A SOCIOLOGICAL ANALYSIS OF VICTIMS OF COMMON CRIMES IN PRE- AND POST-COLONIAL TIV SOCIETY

BY

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BEING A THESIS SUBMITTED TO THE POST GRADUATE SCHOOL, AHMADU BELLO UNIVERSITY, ZARIA, IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE AWARD OF M.Sc. (SOCIOLOGY) DEGREE, WITH SPECIALIZATION IN CRIMINOLOGY

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MARCH, 1999.

DECLARATION

I hereby declare that this thesis has been written by me and it is the product of my search work. It has not been presented anywhere for the purpose of awarding a higher gree.

Works and sources of information quoted are duly acknowledged by means of ference.

UMVETORNENGE SAMUEL

arch, 1999

DEDICATION

Dedicated to my father Mr. John Zumve Iortyer, and the Victims of the unfair contemporary criminal justice system operative in Nigeria.

CERTIFICATION

This thesis entitled "A Sociological Analysis of Victims of Common Crimes in Pre- and Post-Colonial Tiv Society" meets the regulations governing the award of the degree of M.Sc (Sociology) with specialization in Criminology of Ahmadu Bello University, Zaria and is approved for its contribution to knowledge and literary presentation.

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ABSTRACT

The roles and responsibilities of victims of common crimes in criminal justice administration have been affected by the procedures of the contemporary Nigerian criminal justice system. An attempt has therefore been made to compare the legal position of victims of common crimes (that is their roles and responsibilities) at the various stages of criminal justice administration under the procedures of the contemporary criminal justice system with that of their counterparts (victims) under the procedures of the indigenous Tiv criminal justice system. An attempt has also been made to examine the influence of the victims' attributes (like age, education occupational status, and place of residence) on their degree of preference for a particular criminal justice system.

The purposive sampling method was adopted in selecting informants from the four categories of respondents chosen for the study, namely: the police, court judges and other court personnel, traditional rulers, elders, and the victims of common crimes. Informants in the chosen areas (Abwa and Gboko in Benue State) were interviewed through the use of structured interview schedules and indept interview methods. Observation and extracts from books, codes and other documentary sources were adopted, as complementary methods in collecting the qualitative data needed.

The qualitative data were analyzed by editing the various information obtained from the Codes, Acts, case files and other court records. On the other hand, the quantitative data is analysed using the Statistical Package for Social Sciences (SPSS) to find the percentages and frequencies.

Findings of the study revealed that, statutorily the criminal and penal codes do not specifically define the legal position of the victims of crime. These codes are not explicit

on the legal rights of victims during criminal justice administration. The provisions of the codes and Acts are ambiguous on the roles and responsibilities of victims of common crimes at the various stages of the contemporary criminal justice administration. Thus subjecting the victims' legal rights to the wide discretionary powers of the contemporary criminal justice agencies like the police and court judges. With this development therefore, the victims are overburdened with informal "harsh" roles and responsibilities to perform under the procedures of the contemporary criminal justice system. For instance victims sponsor arrest and investigation by providing means of transport and feeding money to the investigation police officers (IPOs).

The findings of the study further revealed that the main focus and concern of the Tiv criminal justice system is the victims of crime. Under the procedures of the Tiv criminal justice system, the victims are not overburdened with these informal roles and harsh responsibilities. The legal rights and interests of the victims are protected under the procedure of the Tiv criminal justice system more than their counterparts in the English legal system.

The researcher again uses the Statistical Packages for Social Sciences (SPSS) in finding the percentages and frequencies to assess the relationship that exists between the socio-demographic attributes of the victims of the common crimes and their preference for criminal justice systems. It is therefore found out that the victim's attributes like age, area of residence, occupational status and level of formal educational attainment influences their preference for criminal justice systems. It is also found out that, the principle of the imposed English justice system does not meet the demands and aspirations of the Nigerians. This is because it was designed under a different socio-economic context (with its peculiar norms and values) and later it was transferred and

imposed on the Nigerians in the name of colonialism to serve specific purpose for the colonialists.

From the foregoing, it is recommended that, the entire contemporary Nigeria criminal Justice policy should be reviewed to meet the demands, aspirations, and yearnings of the Nigerians This review should be directed towards reconciling parties, direct restitution to the victims by the their convicted offenders, and finally the legal position of the victims should be clearly stated in the codes and acts. In other words, a call for a victim-oriented criminal justice system.

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CHAPTER ONE

INTRODUCTION

Crime is a social problem that affects the lives of thousands. Even those who do not experience it directly are also affected by its pervasive and sinister presence. The mass media and our insatiable thirst for news and excitement, greatly contribute to our awareness of crime different manifestations. Ironically, the contribution of the mass media to our awareness of the 'criminal' phenomenon in the society is almost limited to the criminals (offenders) and their heinous actions, thus neglecting the victims of such criminal acts. There is a general consensus that this neglect of victims of crimes is also reflected in the mode of thinking of individuals in the contemporary society, policy makers, social service workers and even law enforcement agencies (Gyong, 1995). In recent times there has emerged a new discipline an offshoot of criminology victimology, whose subject matter focuses on the strategic position of victims in the crime phenomenon.

Generally, victimology covers in its scope, victims of all natural and social calamities, viz: victims of fire, floods, earthquakes, wars, crime, etc; the present study is obviously concerned with only victims of common crimes in the administration of criminal justice. The concern here is therefore, to critically examine and compare the legal positions of victims of common crimes in the administration of criminal justice under the procedures of the Tiv indigenous criminal justice system and the imposed contemporary Nigeria criminal justice system. Common crimes here refer to traditional or conventional offences against "persons" or "property" (e.g. homicide, manslaughter, assault, robbery, burglary, theft, etc *See Odekunle, 1999).* Victims of common crime

offences in this context therefore, refer to the generality of people whom such offences are committed against. In other words, people who are victimized of assault, burglary, theft, robbery, etc are those referred to here as victims of common crimes. The concern is to critically examine and compare the legal rights, and legal positions of victims of common crimes in the administration of criminal justice under the pre-colonial indigenous Tiv Criminal Justice System and the inherited contemporary Nigeria Criminal Justice System in the Tiv society. This comparison will start from the level of instituting a case, i.e. reporting a Crime, arrest of offenders, detention, bail, investigation, charging to court, trial and finally the sentencing stage.

1.1 Statement of The Research Problem

Crime and criminal victimization are social problems that have characterized the human race right from the evolution of the human society, from primitive homogenous societies to the heterogeneous modern societies. At each stage in human history, new methods of Criminal Justice administration were evolved (see Schafer, 1977, Wushishi, 1989). Different types of criminal justice pollicies were developed by the societies at different stages of their development.

In the western world the social changes brought about by the industrial revolution, which first took place in England influenced the establishment of criminal policies based on the punitive philosophy. The state was mandated to protect the lives and properties of the 'citizens' and punishment was the dominant measure used to deter offenders and potential offenders from committing future crimes.

Like other societies on the globe, societies on the African continent were not left out of the global evolution of a social control or criminal policy. Before the colonization of Africa, societies on the African continent had their indigenous and traditional criminal justice systems (Holleman 1974, Milner, 1956). In Nigeria for instance, prior to British colonization (i.e. the period around 1846-1858) the various societies that constitute Nigeria today developed and established their various justice systems. Certain features that were in consonance with the people's norms and values also characterized these justice systems. The social patterns and political arrangements of these societies determined the nature and character of these justice systems. The members of these communities were subjected to the laws of the communities. The traditional authorities punished violators of these laws (norms) or institutions set up by the people within these communities. In the southern part of Nigeria, there were numerous relatively simple systems of the family, the village or group of villages. By 1847, much of Northern Nigeria was characterized by highly systematized and sophisticated Islamic law. In the centralized societies, like the Hausa and Yoruba societies, Emirs and Obas carried out justice administration. While in the egalitarian and chiefless societies like the Tiv and Ibo societies Bohannan (1957) and Elias (1956) observed that criminal justice adjudication was done through elders and institutions like age grades.

While in the centrally organized societies like the Yoruba, Hausa, and Benin Kingdoms, the performance of policing, prosecuting, and other judicial functions were the responsibilities of specialized public officials. These officials and institutions performed a variety of "modern-police" duties including the forcible production of recalcitrant offenders before the Kings or Obas for trial.

Even though the general objective of both the imposed contemporary English criminal justice system and the indigenous justice system is the maintenance of peace within the society, these two had different features. Whereas, the contemporary criminal justice system had codified laws, the Tiv Criminal justice system had none. These criminal justice systems also differ remarkably on the issue of philosophical and ideological background. While the contemporary criminal justice system is based on a retributive philosophy with a direct focus on the offender (criminal), the underlying philosophy of the indigenous justice system is reconciliation with its focus on the victim. The essential objective of the sanctions (sentences) in the procedures of the Tiv Criminal justice system was the restoration of the equilibrium of the society. This is the case whether the victim is the community as a whole or an individual. The punishment imposed aimed at the resolution of the dispute and the restoration of peace among the members of the community. In the Tiv society for instance Makar (1994) observed that,

"the Orya who is the head of the house meted out a variety of punishments. A young offender was flogged for theft while his parents paid fine and returned the stolen items. The fine was used for ritual reparation of the compound of Orya which the criminal had desecrated with crime" (Makar, 199, 24)

In the same way Radcliffe Brown (1956), vividly observed that under the procedure of the indigenous justice system *"a judge is not regarded as having properly settled a case until all parties concerned are satisfied with the settlement"*. This was the nature of the judicial systems that characterized the Nigerian societies prior to British colonization. The colonization of Nigeria by the British marked the introduction of the principles of the English common law, first introduced in the Lagos settlement in 1863

(See Elias, 1956). Being the law of the "masters", the imposed English common law was considered to be 'superior' to whatever law had existed prior to British colonialism. The idea of criminal justice was twisted from its traditional meaning of "justice for the victim" to its present focus on the offender and the state. The victim-oriented criminal policy that existed prior to British colonialism was replaced by the punitive and retributive oriented criminal justice policy. Under this new system, the offender became the major concern of the criminal policy instead of the victim and the attention was focused on how to reform the offender and prevent him and others from committing future crimes. New codes, which abolished some customary trials (for instance Trial by ordeal) were established. Some customary rules (e.g. on adultery) and penalties were retained subject to the requirement that they should not be repugnant to natural justice, equity and good conscience these being the principles and doctrines of the imposed English common law (Jill 1987, Makar 1994).

The suppression of the English law over the indigenous justice systems motivated the establishment of a new criminal policy characterized by new trial and sentencing patterns. The general orientation of the new criminal policy was mainly to guide the state as to what is criminal, and what its criminal law should contain, how to arrest and bring offenders (i.e. criminals) before the courts and the trial procedure for offenders. This alteration was done without regards to whatever philosophy and ideology the pre-colonial justice systems were based or focused on. The provisions of the imposed English justice system now superseded the different indigenous justice systems operated by the various ethnic groups. The unwritten customary law was replaced with a written and codified

law, to be administered by 'trained' legal personnel and at times with the passive 'participation' of the Chiefs and Obas in the judicial procedures

A clear distinction was now drawn between the criminal and civil law, this marked the establishment of the penal and criminal codes to be applied in the Northern and Southern parts of the country, respectively The state became the one that was wronged in criminal cases This was contrary to the provisions and doctrines of the indigenous criminal justice system, which still retained the victim as the corner stone of its criminal policies.

In a variety of ways, the imposed law was incompatible with the traditional norms and values of the people This was because this alien and imposed English law' did not correspond with the expectations, the moral and social values of the people since the law was framed under a different socio-cultural context Under this new system of justice administration, emphasis were laid on punishing offenders and maintaining state security, therefore paying less attention to the right and roles of the victims. Even though victims of crimes are very central and instrumental to the establishment and effective functioning of the criminal justice system, criminologists/victimologists are of the general consensus that the contemporary Nigerian criminal justice system accords them (victims) less attention In other words, victims of crime do not feature prominently in the activities of the agencies of the contemporary Nigerian criminal justice system (Odekunle, 1987, Gyong, 1994).

The pertinent issues raised by this analysis which one considers problematic, and which form the research problem could be summarized as follow. If victims of crime are that instrumental and strategic to the establishment, and effective operation of the

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criminal justice mechanism, what roles do the victims play in the criminal justice procedures? What legal rights statutorily and procedurally does the contemporary Nigeria criminal justice system grant victims of crime? If victims of crime are granted some legal roles and responsibilities, to what extent did the agencies of the contemporary criminal justice system (like the police, prosecutors, and judges) observe and ensure that the victims perform these roles without hindrance during criminal justice administration. What roles do victims play at the stage of instituting a criminal case, arrest of their offenders by the police, investigation, detention of offenders, bail, charging to court, trial and sentencing?

It has been argued by criminologists/victimologist like (Cotrel 1987, Kakooza 1985) that, the colonialization of Africa and the imposition of the principles of the English common law by the colonial authorities had some adverse effects on the indigenous African notion of justice administration. These has therefore resulted in loss of respect for, and abuse of law by the Africans hence increased crime rates in the African societies. Others like (Adeyemi 1977, Oloruntimehin 1984) are of the opinion that, the agencies of the contemporary Nigeria criminal justice system deprive the victims of their legal rights and frustrate them from performing certain roles at the various stages of criminal justice administration. The victims who have previous experiences with these agencies therefore prefer to air their views and lodge their complaints with their village heads or elders. These victims are therefore seeking alternative criminal justice systems. Some questions therefore arise, how does the indigenous criminal justice system handle victims of common crimes at the various stages of its criminal justice adjudication? Do the agencies of the contemporary criminal justice system and the indigenous criminal

justice system hinder the victims from performing their procedural roles? What are the procedural problems victims of common crimes encounter during criminal justice administration under the procedures of these two justice systems? What is the legal position of victims of common crimes under the procedures of the indigenous justice system?

What are the legal rights and responsibilities of victims of common crimes at the various of stages of criminal justice adjudication under the procedure of the indigenous criminal justice system? If there are certain specified roles victims are expected to perform during criminal justice adjudication under the procedures of the Tiv indigenous justice system, to what extent do victims do perform these roles?

To what extent do the indigenous criminal justice arbitrators protects the legal rights of the victims and ensure the performance of these legal roles by the victims at the various stages of criminal justice adjudication?

The answers to these questions and some other questions that follow deserved a special attention and investigation hence this study. The above therefore motivate the present researcher to investigate in to the judicial procedures of both the Tiv indigenous criminal justice system and the contemporary Nigeria criminal justice systems. The aim is to find out the legal roles, rights and responsibilities of victims of common crimes at the various stages of the criminal justice administration under these two justice systems. Basically the principal aim is to find out which among these two criminal justice systems allowed the victims adequate chances of performing their statutory roles, and protects their legal rights during criminal justice administration.

