

## PERCEPTIONS OF JUSTICE BY VICTIMS OF SEXUAL VIOLENCE IN NIGERIA

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### **Abstract**

*The experience of being sexually violated is traumatic enough, but for many victims, approaching the criminal justice system in pursuit of justice for the violation of their right to dignity becomes a second trauma. While legal and institutional frameworks exist to punish offenders and provide protection for the victims, the realities of accessing justice with ease remain deeply flawed. The perception of justice by victims is not only shaped by outcomes but starts from their initial contact with the police, who are the gatekeepers of the criminal justice system. Furthermore, how societies respond to their disclosure is also essential. Understanding this perception is vital for a justice system that is fair and just. This article aims to explore how victims of sexual violence perceive justice within institutional and legal frameworks and whether the responses meet their needs and expectations. Using a doctrinal approach, a careful examination of various factors is needed to assess the adequacy or inadequacy of the existing legal framework. Findings revealed that multiple factors, including societal attitudes, cultural beliefs, support services, and the duration of the trial process, shape victims' perceptions of justice. In conclusion, the adversarial system of adjudication, which limits victims' participation, usually fails to meet their expectations. It is recommended that to improve on the gap in the justice system, there is a need for reforms and provision of various guidelines, improved victim support services, establishment of more specialised courts for sexual offences, creation of continuous public awareness, and education for victims on what to expect as they navigate the justice system. Once victims are recognised, their voices are heard for the crime committed against them. Through this, the justice system establishes an equitable system that supports victims.*

**Keywords:** Justice, Victims, Sexual Violence, and Criminal Justice System

## 1. INTRODUCTION

Sexual violence, in all of its forms, is a crime that violates victims' rights to privacy.<sup>1</sup> and dignity<sup>2</sup>, and for which victims frequently do not receive adequate justice or remedy.<sup>3</sup> Victims grapple with fundamental questions about justice as they struggle through the healing process.<sup>4</sup> Questions like these are especially difficult to answer when dealing with sexual offences because the perpetrators are often people the victims know and trust. Standard procedures in criminal law are inadequate to provide justice for crimes that are so pervasive and frequently accepted by society.<sup>5</sup>

The Nigerian legal system is adversarial, where the state and the defendant square off in criminal trials.<sup>6</sup> The Constitution's protections protect criminal defendants from the state's overwhelming power, not from other ordinary citizens.<sup>7</sup> As a result, the Constitution offers robust safeguards for the rights of the accused but no similar guarantees for the victims' rights. Securing justice for victims of sexual abuse has become a rallying cry for governments, activists, scholars, and the general public around the world in the struggle to eradicate sexual offences.<sup>8</sup> To overcome what is known as the "justice gap" for sexual offences, a wide range of policies and legislative initiatives have been made in recent decades.<sup>9</sup>

There has been an increase in concern for victims' rights, protection, and recognition within the criminal justice system. This has resulted in legislative and procedural changes in the

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<sup>1</sup> Constitution of the Federal Republic of Nigeria (as amended) Cap C23 Laws of the Federation of Nigeria 2004 (CFRN) 1999 S. 37.

<sup>2</sup> Ibid S.34.

<sup>3</sup> Jo-Anne Wemmers 'Victims' Rights are Human Rights: The Importance of Recognising Victims as Persons' *TEMIDA* (2012) (72) 71-84.

<sup>4</sup> Judith Herman, 'Justice from The Victim's Perspective' (2005) 11 *Violence Against Women* 5, 571-602.

<sup>5</sup> Patricia Frazier, and Beth Haney, 'Sexual Assault Cases in The Legal System: Police, Prosecutor, And Victim Perspectives' *Law and Human Behaviour* (1996) (20) 607-628.

<sup>6</sup> Elizabeth Oji, 'Compensation for Victims of Crime in the Nigerian Criminal Justice System: The Need to Follow International Trends' *Nigerian Law Journal* (2015) 18(1) 122.

<sup>7</sup> Deborah Adeyemo, 'Recognising the Rights of Victims in The Nigerian Criminal Justice System' (2021) 21 (2) *African Human Rights Law Journal* 1058-1079.

<sup>8</sup> Frank Haldemann, 'Another Kind of Justice: Transitional Justice as Recognition' *Cornell International Law Journal* (2008) 41(3) 675-732.

<sup>9</sup> Clare McGlynn and Nicole Westmarlan, 'Kaleidoscopic Justice: Sexual Violence and Victim-Survivors' Perceptions of Justice' *Social and Legal Studies* (2019) 2, 179-201.

administration of justice that have improved victims' experiences.<sup>10</sup> This article examines victims' perceptions of justice in their interactions with the Nigerian criminal justice system, from their first encounter with the police to their interactions with the court, as well as their perceptions of what justice should be.

