto* award compensation for victim of crime? It was held thus

[61] Sections 2, 4 and 5 of the Act
[62]Section 7 of the Act
[63]Section 25 of Violence against Persons (Prohibition) Act, 2015
[64]Section 26 of the Act
[65] Economic and Financial Crimes Commission and Other Related Offences Act, 2004,
[66] Advance Fee Fraud and Other related Offences Act
[67]Ibid
[68]Ibid
[69]Ibid
[70] FRN V. Adesina Adewale Fatolu (aka Gold Crumb) (unreported) was arraigned before a Federal High C sitting in Ikoyi, Lagos State for allegedly obtaining money under false pretence and engaging in advance fee f Available at www.efcc.gov.ng accessed on 20th October, 2021
[71]Ibid
[72]Ibid
[73] NPF & anor V. State (2020) LPELP-50330 (CA)

a requirement for the order of compensation that same must have been sought by the prosecution at the trail with evidence to buttress same.[74] Where same is not requested, the court cannot grant it *suo moto*.

5. Conclusion and Recommendations

It is obvious that the ultimate goal of the Administration of criminal system across the global world is to do justice and provide fairness to the offender, victim and the larger society as Justice is not a one-way traffic even though crime is deemed to be an offence against the society. It is trite that compensation to victim of crime in the most developed countries is well catered for in line with United Nations Declarations. The reverse is the case in Nigeria as it is evident that crime victims are not fully given adequate consideration, despite the fact that victims of crimes are one of the integral parts of any criminal justice system. The crime victims are most found to be relegated to the background with reference to the criminal justice processes, all in the name of being represented by the state. The attitude of Nigeria courts towards protection of victim's right and payment of compensation thereof is inconsistence. In some cases that involved financial crimes and other related offences, order of restoration (when possible) are awarded against the defendant and in favour of the victim even when the victim is not aware of the existence of the case. But where the offences are such as rape, armed robbery, assault, etc. where the victim suffer physical injury, the court will require the prosecution or victim to establish same before award of compensation can be ordered by the court.

It is therefore suggested that the Government should provide the basic necessity for citizen such as adequate security, infrastructures and social services to make life easy for the society. The government should establish special institution/body at Federal and State level to be named Compensation Board for victims of crimes. As a matter of fact, Nigeria is long overdue for the compensation board as obtainable in America, U.K and other developed countries. The responsibility of the board both at federal and state level shall include payment of compensation to victim of crime where the offender cannot be found or found but incapacitated to do so. Whenever plea bargain agreement is to be entered into, the prosecutor should include details of proposed compensation that is available in favour of the victim of the crime for which a plea bargain is negotiated in the interest of fair justice. The private individual or NGO should also create a platform for victims of crimes and work out modality on how victims of crimes could be compensated or assisted. The Christians and the Muslims may embark on this in line with their religious doctrines to assist victims of crimes.

[74] Ibid