1.2 Research Objectives

The general objectives of the study include an extensive examination of the legal position of victims of common crimes in the administration of criminal justice in Nigeria What roles do victims of common crimes perform at the various stages of criminal justice adjudication under the procedures of these two justice systems (indigenous and contemporary criminal justice system), and what entitlements do they expect when guilt of the accused is confirmed. To also find out what responsibilities such victims have during criminal justice procedures. The basic aim is to find out which one more than the other (indigenous justice system and the contemporary Nigeria criminal justice system) ensures and protects the rights of the victims of common crimes during criminal justice administration. What are the specified roles and responsibilities victims of common crimes have at the various stages of criminal justice administration under the judicial procedures of the Tiv indigenous justice system. Similarly, what are the statutory roles and responsibilities do victims have under the procedures of the contemporary Nigeria criminal justice system?

In doing this, the researcher is guided by the following specific objectives.

i. To identify what legal roles and responsibilities victims of common crimes have at the various stages of criminal justice adjudication under the procedures of these two criminal justice systems.

ii. To assess how the legal roles and responsibilities granted victims of common crimes by these two justice systems are observed and protected with a view to bringing into focus which of them better ensures the attainment of justice

iii. To determine which of the two systems more accurately considers restitution for the brunt suffered by the victim.

CHAPTER TWO

REVIEW OF LITERATURE AND THEORETICAL FRAME WORK

2.1 Introduction

The gap between the imposed criminal law and the norms and values of society is indeed a constant theme of writings of most criminologists, victimologists and legal luminaries in the third world countries. In this chapter, the researcher critically reviews literature written by criminologists and legal scholars on the effects of the imposed law on the roles, legal rights and responsibilities of victims of common crimes and the various theoretical perspectives on crime.

2.2 Literature Review

The earliest known and recognized status of the victims of crime in the procedures of criminal justice has been traced to the period of the Amurites dynasty of Babylon. 1792-1750 BC when Hammurabi was said to have established his code. The code of Hammurabi was very well known for its principles of punishment based on retaliation in identical terms, namely *"an eye for an eye" and "a tooth for a tooth"*.

Generally various scholars have conducted numerous studies on the legal position of victims of crimes in the criminal justice policies of different countries. Making a general observation on the contemporary criminal justice system, Reckless (1931), is critical of the fact that the criminal laws and law enforcement agents focus attention mainly on the law breakers, taking little or no account of the part the victims might have played in investigating the criminal deed. In his study of the American criminal justice system, Reiff (1979) observed that under the American criminal justice system the victim is the

forgotten man. He further observed that "our laws protect the rights of the criminal offender, but offer little or no protection to the rights of the three to five million people who are victims of crime each year". Schafer, (1968) stressed the need to recognize the role and responsibility of the victim in the operation of the criminal justice system. He notes that the victim is not only the cause of and the reason for the criminal justice procedure, but also has a major part to play in search for an objective criminal justice policy and a functional solution to the crime problem. These scholarly works (Reiff 1979 and Schafer 1968) are particularly critical of the neglect of victims of crime by the American criminal justice system. The scope of these works is however limited to a particular criminal justice system unlike the present study, which compares two justice systems.

Adee EL Fiky (1985), in a study of the Islamic criminal legislation in Egypt observed that, the Islamic criminal legislation categorises crimes into three parts, viz: crime committed against the rights of individuals (Quessas and Diyya crimes), and offences undetermined by religious law (TA-AZIRcrimes). He finally notes that the victim only plays an active role in the prosecution of crimes against the individuals (Quessas and Diyya crimes). In the prosecution of crimes against the individual, the victim is the owner of penalty, only the victim (or his/her representative) possesses the right to prosecute the criminal. It is clear from Fiky's study that, victims of crimes have an active role to play in the Islamic criminal justice procedures, especially in crimes against the individuals. Here criminal acts are not strictly issues between the offender and the state, the victim who directly bears the criminal brunt also has a share in the prosecution of his or her offender. Even though the underlying theme of Fiky's study is

the role of victims in the administration of criminal justice, he limits the scope of his work to the Islamic criminal jurisprudence. This therefore hinder our deserved knowledge on the roles of victims of crime under the procedures of the indigenous Egyptian criminal justice procedures. What role do victims of crime play in the indigenous / Traditional Egyptian criminal justice system? What were the legal rights granted victims of crime under the indigenous Egyptian criminal justice system prior to the introduction of the principles of the Islamic law in Egypt? Secondly, Fiky fails to indicate in his study the effects of the introduction of the principles of the Islamic law in Egypt on the Egyptians. We can not therefore know whether the Islamic legal system has the same impact on the Egyptian indigenous justice system, as is the case in Nigeria.

In a similar study on the administration of criminal justice in Uganda, Kakooza (1985), notes that, the contemporary Ugandan legal structure is a colonial implantation. He further observed that this imposed law denied some customary law institutions (e.g. compensation) statutory legal recognition without a satisfactory substitute and this subsequently results in loss of respect for and abuse of law by the Ugandans. In this study, Kakooza has stressed in clear terms the negative effects of the imposed law on the Ugandan indigenous legal system. That this imposed law denied the victims of crime their legal rights to compensation, as was the case in the traditional/indigenous Ugandan justice system. Though Kakooza has contributed greatly to our understanding of the legal position of victims of crime under the Uganda indigenous justice system, and the negative effects of the imposed law on the indigenous justice system, he did not furnish us with adequate information on the roles of victims and their responsibilities at the other stages of the indigenous criminal justice procedures. What were the legal roles that

Germany was still a socialist state and the criminal justice policy under this system was based on a different philosophical and ideological background. Therefore, Wolfe's comparism is done between the criminal justice systems of two advanced countries with different socio-economic and political structures. The ideological and philosophical base of the East German's criminal law is victim - oriented. While that of America is offender oriented based on a punitive philosophy aimed at protecting the established capitalist statuesqo and maintaining state security. The main focus of the American criminal policy is to contain the dangerous groups (criminals) and protect the society from such dangerous groups. So while East German's criminal law is aimed at improving the condition of the victims, the American criminal justice system is aimed at state security, therefore it was directed towards dealing with the criminal offenders. Again these two legal systems operate at different places. None took precedence over the other, as is the case in the Nigerian context, where the imposed English legal system took precedence over the Nigerian indigenous justice systems. Whereas Wolfe is comparing the criminal justice systems of two advanced countries (with different ideological and political structures), the present study is concerned with the legal position of victims of crime under the procedures of an imposed law. Specifically to identify what roles victims of common crimes play at the various stages of criminal justice procedures.

Various studies have been conducted on crime, criminal victimization and the legal position of victims of crimes in the administration of criminal justice in Nigeria. Some of these studies include: Ohaeri (1976), Nkpa (1978), Odekunle (1989), Akande (1989), Gyong (1994), and Garba (1997). In his article, Ohaeri (1976), writes about the victims of much-publicized wave of armed robbery and other conventional property

crimes. Victims of the Osu Caste system among the Ibo's, victims of bribery, corruption, nepotism, prejudice and discrimination against minorities and some adherents of certain religious faiths. Towards the concluding part of his essay Ohaeri attempts a comparison of a traditional method of handling offenders and victims in a pre-colonial Nigerian village. Mabaise (the vote system) with the contemporary court system established by the colonialists.

Finally Ohaeri attributed the increased and alarming proportions of crimes and criminal victimization in Mbaise to the elimination of the vote system by the colonialist. While appreciating his pioneering efforts to our needed knowledge on the role of victims of crime in the pre-colonial Nigeria indigenous criminal justice systems, one would still note that, Ohaeri did not sufficiently explain the roles victims of crime play at the various stages of the criminal justice proceedings under the traditional "vote system". In fact Ohaeri mentioned in passing at the concluding part of his essay the benefits that the crime victim derives from the vote system. He concluded that the victims receive their recovered properties and other token of compensation after the criminal trial under the vote system. What other legal roles the victims play at the other stages of the indigenous criminal justice administration were not mentioned by Ohaeri. Based on Ohaeri's conclusion we would have concluded that, victims of crimes feature only at the stage of sentencing under the procedures of the indigenous justice system. This therefore limits our knowledge of the roles and responsibilities of the victims at the other stages of criminal justice administration under the indigenous criminal justice system.

Under the present work therefore, the investigator intends to find out what roles victims of common crimes play at the various stages of Tiv indigenous criminal justice

administration. To also find out how the indigenous justice agencies handle the victims during criminal justice procedure. Odekunle (1989), in his contribution on the legal position of victims of crime in the administration of criminal justice in Nigeria notes that, victims of crime under the procedures of the contemporary Nigerian criminal justice system are not given any special consideration. He observed thus:

"In the overwhelming majority of cases, the victim of criminal offence reports the crime to the police. Thus, the victim can get criminal procedure started, but has hardly any influence on the further course of the proceedings. The agencies of formal social control such as the police and the public prosecutor do not inform the victim, (although he she has been immediately injured by the crime,) about the further course of the proceedings either. In the actual trial the victim usually appears as witness and is thus used as an object in finding the facts. In this function the victim has no influence neither on the course of investigation and trial nor on the choice or the amount of punishment" (Odekunle 1989).

From the above quotation one would observe that the roles of victims of crime under the procedures of the imposed contemporary Nigeria criminal justice system is to set the criminal justices mechanism in motion and to act as witnesses to assist the "state" in getting rid of the criminal who pose a threat to state security and the established status quo. This therefore indicate that, the victims who directly bear the consequences of such criminal acts do not benefit directly from the contemporary Nigeria criminal justice system. What then is the situation under the procedures of the indigenous justice system? It is worthy to note that, Odekunle further enhanced our understanding of the legal position of victims of crime in the administration of criminal justice in Nigeria, under the

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procedures of the contemporary Nigeria criminal justice system. It will at the same time be rational to point out that Odekunle's work is principally concerned with the legal position of victims of crimes in the criminal justice procedures of the alien and imposed contemporary Nigeria criminal justice system. The present researcher therefore, wishes to undertake a new project. That is to find out the legal position of victims of crimes in the administration of criminal justice under the procedures of the Tiv indigenous criminal justice system and compare it with the legal position of their counterparts under the procedures of the contemporary Nigeria criminal justice system.

Gyong (1989), on the other hand emphasizes the important position of the victim in the crime phenomenon in the society. He observed that, the passive role accorded the victims in the study and understanding of the criminal phenomenon is further reinforced by the criminal justice system. He further notes that, from the level of the police to the courts, the victims are always at the mercy of the law enforcement agents. Elsewhere, Gyong observes that:

"within the ambit of the criminal justice system in most countries, victims are seen as playing the distinctive secondary role of merely reporting and assisting to investigating crimes as well as serving as witnesses in courts. Once they are able to play these roles satisfactorily, the interest of the system in them wanes and they become virtually forgotten". (Gyong 1994:10).

Even though Gyong has exposed us to the legal position of victims of crimes in the administration of criminal justice in Nigeria, he did not attempt the comparison of the legal position of victims of crime in the judicial procedures of the two justice systems.

This therefore marks the point of departure between Gyong's work and what the present researcher has embarked upon. That is to specifically investigate into and compare the roles and responsibilities of victims of common crimes under the procedures of these two justice systems. Roles here refer to the specified statutory or procedural standpoints of victims in criminal justice procedures.

Scholars like Oluruntimehin and Cottrel are of the view that, by systemically denying the victims the chances of performing their statutory roles during criminal justice administration by the agencies of the contemporary criminal justice system as indicated in the above review, victims of common crimes have resorted in seeking alternative justice systems. The present researcher therefore, intend to empirically investigate and find out why and how victims of common crimes are denied the chances of performing their legal roles, and from carrying out their statutory responsibilities during criminal justice adjudication. This will be followed by a comparison of what is obtained under the procedures of the indigenous criminal justice system.

In summary one would state that these scholars have analysed both the contemporary and indigenous criminal justice systems of different countries using different theoretical perspectives. They have also come out with different findings and had made numerous recommendations. However the present researcher discovered that most of these scholars were more interested in the issue of the legal rights of the accused during criminal justice administration. They fail to critically examine the legal position of victims of crime at the various stages of criminal justice administration. Thus the issue of the roles and legal rights of the victims during criminal justice administration which most of these scholars did not consider in their works is the point of departure between the

present researcher and these scholars. Again another point of departure between the present researcher and these scholars is the comparison of the roles and legal rights of victims of common crimes at the various stages of criminal justice administration under the procedures of these two criminal justice systems.

2.3 THEORETICAL PERSPECTIVE

2.3.1 Introduction

The study of crime has been characterized by divergent theoretical perspectives. For the purpose of this study, these perspectives will be grouped into two major groups, viz: Classicism and Marxism. These theories feature as dominant theories in the explanation, study and control of crime at particular period in human history. This section will specifically present a review of these two theories (Classicism and Marxism) and demonstrate why the principles of the Marxist paradigm are adopted in conducting this research.

2.3.2 The Classical Theory On Crime, Victims And The Criminal Justice System

Classicism belongs to a wide theoretical framework in sociology known as liberalism (See Gyong, 1994). The classical criminological thought emerged in the 18th Century Europe during the emergence of the landed gentry the bourgeois class. It marked the development of a new social order based on the "Social Contract" theory and "Free Market Economy". The main theme of the social contract theory on which classicism based its analysis and propositions is that the "state" is created by individuals out of their free will and desire to live together in harmony and pursue their individual goals. Individuals therefore sacrifice their liberties to a sovereign authority, the state. The state, by this prerogative is granted the mandate to ensure and guarantee the safety

and security of all citizens and their properties (See Taylor et al 1973, Gyong 1994). The classicists therefore assume that, the social order emanating from this social contract is characterized by Consensus, Freedom, Equality, Equity and Rationality (See Durkheim, 1964).

The classical theorists like, Harry C. Bredemelor, the Italian Cesare Beccaria, Robert peel, Jeremy Bentham et al have as their major theme a concern for justice and reformation of the Criminal law. Classicism provides, as Gyong notes: "Rich substances in the administration of criminal justice. In most developed and developing countries (Gyong, 1994). They (classicists) define crime as that act which violates the principles of the social contract and the criminal law prescribed proportional punishment as an instrument of social control to be applied on the offender (i.e. the social contract norm violator).

From the foregoing one observed that the classicists reforms modernized the criminal justice system with a new focus, new doctrines and principles, viz: The focus on the society as the principal victim of any criminal act, the principles of deterrence, proportional punishment, due process, humanism, rationalism and mensrea etc. The principle of due process for instance was directed towards safeguarding the rights of the offenders against arbitrary criminal justice procedures. Proportional punishment as a new principle was concerned with calculating proportional punishment equal to the degree of harm/culpability to be applied on the convicted offenders. It is therefore expected that, these new principles and doctrines of the classical school which seek to protect the societal equilibrium and the rights of the offenders will equally address the victims predicament under the procedures of the criminal justice system, but rather classicism in

its reforms did not pay adequate attention to the legal position of the victims of crime during criminal justice adjudication. Schafer observed of the classical reforms that, "In this system in which criminal law came to be overloaded with formal safeguards to individual freedom, one might have expected to see a well integrated participation by the victim in terms of both his compensation and of the recognition of his share in crime... the rights of the injured (victim) were slowly separated from the penal law, now the obligation to pay damages, became separated from the criminal law and became a special field in Civil law" (Schafer, 1977). One would infer from the above that, the classicists were interested in only the criminals who pause a threat to the established status quo. Basically, the assumption of classicism and its principles therefore, hinders our understanding and investigation in the roles of the victims in criminal justice administration. This is because in the criminal law of the normative and organized social structure the victim became almost entirely excluded from the settlement of the criminal case. Classicism in its assumptions also presented the "state" as the transcending body of authority or the third party that can hold together the new contractual social order and thus ensure the continuity of the economic relations (See Ahire, 1985).