## 2. THE CONCEPTUALIZATION OF JUSTICE

Justice is one of the most fundamental concepts in law, morality, and politics. It is the ultimate and supreme aim of the law.<sup>11</sup> All citizens must strive for justice, and the institutions that achieve it must strive to live above the board. The word is derived from the Latin 'justitia,' which means right or law. Justice has always been a significant objective in human endeavours, dating back to the beginning of human society.<sup>12</sup>

*Black's Law Dictionary*<sup>13</sup> defines justice as "the fair treatment of people; the quality of being fair or reasonable; the legal system by which people and their causes are judged especially the system used to punish people who have committed crimes; the fair and proper administration of the law". From the time of Plato to the present, the abstract, universal, and all-encompassing nature of justice has precluded the emergence of a consensus or satisfactory definition. The prevalent conceptions of justice vary considerably. Consequently, its nature and meaning have always been dynamic due to its multidimensionality.

According to Plato, justice is a virtue that establishes rational order, in which each part performs its appropriate role while not interfering with the proper functioning of other parts.<sup>14</sup> Aristotle defined justice as lawful, fair, or equal. He classified justice into two types: distributive and remedial justice. He defined distributive justice as injustice that arises when equals are treated unequally and when unequals are treated equally. Accordingly, just action is a means between acting unjustly and being unjustly treated.<sup>15</sup>

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<sup>10</sup> Arielle Dylan, Chery Regehr, Ramona Alaggia, 'And Justice for All? Aboriginal Victims of Sexual Violence Violence Against Women (2008)14 (16) 678–696.

<sup>11</sup> **Omoju v FRN (2008) LPELR-2647 (SC)** Tobi JSC explained what justice entails.

<sup>12</sup> Nyegianu Nwikpasi and Nuleera Dusan, 'The Concept of Justice and Its Application in A Developing Country Such as Nigeria' *International Journal of Innovative Legal and Political Studies* (2021) 9(1) 52-62.

<sup>13</sup> Bryan Garner, *Black's Law Dictionary* (Thomson Reuters 2014)995.

<sup>14</sup> A. Dylan, (n 12).

<sup>15</sup> *UCH Board of Mgmt V. Morakinyo* (2014) LPELR-23416(CA).

For Rawls, justice entails the fullest possible equality of liberty for everyone regarding their fundamental rights and duties. Socioeconomic disparities, in turn, require moral justification regarding fairness and positive outcomes.<sup>16</sup> In Rawls's opinion, justice requires courts to interpret the premises of law so that benefits are distributed to most people while avoiding the harsh effects of legal technicalities. The maxim "Fiat Justitia Ruat Caelum," which means "let heavens fall, justice must be done," has been extensively considered by numerous religious, political, moral, and legal philosophers throughout history.

Roscoe Pound states that justice is the reconciliation of competing interests in society, secured through the legal ordering of human conduct to promote social harmony and individual welfare with the least sacrifice.<sup>17</sup>

*Aguda* argues that if the rule of law is to serve any purpose, justice must be at its end. Hence, every issue brought before a court of competent jurisdiction should be determined by the law to obtain justice, as the rule of law is not an end in itself but rather the means to the objective of achieving justice. Justice is achieved according to the principles of social justice when equals are treated relatively and unequals are treated unfairly.<sup>18</sup> The proper administration of justice by the courts is a crucial aspect of the justice system for victims. Justice is said to be a three-way process: justice for the accused, the victims, and society.<sup>19</sup> The criminal justice system operates through a structured set of guidelines and a well-established legal framework. It begins with the police investigating the matter and, upon establishing a *prima facie* case, forwarding the case file to the prosecution. The prosecution then initiates legal proceedings by arraigning the defendant in court. From this point, the adjudicative process formally begins. After hearing evidence from both the prosecution and the defence, the court delivers a judgment, either convicting and sentencing the defendant or issuing a dismissal if there is no case to answer.<sup>20</sup>

In his influential theory of justice, Amartya Sen argues that a theory can be valuable and practical even if it does not prescribe the exact form of a perfectly just society or flawless institutions. According to Sen, justice should be evaluated by ideal standards and its impact on real lives. In

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<sup>16</sup> John Rawls, *A Theory of Justice* (Clarendon Press, Oxford 1972) 9.

<sup>17</sup> Roscoe Pound, *Justice According To Law* (Yale University Press, New Haven 1951) 98.

<sup>18</sup> Akinola Aguda, *The Crises of Justice* (Eresu Hills Publishers, Akure 1986) 49

<sup>19</sup> *Nwude V. FRN & Ors* (2015) LPELR-24647(CA).