Trubek and Galanter (1974), notes that, "The state exercise control over individuals through law, defined as bodies of rules addressed universally to all individuals similarly situated and by which the state is constrained - the enforcement of these rules is also assumed to be indiscriminately fair to all citizens, especially as the behaviour of law enforcers (police, judges etc) is believed to conform to these rules.

In contrast to the understanding of crime as a violation of the victims interest the emergence of the state developed another interpretation, the disturbance of the society. As a result, the unfortunate crime victim is habitually ignored. With these new reforms all criminal offenders are now to be prosecuted by the state, the state therefore monopolizes the institution of punishment as a positive measure to punish offenders and deter potential offenders from committing future crimes. Therefore since the ultimate concern of the criminal justice now centered on punishment of offenders and deterrence for potential offenders, the participation of victims in the criminal judicial process in now limited to assisting the state through the criminal justice agencies to calculate the deserved punishment for the offenders. Almost all the assumptions and principles of classicism in the reformation of the criminal justice system for instance "the principles of due process" "mensrea" etc. are principles that safeguard and ensure the rights of the offenders in the criminal judicial procedures.

Generally classicism in its reformation and assumptions disregard the needs of victims or the active participation of the victim in the administration of criminal justice. The interests of the victims are not addressed. The classicists in their assumptions maintain an uncritical assumption of the position of the criminal law and the fair operation of the criminal justice system, thus hindering any investigation into the activities of the criminal justice system. This is based on the premise that the criminal justice system is fair and beneficial to all, and it treats everybody equally. Therefore, classicism and its assumptions is deficient as a theoretical model for a study that wishes to investigate into the principles, doctrines and ideology of any criminal justice system particularly for a study that wishes to find out the legal roles and rights of victims of

crimes in criminal justice administration. In a summary, one would say, the classicists had nothing for the victims during their reformation

2.3.3 Marxist Theory On Crime, Victims And The Criminal Justice System

According to Omaji (1994), Taylor and Young (1993) most of the literature on law and criminal law in particular written from the maxist perspective are works done by his apostles like Quinney, Chamblis, Berine, etc. The starting point of the Marxist criminologists is on the mode of production and it is within this context that crime, criminals, victims of crimes, and the criminal law can be defined. It is within this same approach that the relationship that exists between the criminal law and the society are explained.

In reacting against the reformation and propositions of the classicists, the Marxists Scholars regarded crime as a moral, political and social problem which can only be understood within the context of the moral and political ideologies constituting it (Ahire 1989, Hall 1978, Summer 1982, Harry 1975). They further contended that, serious thinking about crime must reflect the sterile empiricism associated with positivist accounts in favour of historical analysis of specific social totalities and the changing social organization (Ahire 1989). The Marxists rejected the definition of crime as the quality of a "specific act". They argue that it is not so much the quality of the act, but the prevailing social ideologies and political practices (both rooted in the operative mode of production) that determine what is regarded as crime (Ake, 1981).

The Marxists are of the view that, criminal acts, are acts, which violates the vested interests of the politically and economically powerful groups in the capitalist society. Further, they contend that, criminal acts in any given society are not an

exclusive reserve of a particular group or class of people in a society. That crime cuts across all classes in society and that crime varies in society at different times and places. The Marxists categorise crimes in the society into two major categories, the white color crimes and the conventional/common crimes. Crimes like fraud, bribery, smuggling counterfeiting etc, are those categorized as white-color crimes. On the other hand, conventional/common crimes include crimes like assault, theft/stealing, burglary, robbery, criminal force, etc. This categorization is based on the fact that members of the elite and the privileged class in the society mostly commit the white-color crimes. While the conventional/common crimes are mostly associated with members of the underprivileged groups in the society. The point to note here is that, no particular crime either in the white color/corporate category or the conventional/traditional category is an exclusive reserve of members of a particular class. This therefore, indicates that even members of the economically privileged class commit or fall victims of common crime offences, the inadequate security of members of the underprivileged class in any case, makes them more vulnerable to common crime victimization. The Marxist further argued that, the criminal law and the operation of the entire criminal justice system in the capitalist society has been conceived out of the ideologies of members of the economically and politically dominant groups in the society. Therefore, the interests of these groups (dominant and economically privileged class) in the society are more protected by the content and operations of the criminal justice system.

The Marxists reject classicism's definition of a victim of crime as one who has suffered personal injury from the criminal activities of another. They are of the view that the classicists' definition of a victim of crime is based on the application of the criminal

law. That only when the offender is convicted by the criminal law that the injured will be classified a victim. Defining who is a victim under the Marxists paradigm Quinney states that, "The victim is a social construction of particular realities" (See Quinney, 1974 cited in Drapkin and Viano, 1974). The Marxist in their assumptions are of the view that labeling someone or defining him as a victim depends on the discretion of the groups which have the power to apply it. Again, the Marxists are of the view that, under the procedures of the criminal justice system operative in the contemporary capitalist societies (like Nigeria and Britain) the victim is the forgotten man. This discrimination against the victims of common crimes by the agencies of the contemporary criminal justice system is based on the fact that the victims do not pose a serious threat to the established status quo. In a nutshell, the criminal justice system according to the Marxists, concentrate mainly on the dangerous groups in the society, that is the criminal offenders who pose a threat to the established status quo.

The Marxist paradigm therefore, sheds a new light on the nature of the criminal justice system and the entire criminal justice policies. First of all, that the criminal justice system has deep roots in the kind of society within which it evolves and/or operates. This therefore, indicate that the philosophy and ideology behind the procedures of any criminal justice system operative in any society cannot be divorced from the history and prevailing condition within that specific society. It is only through this historical analysis and investigation in the origin, doctrines and principles of any particular criminal justice system that we can understand the general orientation of such a criminal justice system. Similarly, it is only through this historical investigation that we can understand why a particular criminal justice system handle's the victims of common crimes the way it does.

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The Marxist paradigm is adopted in conducting this research because it first of all allows an investigation into the philosophical and ideological basis of these two criminal justice systems. The principles of Marxism expose us to the basic features of the pre-colonial Nigeria criminal justice system in general and the Tiv indigenous criminal justice system in particular. The paradigm further sheds more light on the general orientation of the received contemporary Nigeria criminal justice system and why it replaced the various indigenous criminal justice systems operative in Nigeria prior to British colonization. Finally, the paradigm explains to us clearly the position of the victims of common crimes in the procedures of these two justice systems. Therefore, whatever the agencies of the criminal justice system does to the victims of crimes is determined partly by the content of the criminal law and by the general orientation of the contemporary Nigeria criminal justice system agencies like the police and judges.

The Marxists are of the general opinion that the scales of the criminal justice system in the capitalists societies (like Nigeria, Britain and America) are heavily weighted on the side of the criminal offenders rather than the victims. In other words, the general concentration is focused on the criminal offenders rather than the victims. The reason for this is that, the criminal justice system operative in the capitalist societies is aimed at protecting the established status quo and maintaining the security of the property owning class. The concern of the criminal justice system therefore, is to deal with what threaten the established status quo and violates the interest of the dominant groups in the society. The basic concern of this criminal policy is to punish criminals and prevent potential criminals from committing future crimes. It is those who are causing social unrest and destabilizing the established status quo that are to be dealt with. This

therefore, explain why much emphasis is laid on the criminal offenders by the agencies of the contemporary criminal justice system rather than the victims who actually bear the criminal brunt.

Based on the principles, doctrines and assumptions of the Marxists one would first of all note that, the general orientation, operation and procedures of any criminal justice system cannot be divorced from the history of the specific society in which it operates. Secondly, that the operation of the criminal justice system in any society has a particular focus. The focus could either be to reconcile parties, punish offenders or improve the condition of the crime victims. The perspective also explain to us why victims perform certain roles during criminal justice adjudication. We therefore, adopt the principles of the Marxist paradigm as a model for this study. This is because, the principles of the Marxists paradigm throw more light on the content of the criminal law and the operation of the criminal justice system. The perspective further explains why victims are assigned certain roles to play during criminal justice adjudication under a particular criminal justice system and why they (victims) are not allowed such roles under the procedures of another. The perspective throws more light on why victims are over burdened with informal roles or responsibilities to perform under the procedures of a particular criminal justice system.

In a nutshell, the Marxists link the content, operation and procedures of the criminal justice system to the political and economic structures of the society in which it operates. This linkage further indicates that the socio-economic attributes of the victims of common crimes within a society will also influence their degree of preference for a particular criminal justice system.

2.4 HYPOTHESES

In this regard four hypotheses are proffered to find out the relationship (or correlation) that exists between the victims' attributes like age, educational status, occupational status, and place of residence and their preference for a particular criminal justice system. This is because these variables determine the social status and influences the consciousness of the victims.

Hypothesis I. The victims' preference for a particular criminal justice system is more likely to be affected by their level of formal educational attainment.

Hypothesis II. The victims' preference for a particular criminal justice system is More likely to be affected by their occupational status.

Hypothesis III. The victims' preference for a particular criminal justice is more likely to be affected by their area of residence.

Hypothesis IV. The victims' preference for a particular criminal justice is more likely to be affected by their age.

CHAPTER THREE

METHODOLOGY

3.1 Introduction

This chapter presents the methods adopted in collecting and analyzing data on the roles, responsibilities and legal rights of victims of common crimes in the administration of criminal justice under the procedures of both the imposed contemporary Nigeria criminal justice system and the pre-colonial Tiv indigenous criminal justice system. Various aspects like the location of study, sampling, and the methodological problems encountered in the process of carrying out the study are also discussed.

3.2 Location Of Study

This study deserves a nation wide coverage because pre-colonial Nigeria encompasses all parts of the country but time and financial constraints compelled the investigator to limit the scope of the study to the Tiv society in Benue State. The study therefore is focused on two Tiv local government areas in Benue state. These local government areas are Gboko and Buruku local government areas. One town and one rural area (Gboko and Abwa) are selected from these two local government areas. Certain factors influenced the selection of these two places as research sites. Firstly, these two places (Gboko and Abwa) represent rural and urban areas respectively of the Tiv society. Secondly, these areas are characterized by the presence of both the agents of the contemporary Nigeria criminal justice system and those of the Tiv indigenous authorities charged with the duties of settling disputes. The contemporary criminal justice agents include the police and judges while the indigenous ones include traditional rulers and council of elders. Similarly, police stations, Area, and Magistrate courts are located

within these two areas. These give the researcher the opportunity of coming into contact with common crime victims within both the rural and urban settings. Again the researcher was opportuned to come in contact with victims of common crimes who have experiences with either or both the agents of the contemporary criminal justice system on one hand and the Tiv indigenous justice system on the other hand.

Abwa typifies a Tiv rural setting where the Tiv indigenous methods of settling disputes are still predominant despite the presence of the imposed Western legal system and its paraphernalia. Abwa prior to British rule was one of the administrative seats of the Tiv People and the long administrative status of this area enabled the researcher to come in contact with some elders who directly took part in the pre-colonial indigenous trials. There are some victims of common crimes in this area (Abwa) who did not have any "formal" contact or experience with police or court judges. Abwa as a community is composed of people who have acquired western education and those who have not. Those who have not acquired western education are mostly farmers and the greater percentages of those educated are mostly civil servants. The none – literate natives with their traditional and cultural orientation represent respondents who provided the desired information on the Tiv indigenous criminal justice system. While the educated population represent respondents that provide most of the information on the contemporary Nigeria Criminal Justice System. The information obtained from these categories of respondents enhanced the investigator's ability to compare the roles and responsibilities of victims of common crimes in the criminal justice procedures of these two criminal justice systems.

Gboko represents an urban and a commercial centre in the Tiv society. It has people of different socio-economic and educational backgrounds. The largest percentage

of the population of people in Gboko is composed of the working class or proletariat group. The greater part of the population composed of the members of the lower-class category who are more vulnerable to common crime victimization. Gboko also has the office of police zonal commander, and two police headquarters 'A' and 'B' divisions. Four police stations in Gboko where chosen were police respondents and victims of common crimes reporting to the police were interviewed. The reason for selecting four police stations in Gboko is because of the high population of the working class people and the high crime rate in this areas. There are also three Magistrates and two Area courts in Gboko. Two of these Magistrates and one area court were chosen where the researcher attended court sittings and conducted interviews. The selection of these Magistrates and Area Courts was based on the fact that the Magistrate and Area Courts mainly handle majority of the common crime cases. The researcher was therefore opportuned to come in direct contact with victims of common crimes who were then attending trials in these courts.

Being the traditional headquarters of the Tiv people, Gboko harbours the Tor-Tiv, the paramount ruler of the Tiv people and other traditional rulers of various classes. This therefore, makes the selection of the traditional ruler's category of informants easier.

3.3 POPULATION AND SAMPLING:

A total sample of Ninety informants was drawn from four categories of respondents consisting of 45 victims of common crime offences, 30 police officers, 8 court personnel, 7 elders/traditional rulers. The primary respondents for the study are victims of common crimes in the chosen areas (Gboko and Abwa). Victims of common crimes who have had experiences with the agencies of the contemporary Nigeria

Criminal Justice System and the Tiv indigenous criminal justice system were interviewed. Also included in the target population were Police officers, Magistrates, Area court judges, and other court personnel like prosecutors, registrars and court clerks. Specifically, the police officers sampled as respondents for this study were those who are directly involved in handling complaints and cases of victims of common crimes. Also included in the population of study were some selected traditional rulers, village heads and elders.

These various categories of informants were purposely sampled to give information on the legal roles and rights of the victims during criminal justice administration under the procedures of both the contemporary and the Tiv indigenous criminal justice system. Thirty (30) police officers were systematically selected as respondents to provide information on the statutory and procedural roles of victims of common crimes at the level of reporting a crime, arrest of suspected offenders, investigation and the process of charging the offenders to court. Eight (8) court personnel were randomly selected as informants to provide data on the roles and responsibilities of victims of common crimes during criminal trials in the contemporary courts. That is at the stage of trial and sentencing. Finally, seven (7) traditional rulers and elders were also randomly chosen as respondents to provide information on the roles and responsibilities of victims of common crimes during criminal trials under the procedure of the Tiv criminal justice system. The reason for the selection of these numerous categories of respondents is to obtain the detailed and extensive data needed for a qualitative research of this nature.

3.3.1 Victims Of Common Crimes

It is considered in this study that the opinion of this category of respondents would be the most essential and useful. This is because it is this category of people that have gone through either or both the procedures of the contemporary and the Tiv criminal justice system. A total of forty-five (45) respondents were chosen under this category. Ten victims of common crimes who have experiences with the agencies of the Tiv indigenous criminal justice system and 5 who have experience with the agencies of the contemporary Nigeria criminal justice system were selected for interview at Gboko. Twenty victims of common crimes who had experience with the Tiv indigenous criminal justice system and 10 who had experience with the contemporary Nigeria criminal justice system were selected for interview at Abwa.

The category of victim respondents who had previous experience with the Tiv indigenous criminal justice system at Abwa is higher than those at Gboko. This is because Abwa is a rural area with a "gemeinshaft" type of social structure where traditional methods of settling disputes still predominate.

To obtain information from the sample of victims of common crimes, who have experiences with the agencies of the contemporary Nigeria Criminal Justice system, specific steps were taken. The researcher after presenting a letter of introduction from the Department of Sociology, Ahmadu Bello University, Zaria, to the Benue State Commissioner of Police, the Commissioner ordered the perusal of the research proposal after which a letter of introduction was given to the researcher (See Appendix 1). This letter was presented to the Gboko Police Zonal Commander, who then authorized the Divisional Police Officers (DPOs) of Gboko and Buruku Local Government Areas to

avail the researcher with the necessary information needed for the research. This is because the chosen police stations in the two Local Governments Areas fall under the jurisdiction of the Gboko Zonal Police Commander and it is only with his approval that these DPO's will carry out the Commissioner's order. The researcher was therefore, allowed access to the victims of common crimes reporting at the police stations, crime diaries and relevant case files in all the police stations visited.

A total of 20 victims of common crime offences were interviewed at the police stations and at their homes. Victims whose cases were disposed of were traced and the researcher interviewed those found. This was by using their addresses obtained from the case files. For the 7 selected cases that were still pending in the courts, the researcher through the use of a structured interview schedule (See Appendix 2) interviewed a total of seven respondents after court sittings.

Out of the 77 selected cases at the police stations and courts the researcher could not locate most of the victims because some had changed their addresses and some had died. The researcher therefore, made an extensive review of these case files starting from the police stations to the courts were these cases were tried. Some of these selected cases were interesting because they presented clearly the roles played by the victims and their responsibilities at the various stages of criminal justice adjudication. These cases specifically show the responsibilities performed by the victims at the various stages, but incidentally these cases were terminated at the police stations. When the researcher ask the police officers why such cases were terminated they (police) replied that such cases lack substantial evidence for further prosecution or lack of interest by the victims.

In the process of interviewing victims of common crimes who have experiences with the contemporary criminal justice system, the researcher also asked such victims if they ever had previous experiences with the Tiv indigenous justice system. About five victims agree that they had experience with both criminal justice systems.To obtain the sample of the victim respondents who have experiences with the indigenous/Tiv criminal justice system specific steps were also taken. First of all, the researcher obtained information from the indigenous justice arbitrators (like the clan heads, kindred heads, house heads, and elders) in the two research areas on how to locate victims of common crimes whose cases were tried under the traditional system in their domain. Secondly, the investigator attended the traditional court sittings (moot) specifically at Abwa and therefore, came in direct contact with victims of common crime offences who were seeking redress under the Tiv criminal justice system. On the whole therefore, fifteen victims of common crimes who have experiences with the Tiv indigenous justice system were interviewed

3.3.2 Police Respondents:

Twenty police officers were systematically sampled for interview at Gboko while ten police officers were selected at Abwa, which has only one police station with fifteen serving police officers. Police officers from the ranks of Chief Superintendent to constable were included in the sample. The inclusion of police officers with lower ranks (like Corporals and Constables) was aimed at capturing police men at the counter who usually deal directly with victims of common crimes reporting to the police stations. The police were asked questions on the specific roles, legal rights, and responsibilities of victims of common crimes at the police station. This is from the stage of reporting criminal victimization to the police up to the stage of charging the offenders to court. The

Divisional Police Officer (DPO) and Divisional Crime Officer (DCO) at the 'A' division police headquarters gave the researcher the necessary co-operation. Data collected from this category of respondent was through the use of a structured interview schedule (see Appendix 3).

3.3.3 Judges And Other Court Personnel

This category of respondents included Area Court Judges, Magistrates, Court Registrars, Clerks and Prosecutors. Eight respondents were selected from this category. This size is made up of three magistrates, two Area Court Judges, two Prosecutors and one Court Registrar. Data from this category of respondents was collected based on the use of structured interviewed schedule (See Appendix 4). The aim of including this category of informants in the research is to evaluate the opinion of judges and other court personnel participating in common crime trials on the legal roles and responsibilities of victims of common crimes during criminal proceedings in court.

Two magistrates were selected from Gboko. One area court judge was chosen from Abwa, one registrar and a Prosecutor were also chosen from Gboko. Similarly, one Area Court Judge and a Court Clerk were interviewed at Abwa. Most of the interviews with the Magistrate and Area court judges were conducted in their chambers. The most needed co-operation was received mainly at the Gboko Chief Magistrate Court (1). After completing the structured interview schedule, the chief magistrate discussed informally about the subject of study. With this the researcher was able to get the more detailed information. The chief magistrate further arranged a sitting for the researcher to observe court proceedings. The researcher was therefore opportuned to observed practical

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happenings in the court during criminal trials, and also the opportunity of interviewing victims of common crime offences who were then seeking redress in court.

3.3.4 Traditional Rulers and Elders

Even though the powers of the traditional rulers have been reduced since the establishment of colonial rule in Nigeria they, still have some authority over their subjects. These traditional rulers are charged with the responsibilities of dispensing traditional justice in their domains. This therefore, necessitated the inclusion of the traditional rulers in this study. The researcher choose seven traditional rulers of different classes as respondents for the study. This also includes some elders who are also part of the traditional justice administrative set up. Traditional rulers and elders were interviewed at their palaces and homes through the use of a structured interview schedule (See Appendix 5). Data collected from this category of informants are based on what constitute the legal roles of victims of common crimes and their responsibilities under the procedures of the indigenous criminal justice system. These data were supplemented with information (cases) extracted from content analysis of relevant textbooks on the pre-colonial Tiv indigenous criminal justice system.

3.4 VARIABLES

Information required from the various categories of respondents was based on the following variables. Independent variables like, age, place of residence, educational and occupational status were examined to assess the victims' opinion and preference for a particular criminal justice system. Information on dependent variables, like type of common crime victimization, extent of common crime reportablitiy, police response to common crime reports and traditional authorities reaction to common crime reports were

collected. Other dependent variables examined included the roles played by victims of common crimes during court proceedings, and type of sentencing methods used by these two justice systems on common crime cases. These dependent variables were examined to ascertain, describe and assess the roles and responsibilities of victims of common crimes under the procedures of these two criminal justice systems.

3.5 SOURCES OF DATA:

(a) ***Documentary Sources:*** An attempt was made to examine and review the relevant sections of the penal and criminal codes, the Police Act and the criminal procedural Act (CAP). The concern here was to find out the statutory provisions of these codes on what constitute the statutory and procedural legal roles and responsibilities of victims. The Police Act was examined with the main aim of establishing the statutory requirements on how the policemen should handle victims of common crimes. That is at the level of reporting to the police, arrest of their offenders, detention and at the level of carrying out preliminary investigation by the police, and at the stage of bailing and charging the offenders to court.

Similarly, court minutes books and cases' files were reviewed. The concern here was to examine the extent to which court judges and prosecutors ensure and protect the victims in the process of performing their statutory roles during criminal justice adjudication. Dispositional methods (sentences) used in most of the common crime cases disposed of were examined to see whether the interests of victims of common crimes were considered in the sentencing patterns of these courts.

Relevant cases on pre-colonial Tiv indigenous Criminal Justice system were extracted from textbooks on the pre-colonial indigenous criminal justice systems. The

concern here was to figure out the underlying general philosophy and ideological basis of the pre-colonial indigenous justice system. The data extracted from these textbooks assisted the researcher in assessing the roles and responsibilities of victims of common crimes in the administration of criminal justice under the procedures of these two justice systems.

(b) ***Interview*** Due to the various categories of informants for the study, two types of interview methods were used to gather information from them. The indept interview method was used to obtain information specifically from the non-literate respondents who could not read nor write. While structured interview method (See Appendices) was used to obtain information from respondents who could read and write but claim not to have time for indept interview. This category of respondents were given the structured interview schedules to fill in their chambers or offices at their convenient time. These interviews were conducted between 7th April - 1st May, 1997.

(c) ***Direct Observation*** The main objective of this study, which is to examine roles and responsibilities of victims of common crimes in the criminal justice administration under the proceedings of these two justice systems necessitated the direct observation technique as an instrument of data collection. This technique exposed the researcher to practical realities of the issue being studied. Through this technique the researcher observe certain informal roles and responsibilities the contemporary criminal justice system confronts the victims of common crime offences with.

3.6 TECHNIQUE OF DATA COLLECTION

The heterogeneous nature of the categories of respondents and informants warranted the adoption of various instruments for data collection. Structured interview

schedules, observation and in-depth interview methods were used in collecting primary data from the various categories of respondents. Extraction of information from books and other documentary sources was adopted as a method of generating secondary data for the study. These documentary sources include: the Penal and Criminal codes, Police Act, Court minute books and Case files. Police crime diaries and case files and extraction of relevant cases from text books on pre-colonial Tiv indigenous criminal justice system.

3.7 DIFFICULTIES ENCOUNTERED DURING THE STUDY

The first methodological problem of this study is the topic itself. This is because, the contemporary Nigeria Criminal Justice System (CJS) does not give much attention to the victims in its operations. The statute laws contain very little information about the roles and legal rights of the victims.

The researcher therefore, had to put in extra efforts to explain what the topic mean to the representatives of the CJS like the police court clerks and judges. Most of the CJS agents could not even understand who is the victim at the first instance because in their training and orientation they are more informed about the offenders.

Another major problem the researcher faced was how to gather information from the various categories of respondents. During the period of data collection respondents like police officers and court clerks were afraid of being interviewed. They did not want to release information or give data on some classified "confidential information". The researcher took time to explain to them in details the objectives of the study. Further the researcher pointed out to them that these types of studies are relevant in making recommendations to government to establish policies that will improve their conditions

of service. Thus, somehow they were convinced and gave the information needed but pleaded for anonymity.

Beside the difficulties of tracing the victim respondents whose cases were disposed of in the courts or those who had some experiences with the police, most of the victims were reluctant in co-operating with the researcher when they were eventually located. This was because most of them would not want to recall the traumatic experiences suffered both at the hands of their offenders (like armed robbers) and the police. For instance victims who were tortured to reveal the hiding places of their valuables during robbery were not willing to recall such experiences. This problem was overcome when the researcher took extra time pleading with such victims and telling them in more details the purpose of the study.

Another problem was the problem of collecting data on the pre-colonial Tiv indigenous criminal justice system. This is due to the fact that, first of all there was no clear distinction between criminal and civil cases under the procedures of the Tiv criminal justice system. This problem was overcomed by extensively reading the available literature on the pre-colonial Nigeria indigenous criminal justice system in general and particularly that of the Tiv people. The researcher was able to draw a distinction between criminal and civil cases and how the traditional justice arbitrators handled these cases. Oral interviews with the surviving elders who practically participated in the Tiv criminal judicial proceedings was another tedious and nasty experience the researcher went through. This is because some of these elders are now extremely old and could not speak nor recall very well. Out of the 45 structured interview schedules administered as questionnaires to collect quantitative data from victims of

common crimes only 27 were returned by the victim's respondents thus reducing the amount of quantitative data expected.

3.8 TECHNIQUE OF DATA ANALYSIS:

This section presents the techniques that are used in analyzing the data collected. The numerous data collection techniques used consequently warranted the use of different technique of data analysis. The qualitative data obtained by direct observation, extract from textbooks, courts minutes books, codes, and Acts, police case diaries and case files are edited and interpreted in relation to the objectives of the study. The Statistical Package for Social Sciences (SPSS) is used in analysing the quantitative data obtained through interview schedules. Percentages are used in conducting tests for the set of hypotheses proffered and in assessing the relationship between the socio-demographic attributes of victims and their preference for criminal justice systems.

CHAPTER FOUR

DATA ANALYSIS AND INTERPRETATION

4.1 Introduction

This chapter presents the findings of the survey and observations carried out by the researcher. The findings are presented in this sequence: The first section presents data on the socio-demographic characteristics of the victims of common crimes. These include Sex, Age, Area of residence, Educational and Occupational Status. The influences of these variables on the victim's preference for criminal justice systems are assessed.

The second section presents two case studies, one from the contemporary Nigeria criminal justice system and one from the procedures of the Tiv traditional criminal justice system. The aim is to identify possible differences and similarities in the roles, legal rights and responsibilities of victims of common crimes under the procedures of these two criminal justice systems.

4.2 Socio-Demographic Characteristics of Victims and Their Effects on the Victims Preference for Criminal Justice Systems.

While conducting this survey the victims were asked to indicate their sex, age, area of residence, level of formal educational attainment and their occupational status. Table 4.1 presents the data on these socio-demographic attributes of the victims respondents.

Table 4.1 Socio-Demographic Attributes of Victims of Common Crimes.

Variables	Frequency	Percentage
Sex:		
Male	16	59.3
Female	11	40.7
Total	27	100
Age (in years)		
20 – 40	5	18.5
41 +	22	81.5
Total	27	100
Occupation		
	15	55.5
Farming	12	44.4
None-farming	27	100
Total		
Education (school)	20	74.0
Primary school and below	7	25.9
Secondary school and above	27	100
Total		
Residence	19	70.4
	8	29.6
Urban	27	100
Rural		
Total		

The ages of the victims range from 20 to 70 years. The median age is 45 and the modal age is 40 years. As much as 62.9 percent of the victims are below 50 years. There is a relatively low level of formal educational attainment among the victims. About 74 percent out of the 27 victims interviewed had no education or only elementary education. Data in table 4.1 reveal a low level of high educational attainment among them as only 25.9 percent had secondary and higher education.

Table 4.1 also shows that 55.6 percent of the 27 victims practise farming as their occupation while 4.4 percent are none-farmers. Thirty four percent of the none-farmer category are civil servants (Teachers and security guards) and 11 percent are businessmen

and women who practise different trades. The information further revealed that 70.4 percent out of the 27 victims reside in the urban area while 29.6 percent reside in the rural area.

4.2.1 Types of Common Crime Victimization

It was found out that common crime victimization cut across all categories of people in the research community. Both the rich and the poor, the young and the old, males, and females fall victims of common crime offences. The victims were specifically asked to indicate what types of common crimes were committed against them. The aim was for us to find out which of the common crime offence is more frequent in the survey area. Data on the types of common crime offences committed against the victims respondents are presented inTable 4.2 below

Table 4.2 Frequency Distribution of Common Crimes Committed Against the Victims.