<sup>20</sup> H Clark, *A Fair Way to Go. In Rape Justice* (Palgrave Macmillan, London 2015) 18–35.

light of this, non-punitive remedies within the criminal justice system are often seen as inadequate, especially from the perspective of victims. These remedies may fall short in addressing the depth of harm and trauma experienced by victims as a result of the defendant's actions, thereby raising important questions about what truly constitutes justice in practice.<sup>21</sup>

### **3. VICTIMS OF SEXUAL VIOLENCE AND THEIR PERSPECTIVES ON JUSTICE**

Victims whose rights have been violated seek redress through the criminal justice system and are given the status of nominal complainants, not parties in the criminal trial. They are dissatisfied that the proceeding is framed around the defendant, not them as victims.<sup>22</sup> Once they complain and the prosecution receives the investigation reports, the case is determined in a legal contest between the state and the defence. This relegates the victim to a witness role at the periphery of the process, there as a tool of the state without special consideration in their own right.<sup>23</sup> In the Nigerian criminal system, the state, not the victim, is considered the injured party, and the state, not the victim, has the exclusive right to take action against the offender. As the agent of criminal justice, the state codifies standard rules and procedures for establishing guilt and protecting the innocent. The state also establishes uniform, quantifiable standards of punishment to be applied reasonably and rationally in proportion to the seriousness of the crime.

According to Daly, participation, voice, validation, vindication, and offender accountability-taking responsibility are the main goals of victim-survivor justice<sup>24</sup>. Victims of sexual violence encounter some fundamental challenges about the nature of justice as they navigate through the criminal justice system, including how the truth may be exposed and how to hold offenders accountable<sup>25</sup>. Furthermore, victims have expressed their dissatisfaction with criminal justice institutions due to the reality that not all victims of sexual violence have similar experiences<sup>26</sup>. Some behaviours may

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<sup>21</sup> Dianne Martin, 'Retribution Revisited: A Reconsideration of Feminist Criminal Law Reform Strategies' *Osgoode Hall Law Journal* (1998) 36 (1)151-188.

<sup>22</sup> Kathleen Daly, 'Reconceptualising Sexual Victimization and Justice' in I Vanfraechem and other (eds), *Justice for Victims: Perspectives on Rights, Transition and Reconciliation* (Routledge, Oxford, 2014) 378-395.

<sup>23</sup> Patricia Frazier, and Beth Haney, 'Sexual Assault Cases in the Legal System: Police, Prosecutor, and Victim Perspectives' *Law and Human Behaviour* (1996) (20) 607-628.

<sup>24</sup> Kathleen Daly, 'Sexual Violence and Victims' Justice Interests' in E Zinsstag and M Keenan (eds), *Restorative Responses to Sexual Violence Legal, Social and Therapeutic Dimensions* (Routledge, Oxford 2017) 108-139.

<sup>25</sup> Judith Herman, 'Justice from the Victim's Perspective' (2005) 11 *Violence Against Women* 571, 585.

<sup>26</sup> Robyn Holder, and Amanda Robinson, 'Claiming Justice: Victims of Crime and Their Perspectives of Justice' *International Review of Victimology* (2021) 27 (2) 129-137.

be legitimate and accepted in one culture or period but deemed inappropriate in another<sup>27</sup>. Since sexual violence has gained global attention, community perceptions and responses are still evolving<sup>28</sup>. The complexity inherent in conceptualising sexual abuse across cultures and circumstances exposes crucial gaps in victims' prevention and response<sup>29</sup>. In certain cultures, sexual violence is more common because of factors like gender inequity, male entitlement, lack of social services, adequate punishments, poverty, and conflict.<sup>30</sup> When it comes to matters of sexual interaction, women are often expected to make decisions in Western society; however, this is not the case in African culture.<sup>31</sup> Those who live in a society with strong gender standards, where masculine honour and entitlement are acceptable and where sexual aggression goes unpunished, are more likely to experience sexual violence.<sup>32</sup> As a result of societal imbalances and patriarchal practises, women who have been sexually violated are no longer deemed "virtuous," and their perceived virtue can never be regained.<sup>33</sup> One must first comprehend the cultural components that support sexual violence and discourage victims from seeking help to choose high-impact intervention targets.<sup>34</sup>

From the victims' understanding, justice is viewed as the right to be heard and treated with dignity and compensation for violating their rights as they navigate the justice system. They believe that once the matter is charged to court after investigation, the defendant will immediately be sent to prison, and the case will be disposed of in a few days. However, as they approach the adjudication process, they find that there are rules and procedures they must follow. Victims want to narrate their stories in their own way. But they realise that they have to be guided by the prosecuting

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<sup>27</sup> Louise Edwards, Nigel Penn and Jay Winter (eds), *The Cambridge World History of Violence* (Cambridge University Press, Cambridge 2020) 168 - 186.

<sup>28</sup> Boris Burghardt and Leonie Stein, 'Sexual Violence and Criminal Justice in the 21st Century' *German Law Journal* (2021)22 (5) 691-702.

<sup>29</sup> Heather Littleton and David Dilillo, 'Global Perspectives on Sexual Violence: Understanding the Experiences of Marginalized Populations and Elucidating the Role of Sociocultural Factors in Sexual Violence' *Psychology of Violence* (2021) 11(5) 429-433.

<sup>30</sup> Etienne Krug and others, *World Report of Violence and Health*. (The World Health Organization, Geneva, Switzerland 2002) 241-254.