Types of common crimes	Frequency	Percentage
Assault	8	29.6
Theft/Stealing	9	33.3
Burglary	4	14.8
Criminal force	3	11.1
Robbery	2	7.4
Criminal force with injury	1	3.7
Total	27	100

The information in Table 4.2 shows that there is a high frequency of Assault, theft/stealing in the two research communities. About 63 percent of all the victims had fallen victims of one or the other of these crimes.

4.2.2 Relationship Between the Victims Socio-Demographpic Attributes (Age, Area of Residence, Educational and Occupational Status) and Preference for Criminal Justice Systems.

In this section the age, area of residence educational and occupational status of the victims respondents are analysed in relation to their preference for criminal justice systems. These variables are used here because they determine the social status of the victims in the society and can also influence their level of consciousness about the content and operations of any criminal justice system. Therefore the set of hypotheses which state that, the victims preference for a particular criminal justice system is likely to be influenced in their socio-demographic attributes like age, area of residence educational and occupational status will be tested. Due to the small size of the quantitative data obtained, tests will be solely based on percentages.

4.2.3 Relationship between the Victims Age and Preference for Justice Systems.

Age is considered an important determinant Of an individuals ability to take decisions on issues that affect his or her social life. In this regard it is assumed that the victims preference for a particular criminal justice system will be attached in the age. We therefore proffered a hypothesis that "The victims preference for a particular criminal justice system is more likely to be attached in their age". That is to say the higher the victims age the more likely his or her preference for the traditional justice system. The victims respondents were therefore covered to indicate their ages and state among these two criminal justice systems (the contemporary Nigeria Criminal Justice System) which one they

prefer to the other. The idea was for us to find out which age category mostly prefer the Tiv criminal justice system to the contemporary Nigeria criminal justice system.

Table 4.3 Relationship between the Victims Age and Preference for Criminal Justice Systems.

Age range (in years	Criminal Justice Systems		
	Traditional	Contemporary	Total
20 – 40	5 (28%)	13 (72%)	18 (100%)
41 +	7 (78%)	2 (22%)	19 (100%)
Total	12 (44.4%)	15 (55.6%)	27 (100%)

Data in Table 4.3 reveal that the age of victims influences their preference for a particular criminal justice system. Seventy two (72) percent of victims within the age range of 20 to 40 years prefer the contemporary Nigerian criminal justice system to the Tiv criminal justice system. Again the information in Table 4.3 further indicate that 78 percent of the 9 victims (that is 41 years or older) prefer the Tiv criminal justice system to the contemporary Nigeria criminal justice system. The data in Table 4.3 therefore correspond with the qualitative data obtained from books on the Tiv indigenous criminal justice systems. It is found out that, the victims of common crimes who are old in the Tiv community prefer the Tiv criminal justice system to the contemporary Nigeria criminal justice system. Other reasons advanced for this were that, the Tiv criminal justice system promotes the traditional norms and values of the Tiv culture. For instance the procedures seeks to reconcile parties, and ensure that they maintain a cordial

relationship after that. It also seek to improve the condition of the injured party (victim) through compensation. On the other hand the younger category of the victims respondents (that is between the age range of 20 – 40 years) are more socialised in the contemporary western culture and reasoned that the contemporary Nigeria criminal justice system is a more civilised way of resolving disputes. The hypothesis is therefore confirmed.

4.2.4 Relationship between the Victims' Level of Educational Attainment and Preference for Criminal Justice Systems.

It is assumed that the victim's preference for a particular criminal justice will partially depend on their levels of awareness about the doctrines, principles and procedures of that particular criminal justice system. Based on this assumption, we proffer a hypothesis that "The victims preference for a particular criminal justice system is more likely to be influenced by their levels of formal educational attainment". That is to say the higher the level of the victims' formal educational attainment the higher his or her preference for a particular criminal justice system. To test this hypothesis the victims levels of formal educational attainment (independent variable) and their preference for criminal justice systems (dependent variable) were used as variables. The respondents were requested to indicate their levels of educational attainment and which criminal justice system they prefer. The results on the findings on the relationship between the educational status of victims and their preference for criminal systems are presented in the Table 4.4

Table 4.4 Relationship between the Victims level of Educational Attainment and Preference for Justice Systems.

Educational Levels.	Criminal Justice Systems		
	Traditional	Contemporary	Total
Primary School and Below	10 (50%)	10 (50%)	20 (100%)
Secondary School and Above	2 (29%)	5 (71%)	7 (100%)
Total	12 (44.4%)	15 (55.6%)	27 (100%)

Table 4.4 Indicate that victims with low levels of formal educational attainment (that is primary school and below) prefer both the contemporary and the Tiv criminal justice system. This show that low levels of formal educational attainment exert very little influence on the victim preference for criminal justice systems. However, higher levels of formal educational attainment tend to exert much influence on the victim's preference for justice systems. That is why 71 percent out of the 7 victims who have secondary education and above prefer the Nigeria criminal justice system to the Tiv criminal justice system. This information revealed that 18.5 percent of the victims prefer the Tiv criminal justice to the Nigeria criminal justice system. While 37 percent with no formal education prefer the contemporary Nigeria criminal justice system to the Tiv criminal justice system.

The reason for this is that, victims who are not educated are not very much aware of their legal rights therefore even if they are deprived of their rights they may not know, therefore they will still prefer the contemporary criminal justice

system. The point to note here is that higher ones level of educational attainment the more he or she knows his or her legal rights. Therefore the victim that is highly educated will prefer the Tiv criminal justice system because the contemporary criminal justice system most at times deprive them of their legal rights.

4.2.5 Relationship between the Victim's Area of Residence and Preference for Criminal Justice Systems.

Common knowledge holds that people who reside in the urban areas are more socialised in the contemporary western culture. By implication it meant that victims of common crimes in the Tiv society who reside in the urban areas will be more familiar with the contemporary Nigeria criminal justice system to the Tiv criminal justice system. To asses the relationship that exist between these two variables (Area of residence and preference for justice systems) a hypothesis is proffered that "The victims preference for a particular criminal justice system is more likely to be influenced by their area of residence". In other words victims who reside in the urban areas are more likely to prefer the contemporary Nigeria criminal justice system to the Tiv criminal justice system. To test this hypothesis victims residing in both the urban are (Gboko) and the rural area (Abua) were requested to indicate their area of residence and criminal justice prefered. Data on these two variables is contained in Table 4.5

Table 4.5 Relationship between the Victims Area of Residence and Preference for Justice Systems.

Area of Residence.	Criminal Justice Systems		
	Traditional	Contemporary	Total
Urban	6 (32%)	13 (68%)	19 (100%)
Rural	6 (75%)	2 (25%)	8 (100%)
Total	12 (44.4%)	15 (55.6%)	27 (100%)

Information in Table 4.5 above shows that the victims area of residence exerts some influence on their preference for justice systems. Out of the 19 victims of common crimes residing in the urban area interviewed, 68 percent preferred the contemporary Nigeria criminal justice system to the Tiv criminal justice system. On the other hand out of the 8 victims residing the rural area, 75 percent preferred the Tiv criminal justice system. Based on these findings it is logical to point out that victims of common crime offences who reside in the urban area are more socialised in the contemporary western culture and therefore prefer the contemporary Nigeria criminal justice system to the Tiv criminal justice system. The reason for this is that the contemporary Nigeria criminal justice institutions (police, courts etc) are more available in the urban areas. Victims in the urban area have more access to these agencies than their counterparts (victims) in the rural areas. Again the traditional setting (mostly members of the same lineage residing in the same place) in the rural areas make victims to adopt a criminal justice system that will reconcile them rather than taking punitive measures that will strain the family ties.

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4.2.6 Relationship between the Victims Occupational Status and Preference for Criminal Justice Systems.

The Marxists in their assumptions are of the opinion that the study of any criminal justice system operative in a particular society must be linked to that society's economic structure. Marxists like Quinney, Chamblis, Berine etc. link the study and understanding of the content and operations of any criminal justice system to the economic structure of the society in which it operates.

Based on the Marxists proposition the present researcher assumed that there is a relationship between the victim's level of income and their preference for a particular criminal justice system. Victims would rather prefer a criminal justice system that corresponds with their level of income. Victims with low-income level will prefer a criminal justice system that is financially less expensive. Since the victims level of income is determined by their occupational status we used the occupational status of the victims as an independent variable to assess the victims preference for justice systems (dependent variable). In this regard we make a hypothetical statement that "The victims preference for criminal justice system is more likely to be affected by their occupation status". The higher ones occupational status the higher his or her preference for a financially expensive criminal justice system. On the other hand, the lower one's occupational level the higher his or her preference for a less expensive criminal justice system. To test this hypothesis data on these two variables are presented in Table 4.6.

Table 4.6 Relationship between the Occupational Status of Victims and Preference for Criminal Justice Systems.

Occupation.	Criminal Justice Systems		
	Traditional	Contemporary	Total
Farming	9 (60%)	6 (40%)	15 (100%)
Non – Farming	3 (25%)	9 (75%)	12 (100%)
Total	12 (44.4%)	15 (55.6%)	27 (100%)

Data in Table 4.6 shows that the occupational status of victims greatly influence their preference for criminal justice systems. The information revealed that out of the 15 victims interviewed who are farmers 60 percent prefer the Tiv traditional criminal justice system to the contemporary Nigerian criminal justice system. On the other hand out of the 12 victims interviewed who are none farmers 75 percent preferred the contemporary Nigeria criminal justice system to the Tiv traditional criminal justice system. The reason for this is that, victims of common crimes who are farmers have low-income levels as compared to victims who are none-farmers. Therefore, those with the low-income levels (farmers) would prefer a criminal justice system that is less expensive. Where as victims who are none-farmers with high income-levels would prefer the contemporary Nigeria criminal justice system despite the high financial costs involved like hiring lawyers and performing other informal (but necessary) roles like bribing the police and court judges. With reference to the principles of Marxism one would state that those victims that have the financial capability would chose a criminal justice system not minding its financial costs.

From the foregoing analysis one would state that the four hypotheses proffered are accepted. This is because the findings show that the socio-demographic attributes of the victims of common crimes influence their preference for criminal justice systems.

4.3 CASE STUDIES

These two case studies are presented to reveal the roles, legal rights and responsibilities of victims of common crimes under the procedures of these two criminal justice systems. This is because the victim's preference for a particular criminal justice system is better examined from the perspective of their experiences with that particular criminal justice system. Again our understanding of the legal position of the victims under the procedure of a particular criminal justice system depended on our knowledge of their (victims) roles and responsibilities at the various stages of criminal justice adjudication of that particular criminal justice system.

4.3.1 Case I

A Case of Assault Tried Under the Procedures of the Contemporary Nigeria Criminal Justice System at Gboko.

CASE No. 628C1/97 Commissioner of Police Vs Timothy Penda.

CHARGE. Criminal force, assault, and hurt punishable under Section 264, 265 and 268 of the penal code laws.

The victim in this case FRANKA UKENDE (female) the accused TIMOTHY PENDA (male). The victim reported the accused at Mkar police station for criminal force and hurt in which she sustained bodily injury. The victim (complainant)

was asked by the police to provide means of transport for them to visit the scene of crime to effect arrest. She transported two police officers to the scene of crime and the accused was arrested and taken to the police station. The victim was asked to provide writing materials for the police to record her statement and that of the accused. She paid money for these items to be purchased by the investigating police officer (IPO). After recording her statement, the IPO told her to come the following day, and the she should provide feeding allowance for them (police) to feed the accused for the day. The accused was later released on bail that same day with an order to report to the station the following day. Both the victim and the accused came to the police station the following morning. The IPO in charge of the case interviewed them and sought the opinion of the victim whether to charge the case to court, which she agreed. The victim was again asked to provide transport fare for the police officer to re-visit the scene of crime to obtain more information about the case. She gave this money and after the completion of investigation the case was charged to court. When the case came up in court (where the researcher was attending court sittings) the IPO presented the case file, the accused and the victim to the police prosecutor. The prosecutor announced his appearance for the commissioner of Police. Th prosecutor read the charges to the hearing of the accused, victim and the presiding magistrate. The magistrate asked the accused whether he is guilty or not guilty. He pleaded not guilty. Before the court could proceed with the trial a lawyer announced his appearance for the accused and presented his defense on behalf of the accused person. After the lawyers' submission the case was adjourned to 15 April, 1997. When the case came up this day the prosecutor called on the principal witness PW1 (the victim) to testify. After taking the oath (she swore by the Bible) she made her

submission before the court and was examined by the defense lawyer to the accused. The defense lawyer also cross-examined the police prosecutor who was unable to answer most of the questions. The case was adjourned for another day. The presiding magistrate ordered the victim to come with her witnesses on the second adjournment.

When next the case came up in court, the magistrate cross-examined the accused and his witnesses. The police prosecutor was also allowed to cross-examine the accused and his witnesses, but most of the questions the prosecutor asked the accused and his witnesses were dismissed by the defense lawyer that such questions were baseless and lack substance. The prosecutor could not put a strong defense in favour of the victim either because he (prosecutor) could not compete with the defence lawyer or he lacked basic facts about the matter. The case was then adjourned till the afternoon session. When the court reconvened by 12 noon the presiding magistrate fixed a new date for judgement.

On 25th April, 1997 when the case came up for judgement to be delivered, the defense lawyer announced his appearance for the defense of the accused and pleaded for the accused. The accused was convicted and sentenced to 3 months imprisonment with an alternative of two hundred and fifty (₦250.00) naira fine. Immediately the relations of the convicted offender paid the fine and he was freed. The researcher quickly went out of the court and interviewed the victim who expressed her dissatisfaction with the trial and sentence. According to her she was not given adequate chance of presenting her case by her self or to be defended by a lawyer of her choice. She also indicated that the presiding Magistrate did not consider her welfare in the trial and sentence. According to her (the

victim) she would have been more comfortable if the convicted offender was asked to refund her medical bills form the hospital.

4.3.2 Case II

A Case of Theft Tried Under the Procedure of the Tiv Indigenous Criminal Justice System at Abwa.

CHARGE: Theft

A case between Tyongi (Male) and Mbawuan (Female).

In this case, Tyongi (Male) reported his Uncle's wife Mbawuan (female) to the Elders. Tyongi (victim) alleged that Mbawuan (accused) stole his yams. The traditional court (moot) was summoned and Tyongi was called upon to present his case. After taking the oath (that is by swearing the SWEM) he presented his case, that Mbawuan stole his yams from the farm where the yams were parked in the barn. According to him, he found Mbawuan with some of the yams in the market. He then took the yams home and tendered them as exhibit before the court. The elders asked if he had any witness to the case, he said yes and called his first wife and his Uncle (the husband of the accused) as his witnesses. These witnesses were cross-examined by the elders. Then, Mbawuan (the accused) was called upon to defend herself over the allegations. After taking the oath, she denied stealing the yams. However she could not establish or prove her ownership of the yams. After cross-examination by the elders, they sought the opinion of Tyongi (the victim) and decided that the remaining yams should be returned to him (being the rightful owner) and that the husband of the convict (Mbawuan) should go and tell her parents what she had done.

Practically, this is what is obtained under the procedures of these two criminal justice systems. An attempt will now be made to compare the roles, legal rights, and

Practically, this is what is obtained under the procedures of these two criminal justice systems. An attempt will now be made to compare the roles, legal rights, and responsibilities of victims of common crimes at the various stages of criminal justice adjudication under the procedures of these two criminal justice systems. This comparison will focus on arrest, investigation, bail, institution of criminal proceedings in court, trial, and sentencing.

4.4 Roles And Responsibilities Of The Victims At The Various Stages Of Criminal Justices Administration Under The Procedures Of These Two Criminal Justice Systems.

What is narrated in Case I and II is what is practically obtained under the procedures of these two criminal justice systems. The informal roles and responsibilities of the victims especially under the procedures of the contemporary Nigeria criminal justice system which were not highlighted during trial were further investigated by the researcher. Now one will compare the roles, legal rights and responsibilities of the victims of common crimes at the various Stages of the criminal justice adjudication under the procedure of these two criminal justice systems. It is through this comparison that the researcher will reveal the informal roles and responsibilities the victims performed.

4.4.1 Roles and Responsibilities of Victims of Common Crimes at the Stage of Arrest.

Arrest under the procedures of the contemporary Nigeria criminal justice system is the act of taking a person into custody to answer an allegation preferred against him or her. Under the procedure of the contemporary Nigeria criminal justices system, the statute law mandate the Police or any other person (in the absence of the Police on the

scene of crime) to arrest some one if they have probable cause to believe that he or she had committed a crime. This is contained in section 28 (3) of the Criminal Procedural Act (CPA) and section 21 of the Police Act. Specifically there is no statutory provision stating clearly what the victims should do at the stage of arrest under the procedure of the contemporary Nigeria criminal justice system.

Similarly, any other person can effect arrest under the procedure of the Tiv indigenous criminal justice system in the absence of the indigenous criminal justice arbitrators. Under the Tiv Criminal Justice system the relations of a recalcitrant offender are obliged to produce him or her before the authorities to answer for an allegation. To identify the possible differences or similarities in role performance by the victims at the stage of arrest under the procedure of these two criminal justice systems the researcher sought the opinions of the victims. Out of the 18 victims of common crimes who had experiences with the contemporary Nigerian criminal justice system 88.9% said that they bear the responsibility of providing transport fare for the police officers to visit the scene of crime and effect the arrest of the offenders. On the other hand, out of the 9 victims of common crimes who had experiences with the Tiv indigenous criminal justice system 77.8% said the responsibility of transporting the indigenous justice arbitrators to effect the arrest of their offenders was that of the relations of the accused. The information obtained from interviews with the elders and indigenous justice arbitrators also confirmed this. Out of the 24 Police respondents interviewed 87.5% said that it is due to lack of "logistics support" that the victims are made to sponsor the arrest of their offenders. On the other hand of out the 7 traditional rulers and elders interviewed 71.4% said that the victims had suffered enough and need not to be overburdened with other extra costs.

They further said that even when the relations of the victims or indigenous justice arbitrators sponsor the arrest of the offenders, they are usually paid back when the case is concluded. This data is further supplemented with the observation the researcher made at the Police stations visited. It was discovered that even after the victims pay the Police transport fare they (victims) still have to give them bribe before an arrest will be effected.

What the present researcher had found out about the Tiv Indigenous criminal Justice System is similar with the findings of Anthropologist like Paul Bohannan (1957) and captain R. Downes (1956) about the pre-colonial Tiv indigenous criminal justice system. Bohannan (1957) noted that the responsibility of bringing the accused person for trial is the responsibility of every body in the community especially the relations of the accused. This data therefore reveal that victims of common crimes under the procedure of the contemporary Nigeria criminal justice system have more responsibilities at the at the stage of arrest than their counterpart under the Tiv indigenous criminal justice system. Again they (victims) have no legal rights at the storage of arrest Under the procedure of the contemporary Nigerian Criminal Justice System

4.4.2 Roles and Responsibilities of Victims of Common Crimes During Investigation

Investigation is a strategic point in both the procedures of the Tiv indigenous and the contemporary Nigeria criminal justice systems. This is because it is the stage were all relevant information and materials needed as evidence in the criminal trial are collected. Unlike the practice under the contemporary Nigeria criminal justice system there is no permanent formalized way of conducting investigation under the procedure of the Tiv indigenous criminal justice system. All that concern investigation under the procedure of

the contemporary Nigeria criminal justice system is stated in section 19 of the Criminal Code. This section of the code warrants the courts to terminate the case if there is no substantial evidence to believe that the accused may have really committed the alleged offence. Statutorily, under the procedure of the contemporary Nigeria criminal justice system the roles and responsibilities of the victims at the point of investigation is to provide the police and the court with detail information on the case in question. These include information on the accused's identity (especially in person offences), provision of background information on how the offence occurred, and also to mention the name(s) the suspect(s). Statutorily this is all that concerns the victims at the stage of investigation under the procedure of the contemporary Nigeria criminal justice system. The codes do not state any legal right for the victims at this stage. This therefore follow that any other role or responsibility the victim perform at this stage is informal and not approved by the statute laws.

Investigation (Mtov) under the procedure of the pre-colonial Tiv indigenous criminal justice system as described by Bohannan (1957:75) and Downes (1956:40) entails the provision of detailed information surrounding the offence by the victim to the elders or other Indigenous criminal justice agents. While conducting this survey, it is found out that, investigation under the procedure of the indigenous criminal justice system does not follow a permanent institutionalized pattern as it is the case under the procedure of the contemporary Nigeria criminal justice system. Again there are no strict roles and responsibilities that a victim have to perform at the stage of investigation under the procedure of the Tiv indigenous Criminal Justice system. However, just as is the case under the contemporary Nigeria criminal justice system, victims provide background

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information surrounding the case to the indigenous criminal justice arbitrators. In response to the survey questions on the roles and responsibilities of victims at the stage of investigation all the 27 victims respondents give similar answers on the issue of giving background information to the criminal justice arbitrators.

Both the victims who had experiences with the Tiv indigenous criminal justice system and those who had with the contemporary Nigeria criminal justice system said they identify their offenders and gave background information surrounding the case. In response to the survey question which sought to know what other roles the victims perform at the stage of investigation apart from giving information, 4.05% out of the 18 victims who had experiences with the contemporary Nigeria criminal justice system indicated that they fed and transported the Police officers (IPOS) during investigations. The victims respondents further indicated that, in cases where they fail to provide the means of transport and feeding allowance, the IPOs threaten to the stop investigation. This information is confirmed with what the researcher had observed at the Police Stations visited. While at the Police Stations the researcher identified some informal practices the Police encouraged. For instance the Police often terminate investigations in to cases at the stations without properly briefing the victims or stating any convincing reasons for doing so. Out of the 77 common crime cases selected from the case diaries at the police stations, police terminated investigation into 63 of such cases without valid reasons to convince the victims why they (Ipos) could not proceed with investigation into these cases.

This data therefore confirm that the ideological basis of the contemporary Nigeria criminal justice system is not victim oriented. The interests of the victims and their legal

rights during criminal proceedings are not given due consideration. The contemporary Nigeria criminal justice system focuses attention on the issue of the rights and guilt of the accused. The data further revealed the harassment and frustration of the victim of crime under the procedure of the contemporary criminal justice system.

4.4.3 Roles of Victims of Common Crimes at the stage of Instituting Criminal proceedings in courts.

The institution of criminal proceedings here refers to the process of charging the offender to court or the indigenous criminal justice arbitrators for a due process of trial. As a legal system based on statute law, the various ways of instituting criminal trials under the procedure of the contemporary Nigeria criminal justice system are clearly stated in the Penal Code and the Criminal Procedural Act. These various ways of instituting criminal proceedings are contained in section 77(a) of the Criminal Procedural Act (CPA) and section 14(a) of the Criminal Procedural Code (CPC). In summary these Codes state thus: Criminal Proceedings may be instituted in the court by a victim laying a complaint before a magistrate, or a police officer on behave of the victim can file a compliant in the court against an accused person. A complaint is simply an accusation that some one has committed a crime specified by bare details like the time, place, and the victim.

The statutory roles and responsibilities of the victims at the stage of instituting criminal proceedings under the procedures of the contemporary criminal justice systems are clearly stated in the Codes. (CPA, CPC and the Police Act). Based on the provisions of these Code the police prosecutor (especially in the Area and Magistrate Courts) institutes the criminal trial in Court on behave of the victim. The prosecutor reads out the

allegations (charges) to the hearing of the accused, victim, and the presiding judge. The victim is then put to oath to substantiate the facts as being presented by the prosecutor.

Oath taking under the procedure of the contemporary criminal justice system could either be on the HOLY BIBLE, HOLY QURAN, or any other sacred object for Christians, Muslims, or members of other religions respectively.

Under the procedure of Tiv indigenous criminal justice system, the victims personally institute the criminal trial. The victim takes the oath by swearing on the 'SWEM' (the Tiv sacred object). The victim hold the SWEM in his or her two hands and place it on the head, mouth, abdomen, the legs saying "If i lie in giving this evidence SWEM should swell my head, mouth, stomach and legs and it should kill me". The victim then gives the evidence and if there is a witness to the case the victim mention the name(s) of the witnesses.

The data obtained during the survey reveal that the role of oath taking at this stage by the victims is a common feature under the procedures of these two criminal justice systems. The major difference in role performance at the stage of initiating criminal proceedings under the procedures of these two criminal justice systems is that under the procedure of the Tiv indigenous criminal justice system the victims personally institute the criminal proceeding by laying his or her complaint to the council of elders. While under the procedure of the contemporary Nigeria criminal justice system it is the prosecutor who presents or lay the complaint on behave of the victim.

What was found out while attending the Tiv indigenous court (Moot) session at Abwa as narrated is case II on page 48 corresponded with the description of the anthropologists like Bohannan and Downes. These anthropologists described vividly the roles

of the victims at the various stages of criminal justice adjudication under the procedure of the Tiv criminal justice system (see Bohannan 1957:45, Downes 1956:15).

Data obtained through observations and interviews with the victim respondents who had experience with the with the contemporary criminal justice system again reveal some informal roles the victims play at the stage of instituting criminal proceedings in courts. In response to the survey question which sought to know what other roles victims play at this stage under the contemporary criminal justice system 88.9% out of the 18 victims respondents said the Police demanded and collected bribe from them with the promise to make a good presentation in the court. The prosecutors were asked whether they receive any form of gratification from the victims whose cases they were handling. In response 4.59% percentage of the Police respondents that were interviewed accepted that they receive rewards from their "Clients." It was further discovered that most at times criminal proceedings in the contemporary courts are terminated due to the distorted information given by the prosecutors. Conducting this survey, it was discovered that out of the 77 cases selected for analysis 28 were terminated due to distortion of facts by the Police prosecutors who represent the victims. After a critical review of these cases it was discovered that such cases would have proceeded in court only if the victims were allowed to institute the criminal proceedings by themselves.

4.4.4 Roles of Victims of Common Crimes at the Stage of Trial and Sentencing.

Everything that precedes these two stages in criminal proceedings is conceived as a preparation to it. In both systems, trial and sentencing are the last two stages in criminal justice administration in which the victims are expected to participate. The

essence of the criminal trial either by the Magistrate, Judge, or Indigenous justice arbitrators is to evaluate the degree of guilt or innocent of the accused for an appropriate sentence to be applied. The roles victims play at these two stages of criminal justice determine weather a particular criminal justice system protect and preserves the legal rights of victims of common crimes in the trial proceedings.

Based on the principles and propositions of the Marxists paradigm, the present researcher investigated in to the idea behind the type of sentences applied on convicted offenders under the procedures of these two criminal justice systems. Are these sentences aimed at improving the condition of the victims or dealing with those that threaten the established statuesque? It is also found out that criminal trials under the procedure of the contemporary Nigeria criminal justice system had certain distinct features aimed at protecting the established social equilibrium. The state uses the contemporary criminal justice Mechanism to deal with the dangerous groups (Criminals) in the society. This therefore differentiates it (Contemporary justice system) with the Tiv indigenous criminal justice system. The differences in the philosophical basis and the features of these two criminal justice systems is responsible for the differences in roles and responsibilities of victims during criminal trials.

It is discovered that, victims of common crimes perform certain roles during criminal trials under the procedures of the contemporary criminal justice system to serve a specific purpose for the state. For instance during criminal trial under the procedure of the contemporary criminal justice system the victims supply information to assist the court to establish the case against or vindicate the accused. In essence the focus under the procedure of the contemporary criminal justice is to deal with the accused but not to

address the rights of the victims On the other hand, under the procedure of the Tiv indigenous criminal justice system, the focus of the criminal trial is to deal (probably improve) with the rights of the victim who is criminally hurt.

It is found out that, the codes (CPA and CPC) clearly states how the trial process should be conducted The codes also states what sentences are to be applied on an offender of a particular offence The codes also state the rights of the accused during trials but did not state those of the victims. The procedural roles played by the victims during criminal trial under the procedure of the contemporary criminal justice system (as narrated in case 1 on page 46 corresponds with the provisions of these codes Procedurally, both the victims and the offenders usually testify before the presiding judge during criminal trials. In most cases, the offenders are allowed to be defended by lawyers of their choices during criminal trials under the contemporary criminal justice system. After the prosecutor opens the case against the accused, the defense lawyer (If there is any) announces his appearance for the accused. This is followed by the submission of the defense lawyer and the prosecutor who appears for the state The prosecutor, who has the burden of proof, goes first. He summarizes the evidence with an opening statement and then presents his witness to the case with the victim as the principal witness (PWI). It is instructive to note that the interest of the state appears to be more paramount but not what had happened to the victim as a person This is why the prosecutor who represents the state takes the responsibility to prove the harm the accused had caused to the state. After the submission of the prosecutor, the defense lawyer follows with his witnesses and statement of defense for the accused. The representative of the state (the prosecutor) who stands for the victim cross-examined the witnesses of the accused. In person offences,

(like assault) in which the victim is alleged to have sustained bodily injuries, the prosecutor presents medical reports as exhibit to substantiate his claims. The defense lawyer and the presiding judge examine such exhibits and if authentic and accepted by the court, it will be then marked exhibit "A" or "B" and registered. If the alleged offence is a property crime like theft or burglary, the stolen items recovered by the police during investigation or tools used in carrying out the operation are tendered as exhibit by the prosecutor and examined by both the defense lawyer and the presiding judge. Such tools will be marked and registered if accepted as authentic evidence by the Court. The presiding judge now evaluate the evidence and then pronounces judgement on the day the case is concluded. If the accused is found guilty, a sentence is further pronounced otherwise he or she is discharged and acquitted.