<sup>31</sup> H Littleton, D Axsom, and M Yoder, 'Priming of Consensual and Non-Consensual Sexual Scripts: An Experimental Test of the Role of Scripts in Rape Attributions' *Sex Roles* (2006) 54, 557-563.

<sup>32</sup> National Sexual Violence Resource Centre, 'Global Perspectives on Sexual Violence: Findings from The World Report on Violence and Health' *A Pennsylvania Coalition Against Rape Project* (2004) 1-20.

<sup>33</sup> Amnesty International, 'Sexual violence against women in armed conflict: A fact sheet' (2004) <[http://www.amnestyusa.org/women/pdf/VAW\\_in\\_armed\\_conflict\\_fact\\_sheet.pdf](http://www.amnestyusa.org/women/pdf/VAW_in_armed_conflict_fact_sheet.pdf)> accessed 1 May 2022.

<sup>34</sup> Emily Dworkin, and Terri Weaver, 'The Impact of Sociocultural Contexts on Mental Health Following Sexual Violence: A Conceptual Model' *Psychology of Violence* (2021) 11(5) 476-487.

counsel. After their evidence is chief, they are cross-examined by defence counsel, who forces them to answer a yes or no in response to their question without allowing them to explain further. Some question under cross-examination traumatises the victim as it reminds them of painful memories which could be likened to a second rape.<sup>35</sup>

In their explanatory note, Temkin and Barbara provide narratives used by the prosecution and the court in rape trials in the United Kingdom; the same emotional and conceptual frameworks continue to direct the criminal justice system. It is essential to state that the prosecution in court triggers painful memories, especially in victims of rape, but the court requires them to recount the event and give evidence in court. Most victims are displeased at being in the same courtroom as the defendant. A victim who has been raped desires to forget that painful experience and move on with life.<sup>36</sup>

Who analysed the explanatory narratives used by police, attorneys, judges, and jurors in rape trials in the United Kingdom, the same psychological conceptual frameworks continue to dominate the legal system. Sometimes, the victims may be required to limit or control things that trigger memories of the unpleasant event, which the court requires them to endure. Notwithstanding the court's requirement for physical contact between a witness and the defendant, it is not uncommon for victims to express their reluctance to be in the same vicinity as their perpetrators. A victim of sexual assault, particularly one who has experienced rape, desires nothing more than to overcome this traumatic experience.<sup>37</sup>

To understand justice in the context of sexual violence, the victim's experiences and insights must serve as a foundation.<sup>38</sup> When considering concepts of justice, engaging victim-survivors is a matter of "moral and political urgency."<sup>39</sup> Consequently, victims who have experienced sexual violence believe that justice should entail imposing stringent penalties on perpetrators, which may encompass a range of measures such as extended incarceration and financial restitution. It is

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<sup>35</sup> Bruce Feldthusen, Olena Hankivsky and Lorraine Greaves, 'Therapeutic Consequences of Civil Actions for Damages and Compensation Claims by Victims of Sexual Abuse' *Canadian Journal of Women and the Law* (2000) 12 66- 75.

<sup>36</sup> J Temkin and B Krahé, *Sexual Assault and the Justice Gap: A Question of Attitude* (Hart Publishing, Oxford 2008) 53-72.

<sup>37</sup> *Ibid.*

<sup>38</sup> Clare McGlynn and Nicole Westmarlan, (n 10).

<sup>39</sup> Frank Haldemann (n 9).

important to note that each victim might have a unique understanding of what constitutes justice.<sup>40</sup> Victims want the offender to apologise, offer compensation or restitution, and guarantee that the violence will stop.<sup>41</sup> Victims look for a procedure that provides them a meaningful voice, validates them in their community, and acknowledges the harm they have undergone from both the perpetrator and their community, not one that reinforces their victim status.<sup>42</sup>

Additionally, victims need affirmation from their community, that is, for both the offender and their community to acknowledge the harm that has been done to them away from a punitive stance, with some recognising the importance of criminal culpability.<sup>43</sup> A guilty verdict serves as a deterrent since it prevents the perpetrator from committing the offense again.<sup>44</sup> For victims to perceive justice has been served, they must be recognised. Along with recognition comes the expectation of having one's rights respected. When interacting with criminal justice institutions, it is essential to identify the gravity of the offence and the dignity of the individual whose rights were violated. Waldron contends that dignity is fundamentally tied to a person's social standing; this conception embodies the idea that every citizen embodies the notion that every person holds a status that entitles them to a certain level of recognition and respectful treatment. It fosters expectations that individuals will be regarded and treated in ways that reflect and affirm their inherent worth as social and moral community members.<sup>45</sup>

The victim's perspective on justice places a premium on the elimination of sexual violence and the advancement of education as a mechanism for social change. In essence, they strive for a society that recognises the adverse effects of sexual violence and works conscientiously to eradicate it.<sup>46</sup> The aim of justice should always be to restore the victim's dignity, regardless of whether the victim

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<sup>40</sup> Ibid.

<sup>41</sup> Bronwyn Naylor, 'Effective Justice for Victims of Sexual Assault: Taking Up the Debate on Alternative Pathways' *University of New South Wales Law Journal* (2010) 33 (3)662 -684.

<sup>42</sup> Kathleen Daly, and Sarah Curtis-Fawley, 'Restorative Justice for Victims of Sexual Assault' in K. Heimer and C. Kruttschnitt (eds), *Gender and Crime: Patterns of Victimization and Offending* (New York University Press, New York 2006) 230 - 256.

<sup>43</sup> Judith Herman, 'Justice from the Victim's Perspective' *Violence Against Women* (2005) (11) 571- 585.

<sup>44</sup> Nicola Henry, 'The Law of The People: Civil Society Tribunals and Wartime Sexual Violence' in P Anastasia, N Henry and A Flynn (eds), *Rape Justice: Beyond the Criminal Law* (Palgrave MacMillan, Basingstoke, 2015) 200– 217.

<sup>45</sup> Jeremy Waldron, 'Dignity and Defamation: The Visibility of Hate' *Harvard Law Review* (2010) (123) 1596–1657.

<sup>46</sup> S. Caroline Taylor and Caroline Norma, 'The 'Symbolic Power' Behind Women's Reporting of Sexual Assault Crime to Police' *Feminist Criminology* (2012) 7 (1) 24-47.



has a history of sexual abuse. Recognising victims as more than mere victims, survivors, or witnesses is necessary to integrate them into the justice system.

#### **4. VICTIMS' EXPERIENCES WITH THE CRIMINAL JUSTICE SYSTEM**

The experiences and perceptions of victims must serve as the cornerstone of any effort to comprehend justice in the context of sexual violence.<sup>47</sup> Given this, it is essential to define the Criminal Justice System (CJS) to gain a better understanding. The CJS refers to government institutions and mechanisms that seek to apprehend, prosecute, punish, and rehabilitate criminal offenders. It is a body of government agencies, organisations, and institutions whose goals include responding to crimes and offenders through a variety of criminal sanctions, including deterrent, rehabilitative, and restorative justice, as well as preventing future crimes through a variety of measures and mechanisms and protecting and supporting victims of crime.<sup>48</sup>

The biggest surprise for victims seeking justice through the criminal justice system was realising how little their cases mattered. The victims frequently had the mistaken expectation that the law enforcement agencies would be primarily interested in protecting their interests because the crimes had such a significant impact on their lives. They had a hard time realising the case was about the defendant, not about them, and that was the main point. Following the filing of their complaints and the transfer of the prosecution's initiative, their cases were decided in the legal battle between the state and the defence lawyer, and they were relegated to a supporting witness position, serving only as the state's tool and receiving no special consideration in their own right.<sup>49</sup> Several victims viewed their minor status in the justice system as a humiliation that was all too evocative of the initial crime.

While being a victim of sexual assault may be a terrible and unpleasant experience, the criminal justice system can have a significant impact on victims' experiences. Victims may feel violated, fearful, enraged, or vulnerable. The criminal justice system seeks to assist victims in their pursuit of justice while also holding offenders accountable for their actions. Yet, victims' experiences can vary depending on a variety of conditions, and navigating the criminal justice system can be

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<sup>47</sup> Judith Herman (n 44).

<sup>48</sup> *ibid.*

<sup>49</sup> Jo-Anne Wemmers, 'Victims' Experiences in The Criminal Justice System and Their Recovery from Crime' *International Review of Victimology* (2013) 19 (3) 221-233.

difficult and confounding for victims.<sup>50</sup> The nature of Nigeria's criminal justice system poses challenges for victims' voices and opinions to be heard. Even though victims are most affected by crimes, the criminal justice system frequently gives them the least input. The type of offence that was committed, its gravity, the victim's level of involvement in the case, and the resources the victim has access to are a few of the variables that might impact how they experience the criminal justice system. The criminal justice system may be more challenging for victims of violent crimes like assault or rape than for victims of property crimes like theft or vandalism. The offender or their accomplices may intimidate or retaliate against victims directly involved in the case, such as witnesses, creating further difficulties.<sup>51</sup> The Nigerian criminal justice system can be challenging and distressing for victims of sexual assault. The system is plagued by various challenges that may cause victims to lose confidence and hesitate to report the crime. Notwithstanding legislative efforts to improve the rights and protect victims of sexual violence in the criminal justice system, clinical observations, as well as research and practice literature, continue to imply that encounters with the justice system are harmful to victims.<sup>52</sup> The Nigerian constitution does not explicitly provide victims' rights in their interactions with criminal justice institutions<sup>53</sup>. As a result of giving the accused's rights precedence over those of the victims, the justice system unfortunately cannot be fully characterised as fair, equitable, or just. Nonetheless, the system may be improved to ensure that society is balanced<sup>54</sup>. There is a need to establish best practices for strengthening victim satisfaction, promoting victim well-being, and encouraging victims to participate in or remain involved in the criminal justice system<sup>55</sup>. This would provide stakeholders with a better understanding of victim interactions with the criminal justice system and the best practices for improving victims' experiences within the criminal justice system.<sup>56</sup>

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<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

<sup>52</sup> Cheryl Regehr and others, 'Victims of Sexual Violence in the Canadian Criminal Courts' *Victims and Offenders* (2008) 3 (1)99–113.