The data obtained from the court trials under the contemporary criminal justice system confirms the neglect of the victims of crimes under the procedures of the contemporary criminal justice system. It is noted that, the victims are accorded the status of principal witnesses to the case (PW1) throughout the trial process. The victim, even though directly bear the criminal brunt, performs the role of a principal witness to the case. The victims assists the prosecutors, judges and magistrates with evidence of facts to establish the case against the accused beyond reasonable doubt. That is to say that the victims assist the state to deal with the accused.

In trying to find out whether the victims have other procedural roles and responsibilities at the trial and sentencing stages under the procedures of the contemporary criminal justice system the opinions of the judges, magistrate, prosecutors, registrars and the victims were sought.

The data obtained from the survey revealed that, the prosecutor determine which charges are brought against an accused and which, if any, will be changed as the criminal proceedings progresses. All of the three judges interviewed during the survey said victims are only to assist the trial judges to establish whether the accused is guilty or not for an appropriate sentence. They further revealed in their responses that the type of sentence to be applied on the convicted offenders is strictly the discretionary and professional duties of the judges. Again it is instructive to note here that the sentences imposed on the convicted offenders under the procedure of the contemporary criminal justice system are to serve specific purpose to the state and this is why the victim have no Contribution to make. Based on this it is logical to state that the state uses its' judicial apparatus to deal with the (criminals) people who threaten societal equilibrium.

The findings of the present researcher over the neglect of the victims in the procedures of the contemporary Nigeria criminal justice system corresponds with the findings of Gyong (1994). In his study Gyong revealed that "within the ambit of the contemporary criminal justice system, victims are seen as playing the distinctive role of merely reporting and assisting in investigating crimes as well as serving as witnesses in courts. Once they are able to play these roles satisfactorily, the interest of the system in them wanes and they become virtually forgotten"

Out of the 18 victims of common crimes who had experiences with the contemporary criminal justice system 88.9% said that they perform other informal roles decided by the prosecutors and judges during criminal trials. The victims were asked to indicate these informal roles. About 66.6% of the victims indicated that they pay for stationary (like files, paper, biros etc) needed in the courts before their cases were

processed. About 94.4% admitted giving bribe to the judges and prosecutors that were handling their cases. The responses of the victims help us to understand the extent to which the economic status of the victims influences their preference for a particular criminal justice system.

Criminal trials and sentences under the procedures of the Tiv indigenous criminal justice system do not follow a permanent institutionalized pattern. The indigenous justice arbitrators usually summarily deal with minor crimes like pilfering and theft. In such minor crimes where the offenders are caught in the act, the elders constitute an 'ad-hoc' court and such cases are tried and sentences imposed on the offenders immediately if convicted. This is done with the active participation of the victim in the trial and sentencing process. That is if the offender is caught in the act with the stolen item(s) and the victim agrees to collect the recovered items and terminate the case. If it is in the opinion of the victim to terminate the case the indigenous criminal justice agents will abide by this decision.

The findings of the present researcher about such summary trials under the Tiv indigenous criminal justice system correspond with the findings of Makar (1994). As narrated in the case of Saawuan Waniwa (male) vs Ahire Asom (male). Waniwa stole a chicken belonging to Asom (victim) and Waniwa was caught in the act with the chicken. Asom told Waniwa's house head that he will take the recovered chicken and terminate the case. Waniwa's house head returned the chicken to Asom, flogged Waniwa and the case was terminated. It is observed that, the victim personally participated in the trial proceedings under the indigenous criminal justice system. The victim is called by the elders to personally lay his or her case against the accused. After the statement of defense

by the accused the victim is again called upon to substantiate important allegations with definite proofs. It is again discovered that in most cases the indigenous criminal justice arbitrators sought the opinions of the victims on the type of sentence to be applied on a convicted offender. This in a way affects the victim's perception for the Tiv indigenous criminal justice system. This is shown in the answers given by the victim respondents to the survey question which sought to know why some victims of common crimes prefer the Tiv indigenous criminal justice system. About 2.16 percent of the victims who had experiences with the Tiv indigenous criminal justice system said they prefer it because they actively participate in the trial proceedings and the sentencing pattern.

Comparatively data obtained on the issue of sentencing patterns under the Procedures of these two criminal justice systems revealed that sentences of compensation, restoration of stolen items to the victims which are aimed at reforming the condition of the victims are predominantly applied under the Tiv indigenous criminal justice system. On the other hand punitive measures or sentences that are aimed at reforming the offenders predominate the contemporary criminal justice system. The roles and responsibilities of victims at the stages of trial and sentencing as observed by the present researcher corresponded with the findings of Bohannan (1957:30) as narrated in the case of Wantor (female) vs Nyityo (male).

Under the procedure of the contemporary criminal justice system, the statute law (that is the body of the written laws) did not state clearly the role a victim should play at the stage of sentencing his or her convicted offender. Neither does the codes clearly states the rights of the victims at these two stages. This can be seen in the provision of section 78 of the penal code, which state that

"A person who is convicted of an offence under the penal code may be adjudged to make compensation to any person injured by his offence and such compensation" may be either in addition to or in substitution for "any other punishment" (emphasis added).

Clauses like "In addition to" and "In substitution for" warrant the Judges and Magistrates to use heir discretionary powers and substitute this compensation with imprisonment or fine. Judges were asked to explain why they so much make use of imprisonment and fine in their sentences. They (judges) indicated that the compensation stated in the codes is negligible and as such will not serve any useful purpose to the victims.

From the foregoing analysis one would note that, apart from the responsibilities of providing writing materials for trial judges in courts, the victims again assist the state in getting rid of criminals in the society under the procedure of the contemporary Nigeria criminal justice system. While their counterparts feature more prominently under the criminal procedures of the Tiv indigenous criminal justice system at the stages of trial and sentencing. They even make some inputs even in the type of sentences to be applied on the convicted offender. For clarity one would state thus, Whereas victims of common crimes perform the role of a principal witness to assist the state in determining the guilt or otherwise of the offender under the procedure of the contemporary Nigeria criminal justice system, the victim plays the role of an injured party who is to be compensated or rehabilitated under the procedure of the Tiv criminal justice system.

Again, the victim has no role to play or any input to make on the type of sentence to be applied on the convicted offender under the procedure of the contemporary Nigerian criminal justice system. On the other hand, victims of common crimes have

some inputs to make on the type of sentencing pattern to be applied on the convicted offenders under the procedure of the Tiv indigenous criminal justice system. The indigenous justice arbitrators seek the opinion of the victims on what sentence is to be applied on the convicted offenders with the aim of improving the condition of the victims.

To sum up it will be instructive to note that victims of common crimes have unpleasant experiences and are more frustrated under the procedures of the contemporary Nigeria criminal justice system. Both the quantitative and qualitative data prove that the socio-demographic attributes of the victims of common crimes affects their preference for criminal justice systems.

CHAPTER FIVE

SUMMARY, DISCUSSION AND RECOMMENDATIONS

5.1 Summary

This thesis compared the roles and responsibilities of victims of common crimes in criminal justice administration under the procedure of the Tiv and the imposed contemporary English criminal justice systems. The first objective was to identify what legal roles victims of common crimes play at the various stages of criminal justice administration under the procedures of these two criminal justice systems. Secondly, to find out which among these two justice systems better protects the legal rights of victims of common crimes statutorily and procedurally. The third and final objective is to assess the influence of the victim's attributes on their level of preference criminal justice systems.

The findings confirmed that practically victims of common crime offences do not play prominent roles in the procedure of the imposed contemporary English Justice System. In other words, their interests and legal rights are not a major concern of this alien Criminal Justice System. Rather than protecting their (victims of common crime) legal rights as individuals who had suffered criminal wrong and taking measures to improve their situation, they (victims) are merely used as principal witnesses to assist the state in reforming or dealing with the offenders.

According to the empirical findings, the role of the victims are better appreciated under the procedures of the Tiv criminal justice system. Victims are also major characters under the procedures of the Tiv criminal justice system. Rather than over-burdening them with informal roles and responsibilities as is the case under the procedures of the

contemporary Nigeria criminal justice system the Tiv criminal justice system take measures that are aimed at improving their conditions. Victims have no financial cost to bear under the procedure of the Tiv criminal justice system. They (victims) make inputs at the various stages of indigenous criminal justice arbitration, to the extent that their opinion on what type of sentence is to be applied on their convicted offenders is sought.

Basically, the primary concern of the Tiv criminal justice system as revealed by the findings of this study is to alleviate the condition of the victims. For instance, it is found out that at the stage of arrest under the procedures of the contemporary Nigeria criminal justice system victims provide the transport fare for the police to visit the scene of crime and effect arrest. On the other hand, the responsibility (or cost) of producing the accused before the elders or other Tiv justice arbitrators is that of the relations of the accused, the indigenous justice agencies or the head of the house of the accused.

It has been discovered that at the stage of investigation victims have some common responsibilities and roles to play within the procedures of these two criminal justice systems. In both systems, the victims identify their offenders, mention the names of suspects (especially in property offences) and provide relevant information surrounding the circumstances of the offence in question.

Further the study revealed some informal roles and demands victims are saddled with at the stage of investigation under the procedures of the contemporary Nigeria criminal justice system. Victims of common crimes are saddled with the responsibility of providing means of transport and feeding allowance to the investigation police officer (IPO) in charge of the case. This is not the case under the procedures of the Tiv indigenous criminal justice system.

Whereas victims present their cases by themselves at the stage of instituting criminal trials under the procedures of the Tiv criminal justice system it is discovered that under the procedures of the Imposed English System, the police prosecutor perform this role. It was observed that most of the cases terminated in the contemporary courts for lack of substantial evidence for further prosecution is as a result of the misrepresentation of facts by these police prosecutors who lack adequate information about the case in question.

It is also discovered that while victims of common crime offences make inputs in the types of sentence to be applied on their convicted offenders under the procedures of the Tiv criminal justice system their (victims) counterparts under the procedures of the contemporary criminal justice system have no inputs to make on the type of sentence to be applied on their convicted offenders.

The victims play strategic roles in the trial proceedings of the Tiv Criminal Justice system as persons who are criminally hurt. Their suggestions ion the types of sentence to be applied on the convicted offenders help the traditional Justice arbitrators in choosing a sentencing pattern that alleviate the condition of the victims. On the other hand the victims participation in the trial proceedings of the imposed contemporary English system is aimed at assisting the state in choosing an appropriate sentence for the offenders.

It is found out that the sentencing patterns imposed on convicted offenders under the procedures of the contemporary Nigeria criminal justice system does not in any way consider the position or plight of the victim. The concern is to administer justice on the criminals in the society. In a nutshell, statutorily the legal position of the common crime

victim at the various stages of criminal justice administration under the procedures of the imposed English justice system is not clear or explicit. Whereas, the codes and acts state clearly what is to be done with convicted offenders, what is to be done with or for the victim is not clearly stated in the Codes and Acts. This explain why the most dominant sentencing patterns applied under the procedures of the contemporary Nigeria criminal justice system are directed towards punishing or reforming the convicted offenders.

In conclusion, the empirical evidences from the study shows that victims of common crimes fair better (both statutorily and procedurally) under the procedure of the Tiv Criminal Justice System than their counterparts under the procedures of the Imposed English common law which dominates most of the courts in Beune state. Consequently, the victims respondents expressed preference for the Tiv Criminal Justice system as it better incorporates their interests and provides opportunities for them to redress the pains and losses resulting from their victimization.

5.2 Discussion

In consonance with the analysis in the preceding chapters, one would note that the legal position of victims of common crimes under the procedures of the contemporary Nigeria criminal justice system differ from the Tiv criminal justice system. This is because of the general differences on the basis of the ideology, philosophy and operation of these two criminal justice systems. These two criminal justice systems have different principles and doctrines aimed at performing different functions. The contemporary Nigerian criminal justice system is a colonial legacy, designed under a different socio-economic, cultural and political context to perform certain functions and was later

transferred and imposed on the Nigerian populace to serve specific functions for the colonial authority.

It started in the colonial state as a tool for oppressing the Nigerian populace and containing the dangerous groups for the survival of the colonial state. This criminal policy has played this role and maintained it up till date and there is no strong incentive for it to change this role. The Nigerian state, just like any other colonial state was conceived, nurtured and sustained by violence and this criminal policy was designed mainly to "handle" the groups that pause a threat to the colonial authority and not to rehabilitate or improve the condition of people that were criminally victimized. The administration of criminal justice under this system is therefore mainly to handle the criminals or convicted offenders. Rehabilitate them (offenders) or incapacitate them to maintain the established status quo.

It has been established in this work that there is a lot of frustration on all fronts faced by the victims of common crimes under the procedures of the contemporary criminal justice system. Thus, we agree with Gyong (1994) that the contemporary criminal justice system lost interest in the victims as soon as they play their roles of reporting the offenders, assisting in the investigation process and serving as witness during criminal trials. In other words, the victims only assist in the apprehension and trial of the offenders under the procedures of the contemporary Nigeria criminal justice system.

Based on the findings of this study we also agree with scholars like Oluruntinehim and Cottrel that it is due to the frustrations that the victims face under the

procedures of the contemporary Nigerian criminal justice that now influence their desire to seek redress under the indigenous justice system.

It is discovered that justice under the procedures of the contemporary Nigeria criminal justice system is expensive and time consuming. All these further frustrate the common crime victims who has low income. A situation where the victims have no money to pay for the arrest of their offenders the police would most at times not effect arrest. Even though this is an informal arrangement by the police it frustrate the common crime victim, who is poor. On the other hand it is discovered that the Tiv indigenous criminal justice system rather seek to protect the interest of the victim. Criminal justice procedure under the of the Tiv indigenous criminal justice system leads to reconciliation and healing and it fosters the welfare of the victims. Justice under the procedures of the Tiv indigenous criminal justice system is less expensive and takes a shorter duration of time. Criminal justice arbitrators under the procedures of the Tiv indigenous criminal justice system are reconciliators but not coercive or oppressive agents as is the case under the procedures of the contemporary Nigeria criminal justice system, where police officers and judges operate as bureaucrats with quasi-military practices.

5.3 Recommendations

Arising from the analysis in the preceding chapters of this study is the fact that the Nigeria police is the pillar of the contemporary criminal justice administration. In other words, the arrest or apprehension of the offenders by the police set the invocation of the criminal process in motion. What is important to note here is the fact that other court personnel and police prosecutors who are strategic in the contemporary Nigeria criminal

justice system still maintained their colonial designed features of coercion and oppression.