<sup>53</sup> K. Anele, 'The Criminal Justice System and Ordeal of Victims of Crime in Nigeria: A Preliminary Observation' *African Journal of Philosophy* (2006) 8(2) 28-32.

<sup>54</sup> Andrzel Marek, 'Crime Victim and Criminal Justice Administration' *World Society of Victimology Newsletter* (1983) (3) 5.

<sup>55</sup> Deirdre Healy, *Exploring Victims' Interactions with The Criminal Justice System: A Literature Review* (Irish Department of Justice and Equality, Dublin 2019) 69- 79.

<sup>56</sup> Nicholas Katzenbach, *The Challenge of Crime in a Free Society: A Report* (United States Government Printing Office, Washington D. C., 1967)7.

Victims who have never had any personal contact with the criminal justice system must understand its meaning, functions, and operations.<sup>57</sup> Although the CJS is one of society's most potent organisations and is responsible for upholding the laws, regulations, and standards that govern us, it has flaws. Like any other social institution, it is susceptible to malfunction, bias, and harm.<sup>58</sup> Fundamentally, criminal justice institutions that the victims interact with include the police, the courts, and prisons or correctional facilities. To comprehend how the criminal justice system functions, one must be familiar with how each of its agencies interacts, including how the police function, what they do, and how they make decisions; how the court system is organised and how judges make decisions; and how the penal system is structured.<sup>59</sup>

The response of the criminal justice system to cases of sexual violence has been well documented as having systemic flaws. It is critical to consider the many steps that must be followed when reporting a case of sexual assault, as well as the probable interactions that a victim may have with the criminal justice system at each stage.<sup>60</sup>

The trajectory of a victim's experience commences with the occurrence of a criminal act. Subsequently, it diverges into two potential paths contingent upon the victim's decision to initiate legal proceedings by filing a police report. Given that, just a small number of crime victims choose to report the crime and go through the criminal court system; crimes witnessed by such victims are included in the "black figure" of crime statistics—their inability to report results in their being excluded from participation in the judicial process entirely.<sup>61</sup>

The first step in a victim's quest for justice through the criminal justice system is to report the crime to the appropriate authority, usually law enforcement agencies.<sup>62</sup> Therefore, the first interaction with the victim must be positive because it establishes the tone for the criminal justice

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<sup>57</sup> Miriam Cohen 'Victim's Participation Rights Within the International Criminal Court: A Critical Overview' *Denver Journal of International Law and Policy* (2009) 37 (3) 351 -377.

<sup>58</sup> P. Cassell and S. Joffe, 'The Crime Victims' Expanding Role in A System of Public Prosecution: A Response to The Critics of The Crime Victims' Rights Act' *Northwestern University Law Review Colloquy* (2011) 105, 164–183.

<sup>59</sup> A. Dambazau, *Criminology and Criminal Justice* (Nigerian Defence Academy Press, Kaduna, Nigeria 1999) 173-211.

<sup>60</sup> D. Healy, *Exploring Victims' Interactions with The Criminal Justice System: A Literature Review* (Irish Department of Justice and Equality, Dublin 2019) 11 – 79.

<sup>61</sup> United Nations Office on Drugs and Crime, Victims and Their Participation In The Criminal Justice Process (2019) <<https://www.unodc.org/e4j/en/crime-prevention-criminal-justice/module-11/key-issues/5--victims-and-their-participation-in-the-criminal-justice-process.html>> accessed 2 February 2022.

<sup>62</sup> D. Healy (n 61).

process and may also represent the victim's overall experience with the system. In situations where the case does not progress beyond the reporting and investigation stage, how the victim is treated at this point is crucial to how satisfied they are with the outcome.<sup>63</sup>

To improve victims' interactions with the police, a variety of strategies have been undertaken by police departments, including procedures that adhere to the rules of procedural justice, efficient information sharing and communication techniques, and referrals to victim support agencies. Victims' satisfaction and willingness to pursue a case can be influenced by the quality of police-victim interactions, which serve as the victim's initial point of contact with the criminal justice system. Regrettably, many victims have complained about police officers who are more interested in the bail money than in investigating the case.<sup>64</sup> To improve these experiences, officers must fully understand the dynamics and impacts of victimisation and undergo specialised training to ensure that police involvement does not worsen the trauma of the offence. It is also crucial to note that referral to victim support services has become an essential component of the initial police response to victims.<sup>65</sup>

After reporting the crime, victims will encounter criminal justice professionals who will investigate and prosecute their cases. At this point, measures have been put in place to improve victims' interactions with investigators and prosecutors; prosecutors must consider victims' perspectives in decision-making, treat victims with dignity and respect, and provide regular case updates.<sup>66</sup> They also review the evidence presented by victims and provide information on court procedures. The investigation and prosecution stages of the criminal justice system revealed evidence that the following practices have the potential to improve victims' interactions with investigators and prosecutors: effective communication and information sharing, sensitive treatment and compassion to show victims that professionals care about their problems, and interagency collaboration to provide victims comprehensive services.<sup>67</sup>

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<sup>63</sup> L. Siegel *Criminology: The Core* (2<sup>nd</sup> edn. Thomson Wadsworth, Belmont 2005) 60.

<sup>64</sup> Wahab Egbewole and I Imam, 'Nigerian Judiciary and The Challenge of Corruption: Islamic Options as Panacea' *Journal of Islam in Nigeria* (2015)1(1) 84-103.

<sup>65</sup> I. Madoc-Jones, C Hughes, and K Humphries, Where Next for Victim Services in England and Wales? *The Journal of Adult Protection* (2015)17(4) 245-257.

<sup>66</sup> Mugambi Jouet 'Reconciling the Conflicting Rights of Victims and Defendants at The International Criminal Court' *Saint Louis University Public Law Review* (2007) 26(6) 249-307.

<sup>67</sup> D. Healy (n 61).

The trial stage comes next, where victims are accorded the status of witnesses in most jurisdictions, including Nigeria. Research shows that many victims become victims again due to the adversarial nature of court procedures. At this point, implementing and protecting victims' rights and providing practical support, information sharing, and communication is crucial for enhancing victims' interactions with the courts. To improve the court experiences of victims and witnesses, there is a need for better case management to increase efficiency, greater information availability to encourage victim knowledge of court procedures, and a focus on procedural justice to minimise feelings of marginalisation.<sup>68</sup>

Every stage of the criminal justice system and every victim acknowledged that efficient communication and information sharing emerged as a critical, unifying factor. Victims of sexual violence typically report a lack of communication, particularly after the initial police encounter. Victims deserve information on criminal justice proceedings, their rights as victims, and victim support services. The fact that victims receive regular updates on their cases, mainly if their opinions were considered during criminal proceedings, is crucial.<sup>69</sup>

The criminal justice system can dispense justice swifter by enacting guidelines and policies to assist victims through the criminal trial. The victim's rights must be adhered to by providing accurate information about their case at every stage. Having been traumatised, the victim should feel safe and cared for by the support service provided. They should be treated with respect at every stage, and the right to dignity should be upheld. Showing support and care to the victim will assist them in healing from the harm they have suffered.

## **5. RECOGNITION, DIGNITY, AND VOICE IN VICTIMS' JUSTICE**

In criminal proceedings in Nigeria, the aggrieved party is considered the state rather than the victim. Only the state can initiate a charge or information against the perpetrator.<sup>70</sup> The state assumes the role of the arbiter of criminal justice by instituting standardised norms and procedures that facilitate the determination of guilt and protect the innocent. The state establishes standardised and measurable penalty guidelines that are applied fairly and justly based on the gravity of the

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<sup>68</sup> R Holder, 'Satisfied? Exploring Victims' Justice Judgments' (2015) *Crime, Victims and Policy: International Contexts, Local Experiences*, 184-213.

<sup>69</sup> D. Healy, (n 61).

<sup>70</sup> CFRN 1999 (as amended) ss. 174 and 211; *FRN v Adewunmi* (2007) 10 NWLR (Pt. 1042) 399 SC.

offence.<sup>71</sup> The prevailing belief is that contemporary state-based criminal justice systems are more effective than traditional communal or private forms of justice.<sup>72</sup>

The attainment of justice for individuals who have suffered from sexual violence necessitates the imposition of severe repercussions upon the offender. The concept of consequences implies that a particular action must yield a corresponding effect or outcome. In a nutshell, the individual responsible for the action must experience consequences for their behaviour. The concept of consequences pertains to the societal understanding of justice as the punishment of an individual found guilty of wrongdoing through the criminal justice system, commonly using a retributive incarceration term. Although the significance of consequences may vary for different individuals, it is essential to note that they extend beyond a perpetrator's mere conviction and imprisonment. While the prevention aspect is linked to a defendant's conviction, for many victims, justice is synonymous with a verdict of guilt. The objective is not solely to incarcerate the accused but to ensure non-recurrence. Retribution is a commonly held notion of justice among individuals who have experienced victimisation.<sup>73</sup>

Recognition is another principle at the heart of justice for victims. Recognition is a form of acknowledgement that conveys support for victims, which is more than "being believed."<sup>74</sup> It covers the acknowledged experience's relevance and influence on the victim-survivor and society. Offenders must recognise the harm caused by their behaviour, and a sense of justice depends on getting validation.<sup>75</sup> Recognition is essential to victims' sense of justice and is more than just the relationship between citizens and the state. It encompasses acknowledgment of the significance and nature of the injury and an attempt to remedy it. Outcomes of the conventional criminal justice system do not necessarily equate to a sense of Justice, as they do not address issues such as

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<sup>71</sup> In the case of *Romrig (Nig) Ltd. v. FRN* (2018) 15 NWLR (pt. 1642) 284 at 308, the Supreme Court of Nigeria held that the Attorney-General of the Federation has an unfettered right to institute a charge before a court.