Available data from various studies on the legal position of victims of crime under the procedures of the contemporary Nigeria criminal justice system (as confirmed by the findings of the present study) indicate that these contemporary criminal justice agents (police, judges and other court personnel) contribute immensely to the frustration of the victims of common crimes during criminal justice administration. Therefore, for the purpose of improving the legal position of victims of common crimes under the procedures of the contemporary Nigeria criminal justice system we recommend that,

1. The contemporary Nigeria criminal justice agents (the police, judges, magistrates, and other court personnel) should be given a new orientation and training. They should be trained to maintain a consistent balance among the interests of the victims, the offenders and the society thereby enhancing adequate respect for, confidence, and acceptance of the contemporary Nigeria criminal justice system by the Nigerians. The statute laws, for instance the codes and police Act should be reviewed to consider the position of the victims in the contemporary criminal Justice system.

2. The government should require the police, along with other criminal justice agencies to give greater protection and assistance to victims of common crimes in the form of providing them (victims) with necessary information on how to obtain essential remedies for their criminal victimization.

3. We also recommend that the Federal Government of Nigeria should review and implement the recommendations of the Federal Military Government constituted National Committee on Remedies for Victims of Crime submitted to the Federal

Government of Nigeria (FGN) in 1992. This is because this report contains various remedies for the victims of crime.

4. We also recommend the establishment of a state compensation scheme for certain categories of (poor) victims' of common crimes. The agents of the contemporary Nigeria criminal justice system should encourage offender/victim reconciliation, as is the case under the procedures of the Tiv criminal justice systems. This in a way will improve the relationships between the offenders and victims even after criminal Justice adjudication. A cordial relationship between the offenders and their victims after going through the criminal justice process will reduce criminal victimization in the society and maintain societal equilibrium.

5. Finally, we recommend that the principles, doctrines and sentencing patterns of the Tiv criminal justice system (like compensation and reconciliation) that are not repugnant to equity and natural justice should be incorporated in the procedures of the contemporary Nigeria criminal justice system.

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THE COMMISSIONER OF POLICE,
BENUE STATE
STATE HEADQUATERS,
BARRACKS ROAD,
P. M. B 102006,
MAKURDI

Date 8th April, 1997

The Area Commander,
Area Command Headquarters,
The Nigeria Police,
Gboko.

RE - RESEARCH ON VICTIMS OF COMMON CRIMES IN PRE AND POST COLONIAL NIGERIA.

MR. ZUMVE SAMUEL IORNENGE

I refer to your letter No. CB:3380/BNS/GB/AC/VOL.2/179 dated 7/4/97.

2. It is the directive of the Commissioner of Police that you avail the above named student with necessary information data at your disposal, please.

(P. OMIRACI)DSP.,
STAFF OFFICER(SENIOR),
FOR:-COMMISSIONER OF POLICE,
BENUE STATE.

APPENDIX 2

Department of Sociology
Ahmadu Bello University
Zaria

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INTERVIEW SCHEDULE FOR VICTIMS OF COMMON CRIMES

Dear Sir,

I am carrying out a research into the legal rights of victims of common crimes in the administration of criminal justice.

The purpose of the research is to compare what constitute the legal rights of victims of common crimes in the administration of criminal justice under the imposed English legal system, with what constitute their (victims of common crimes) legal rights under the precolonial indigenous justice administration. And to measure the extent to which the notion of an imposed criminal justice system affect the victims degree of preference to a particular judicial system.

You are to give information only on common crime offences committed against you or any member of your household and your experiences with the agencies of the contemporary criminal justice system or traditional authorities concerned with the settlement of disputes.

Section 1

Socio-economic and Demographic Information:

(1) Area:.....

(2) Sex :.....

(3) Age:.....

(4) Marital Status:.....

(5) Educational Status:.....

(6) Occupation:.....

(7) Nature of Residence:.....

(8) Number of person living in Household:.....

Section II

Common Crime Victimization

(9) What type of crime were you victimized of?

(a) Assault

(b) Theft or Stealing

(c) Burglary

(d) Criminal force

(e) Robbery

(f) Others (specify)

(10) Where did the incidence take place?

(a) at home

(b) Beer parlour

(c) Work place

(d) Others (specify)

.....

(11) What is the relationship between you and the person who offended you?

(a) Husband/wife

(b) Relative

(c) Friend

(d) Neighbour

(e) Co-worker

(f) Stranger

(g) Others (Specify):

Section III
Common Crimes Victims and the police

(12) Who reported the matter to the police?

a) Self

b) Relation

c) Stranger

d) It was discovered by the police

e) Others (specify):

(13) What action did the police take?

a) Recorded the complaint only?

b) Recorded and visited the scene

c) Others (specify)

(14) How long didi it take the police to act?

(a) Immediately

(b) Much later

(15) If the police visited the scene of the crime, how did they get there?

(a) Trekking

(b) Transport means (specify):

(16) If by transport means who provided the means?

(a) You

(b) Police officer

(c) Others (specify)

(17) If you, were you requested to provide the means by the police officer?

(a) Yes _____

(b) No _____

(18) Was there any investigation or detective work done by the police?

(a) Yes -----

(b) NO -----

(19) If yes did you play any part in the investigation process?

(a) Yes -----

(b) NO -----

(20) If yes what role?

(a) Identification of offender

(b) Transporting the offender and the police to the station

(c) Others (specify) .....

(21) Did you and the offender(s) give statement at the police station?

(a) Yes .....

(b) No .....

(22) If yes who provided the materials (like pen and papers)?

(a) You

(b) Offender

(c) Police

(23) Was the offender detained?

(a) Yes.....

(b) No .....

(24) If yes was your consent sought before his/her detention?

(a) Yes .....

(b) NO .....

(25) Was the offender granted bail?

(a) Yes .....

(b) NO .....

(26) If yes was your consent sought before the bail was granted?

(a) Yes.....

(b) NO .....

27) Was your victimizer charged to court?

(a) Yes .....

(b) No .....

28) If yes, did the police seek your opinion before he was charged to court?

(a) Yes.....

(b) No .....

29) On the whole was there anything you consider as your legal right at the level of the police that was not observed?

(a) Yes ....

(b) No .....

30) If yes, what was the legal right you think you were denied:.....

31) Generally were you satisfied with the police action on the case?

(a) Yes.....

(b) No .....

32) Apart from all that you have mentioned, state other things you think you would have done in the whole process?

.....

Section IV

Common Crimes Victims who Have previous Experience with the Courts

33) What act of common crime victimization was committed against you or any member of your household?

(a) Theft/Steeling

(b) Simple Robbery

(c) Burglary

(d) Criminal Force

(e) Assault

(f) Other (specify) _____

(34) If a property crime, was the property or properties discovered by the police during investigation?

(a) Yes...

(b) NO ...

(35) What role(s) did you play in the investigation process?

---

(36) If the properties were discovered were they tendered in Court as exhibit?

(a) Yes -----

(b) No .....

(37) If crime against person did you sustain any body injury?

(a) Yes.....

(b) No .....

(38) If yes who paid for the treatment?

(a) Yourself

(b) Offender

(c) Police

(d) Others (specify):---

(39) During the trial proceedings, were you ever called upon to testify?

(a) Yes .....

(b) NO .....

(40) Did the judge ever seek your opinion about what is to be done with the offender?

(a) Yes .....

(b) NO .....

(41) Did the Court grant the offender bail?

(a) Yes .....

(b) No .....

(42) If yes, did the judge seek your opinion or inform you before granting the bail?

(a) Yes .....

(b) No .....

43) Did the judge seek your opinion before sentencing the offender?

(a) Yes .....

(b) No .....

44) What sentence was passed on the offender?

(a) Imprisonment

(b) Imprisonment plus fine

(c) Fine only

(d) Imprisonment with an alternative of fine

(e) Binding over to be of good behaviour

(f) Probation/Suspended sentence

(g) Any other combination specify): .....

(h) Not known.

45) Did the trial judge state reasons for a particular sentence passed on the offender(s)?

(a) Yes

(b) No

46) If Yes, which of the following reasons?

(a) To deter the offender

(b) To deter potential offender(s)

(c) To reform/correct the offender(s)

(d) To teach him/others a lesson

(e) To protect the public/victim

(f) To compensate victim

(g) Others (specify) ----------

(h) Not stated

47) If recovered properties were tendered in Court as exhibit, what happened with the properties after sentence?

(a) Returned to you

(b) Returned to the accuse

(c) Retained by the Court

(d) Retained by the police

(e) Others (Specify) _____

48 If retained by the court or police was there any reason given?

(a) Yes (b) No

49) If yes, what were the reasons given?

State briefly: _____

_____

50) On the whole, what do you consider to be your legal right(s) that the court deprived you of? State briefly _____

51) What other role(s) would you have liked to play if you were given a chance? .....

52) Have you ever had experience with traditional method of dispute settlement?

(a) Yes..... (b) No .....

53) If yes, what experience?

(a) Witness .....

(b) Offender .....

(c) Victim; .....

Others (specify)----------

54) Can you state briefly what roles you played in the judicial proceedings of the traditional system:_____

55) Among these two judicial systems (English legal system and the Traditional legal system) which do you prefer?

(a) Traditional system

(b) English legal system.

Give reason for your answer:_____

_____

APPENDIX 3

INTERVIEW SCHEDULE FOR POLICE OFFICERS

This is designed to elicit information from the police officers on how they handle victims of common crimes and the roles (they (victims) play in the process of carrying out preliminary investigation.

1. Rank:.....

2. Have you attended any professional courses since you joined the police force?

   (a) Yes.....

   (b) No .....

3. If yes what was the duration of the course:.....

4. How do you assess the rate of reporting of common crimes by victims or their relatives?

   (a) Low (b) Relatively high (c) High

5. What do you think is the cause of this _____

6. What do you think is the main reason why victims of property crime report their victimization to the police.

   (a) Return of their property

   (b) Punishment of the offender

   (c) Others (specify):.....

7. What do you think is the main reason why victims of person offence (e.g) physical assualt), report their victimization to the police?

   (a) To be treated by the offender

   (b) Punishment of the offender

   (c) Others (specify).....

8 What roles do victims of common crimes play in the process of carrying out preliminary investigation by the police?

.....

9. What roles are they supposed to play in the plea-bargaining process? _____

10. Do victims have a role to play in the bailing process of their offenders?

    (a) Yes.....

    (b) No /..... .....

11. If yes briefly state the roles:_____

12. If no then do you think victims should play active roles in the bailing process of their offenders?------ <---------

    ---

13. In your own opinion what do you think constitute the legal rights of victims of common crimes within the contemporary Nigerian criminal justice system?.....

    ....

14. To what extent do you observe the legal rights granted victims of common crimes? ....

    .....

15. What legal rights would you suggest that victimes of common crimes should have? ....

    .....

JUDGES AND OTHER COURT PERSONNEL

Sir, I am carrying out a research into the roles victims of common crimes play in the administration of criminal justice in our courts. The researcher wishes to examine the legal rights granted victims of common crimes in the administration of criminal justice under the English legal system and compare with the legal rights granted victims of common crimes under the pre-colonial/ traditional judicial administration.

This interview is supplementary to the data collected from victims of common crimes who have experiences with the Nigerian Criminal Justice system and its agencies. That is from the level of the police, to the courts. The following questions relate to the roles victims of common crimes play or are supposed to play in the administration of criminal justice and what statutory legal rights granted them.

Your answers are strictly confidential and only for the purpose of this study.

Section 'A'

BASIC INFORMATION

1. Rank:----------
2. Department;----------
3. Educational Background:----------
4. Number of years on the bench (for judges)
5. In what type of court do you work or preside?
   (a) Magistrate Court
   (b) High Court
   (c) Area court
   (d) Customary Court
   (e) Others(specify):_____
6. What did the legal codes (Criminal and Penal Codes) stipulate for the victims of common crimes in terms of their contribution to the trial proceedings of their offenders? Please state briefly the sections of the codes:

7. In your opinion what roles do you think victims of Common Crimes ought to play in the trial proceedings of their offenders: _____

8. With your knowledge of the Traditional African legal sytem what do you consider to be the focus of pre-colonial Nigeria Societies Justice system?

   (a) Focusing on the interest of the victim

   (b) Focusing on the community

   (c) Focusing on the community and the offender

   (d) Others(specify): _____

9. With your knowledge of the contemporary Nigerian Criminal law, what do you consider to be the main focus of the system?

   (a) focusing on the interest of the state

   (b) focusing on the interest of the victim

   (c) focusing on the interest of the offender

   (d) focusing on the interest of the victim and the state

   (e) Others (specify): _____

10. What do you think is the main concern of a victim of property offence in the invocation of a criminal process?

   (a) Return of his property

   (b) Reparation (c) punishment of the Offender

   (d) Others (specify) _____

11. What do you think is the main concern of a victim of criminal force in the invocation of a criminal process?

   (a) for the police to deal with the offender

   (b) to be treated by the offender

   (c) Others (specify) _____

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12 In your own opinion and experience does the Nigerian criminal justice arrangement formally recognizes the victim as a party to the criminal process or trial?

(a) Yes.....

(b) No .....

Give reasons for your answer:.....

.....

13. With your experiences what do you consider to be the guiding philosophy in passing a sentence on cases of common crime?

(a) To protect the public and the victim.

(b) To protect the victim

(c) To reform the offender

(d) To teach the offender a lesson

(e) Compensate the victim.

14. What other roles/rights would you have liked the victim to enjoy in court? State briefly:_____

_____

Thanks for your answers.

APPENDIX 5

INTERVIEW SCHEDULE FOR TRADITIONAL RULERS

Dear Sir,

I am carrying out a research into the legal rights of victims of common crimes in the administration of criminal justice. The purpose of this is to establish the legal right or the role(s) victims of common crimes play in the administration of criminal justice both in the criminal procedures of the contemporary Nigerian criminal justice system and the pre-colonial indigenous judicial systems. You are to give information only on the role(s) or what constitute the legal rights of victims of common crimes under the traditional justice system.

Your answers are confidential and only for the purpose of this study.

Section A

Basic Information

1. Rank:.....

2. Educational background:.....

Section B

3. With your knowledge about the traditional African legal system what do you consider to be the focus of the system?

   (a) Focus on community

   (b) Focus on victim

   (c) Focus on victim and community

   (d) Others(specify).....

   .....

4. As traditional justice administrator what do you consider as the legal rights of victims of common crime in the traditional criminal justice proceedings? State briefly

5. What do you do to a victim of property offence:

.....

6. What do you do with stolen items recovered from the thief?

.....

7. If one of your subjects is physically assaulted and he/she sustained bodily injuries who takes care of the treatment?

(a) Victim himself

(b) Assaulter (c) you

(d) Victim's family

(e) Assaulter's family

(f) Others(specify) .....

8. What are the contributions of an assualt victim in the trial proceedings of his/her offender?(state briefly)

.....

9. What roles do victims of common crimes play in the traditional [illegible] procedures?

10. What roles do offenders play in the traditional judicial proceedures?

11. In the whole between one victim and the offender, who plays the most active role in the traditional judicial proceedures?

12. With your experience what do you think is the focus of the contemporary Nigerian Criminal justice system?