<sup>72</sup> J. Herman, (ed), *Sexual Violence in Conflict Zones: From the Ancient World to The Era of Human Rights* (University of Pennsylvania Press 2011) 1-5.

<sup>73</sup> C. McGlynn, J Downes, and N Westmarland, 'Seeking Justice for Survivors of Sexual Violence: Recognition, Voice and Consequences' in E Zinsstag, and M Keenan (eds), *Restorative Responses to Sexual Violence: Legal, Social and Therapeutic Dimensions* (Routledge, Abingdon 2017)171-191.

<sup>74</sup> Deborah Adeyemo, (n 8).

<sup>75</sup> C. McGlynn, (n74).

humiliation, lack of respect, and moral injury. Recognition is also about the actions and responses of individual perpetrators, friends, families, and communities.<sup>76</sup>

Along with being recognised, victims must be treated with dignity.<sup>77</sup> While acknowledging the importance of procedural justice for victims, they recount numerous instances of criminal justice officials neglecting to treat them with dignity. In addition to process and procedure adherence, victims want to be treated with dignity. Victims desire to be treated with compassion and to be recognised as persons who have been harmed. Therefore, this is not merely a matter of enhancing policies and procedures, however essential these are. It is about treating victims as it pertains to being informed, heard, and regarded thoughtfully. This 'simply' necessitates sensitive, respectful, and dignified treatment.<sup>78</sup>

Voice has traditionally been crucial to how victims of sexual violence define justice. Giving victims a voice entails enabling them to express their experiences in their own words. Being a vocal participant in the criminal justice system is essential since many victims feel disenfranchised by it. Thus, voice can be considered a metaphor for power, the ability to decide how your future will be and to ensure that decisions are made with the participation of victims.<sup>79</sup>

Prevention of sexual violence is vital to victims' sense of justice since prevention entails more than just individual rehabilitation or deterrence, but also a clear educational goal.<sup>80</sup> The interests of victims in social and cultural transformation, the prevention of sexual assault, the requirement for support, and the concept of dignity as a fundamental value were also reflected in victims' views of justice. These components, along with recognition, voice, and consequences, make up the diverse viewpoints that make up the concept of justice for sexual assault victims.

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<sup>76</sup> R. Holder, 'Satisfied? Exploring Victims' Justice Judgments' *Crime, Victims and Policy: International Contexts, Local Experiences* (2015) 184-213.

<sup>77</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended) s. 34.

<sup>78</sup> K. Daly, Reconceptualising Sexual Victimisation and Justice. In: Vanfraechem I, Vanfraechem, I., Pemberton, A., and Ndahinda, F., *Justice for Victims: Perspectives on Rights, Transition and Reconciliation* (Routledge 2014) 378-395.

<sup>79</sup> Chery Regehr and Ramona Alaggia, 'Perspectives on Justice for Victims of Sexual Violence' 1 *Journal of Evidence-Based Practice* (2006) 1, 33-46.

<sup>80</sup> Ibid.

## **6. RECOMMENDATIONS**

To enhance the perception of justice by victims of Sexual violence within the criminal justice system, the following recommendations are made;

1. Victim support needs to be strengthened by providing guidelines or practice directions to ensure victims receive adequate information about the case at every stage of the criminal process. Establishing specialised SGBV courts in all states for sexual offences could expedite trials and reduce the burden on victims.
2. The sexual violence unit at the police station should have a provision for a victim advocate who would inform the victim of the processes involved in the trial process. A victim support unit needs to be part of the gender unit.
3. There is a need to amend the Violence Against Persons Prohibition Act 2015 to include a timeline for investigation, prosecution, and adjudication of sexual offences. Reducing delays is vital in fostering a just and responsive criminal justice system.
4. For proper access to justice, every Local Government Area should establish a Sexual Assault Referral Centre to provide services to victims; there is also a need to expand legal aid, counseling, medical care, and shelter for victims, especially those in rural areas.

## **6. CONCLUSION**

Perception of justice among victims of sexual violence is based on positive outcomes such as conviction and punitive sentencing on a defendant who violated their right to dignity. Victims seek recognition as the ones who have suffered harm; they seek restoration for violating their dignity; victims desire to be heard and actively participate in the trial, and they seek prevention from further harm. In seeking to understand justice in the context of sexual violence, the experiences and insights of victims must be fundamental.