

APPRAISAL OF THE IMPLEMENTATION OF THE COMPULSORY TREATMENT AND CARE FOR VICTIMS OF GUNSHOT ACT 2017 IN NIGERIA

Linus Akor. PhD & Elizabeth Njo Obimbua

Department of Sociology
Federal University, Gusau - Nigeria

Email: linus.akoryusuf@fugusau.edu.ng & elizabethobimbua@fugusau.edu.ng

DOI: <https://doi.org/10.57233/gujos.v4i1.3>

Abstract

There has been a disturbing spike in gunshot wounds world-wide. America, for instance, has an estimated 90 million firearms in civilian hands. A total of 48,830 people died from gun-related injuries in the U.S. in 2021, an increase of 32% since 2019. The prevalence of gunshot injuries has attracted concerns from governments, victims and family members, hospital administrators, non-governmental organizations (NGOs), medical practitioners, the mass media and the academia. Such concerns are germane because gunshot injuries (GSI) constitute a major health challenge worldwide, with direct burdens on health service and the economy. One worrisome dimension however, is that many people have died from gunshot injuries on account of hospitals' insistence on mandatory police report. In order to halt this, the Nigerian government enacted the Compulsory Treatment and Care for Victims of Gunshot (CTCVG) Act of 2017. This study appraised the implementation of the CTCVG Act. The paper utilized the documentary method to gather data and adopted the rational choice theory to provide theoretical direction for the work. A major revelation is that the CTCVG Act lacks legal validity because it is not listed in the 68 items covered under the exclusive and concurrent lists of the 1999 Nigerian Constitution. It was revealed that more than five years after its enactment, only three States, Rivers, Lagos and Delta, have domesticated the CTCVG Act. Also revealed is that in spite of the Act, many hospitals still shun gunshot victims without police report. Another finding blamed the reluctance of medical personnel on persistent police harassments. The paper recommends a meeting of the Attorneys-General of the 36 States and the Attorney General of the Federation, to propose a bill to include the Act in either the Legislative or Concurrent lists to fast track its domestication; proper sensitization and training of police and medical professionals on the provisions of the Act to forestall abuse; prosecution of breaches of the Act to guarantee compliance by hospitals and security agents while Non-Governmental Organizations (NGOs), human rights activists and other stakeholders, should enlighten individuals on the provisions of the law and how to enforce their rights.

Keywords: CTCVG Act; Exclusive and Concurrent Lists; Gunshot Victims; Gunshot Wounds; Non-Governmental Organizations.

Introduction

Studies such as those of (Persad et al, 2005; Cummings et al, 1998; Odling-Smee, 1970; Adesanya et al, 1998; Ogunlusi & Oginni, 2006; Ogunlusi, et al, 2006; Afuwape & Alonge, 2006) indicate a high prevalence of gunshot wounds all over the world. Gunshot wound injuries (GSI) constitute a major health problem worldwide with direct burdens to health service and economy (Kaim Khani, G.M. et al, 2015). Even as GSI affect all age brackets at different stages of life, they are however, more prevalent in the younger age groups. In developed and developing nations, gang-related violence, terrorism, suicide attempts, armed robbery attacks and accidental discharge are identified as common causes of gunshot wounds.

While most capital offences which attract high mortality rate are perpetrated with the use of weapons such as knives, daggers, axes, bombs, etc. One of the weapons of mass destruction which kill faster and can be easily wielded by such perpetrators is the gun. For instance, Kathleen Relch, et al (2002), argued that guns are more lethal than other weapons as robberies committed with guns are three times more likely to result in a fatality than are robberies with knives.

Constitutionally, the police and other security agencies are, as a matter of state policy, legally empowered to carry or wield sophisticated lethal guns with the aim of maintaining peace and order. But as it is with the availability, and the preference of gun for crime perpetration and prevention, so are the injuries and/or casualties; and were so extreme, fatality. While it is inarguable that criminals can use gun to cause harm to innocent citizens (Smart, 2017) it should be noted that guns, in the hands of careless security agents, can also lead to serious injuries or even the death of a victim. This could be by way of accidental discharge as it is so called; stray bullets or even arbitral violation of human dignity by trigger-happy security personnel.

Globally, most of the nations that experience gunshot violence are those ravaged by terrorism, war, communal killings and disputes. These, consequently resulted in escalation in the rate of firearm wounds, both for the military and for the ordinary citizens. However, the weapons used by the military are usually different from the ones found in the hands of civilians and other non-state actors. High velocity injury is prevalent in war times, while low velocity wounds from handguns are constant when there is no war (Lillian, cited in Imosemi, 2018). In America, it is estimated that there are 90 million firearms in civilian hands. A 2016 publication by Oboirein et al, noted that in 2010, guns took the lives of 31,076 Americans while 73,505 others were treated in hospital emergency departments for non-fatal gunshot wounds. As recently as 2021, 48,830 people died from gunshot-related injuries in the U.S. Even as credible figures are not available, given Nigeria's poor data collection and management profile, it is a well-known fact that hundreds of thousands of illegal firearms and light weapons are in the hands of unauthorized state actors in the wake of insurgency and other acts of criminality in the country.

In Nigeria, until recently, gunshot wounds were those linked to military activities such as in the civil war of 1967-1970 or the few cases of accidents that occur during celebrations or festivals. All of that appear to have changed as gunshot injuries have become part of everyday existence in Nigeria. Reports in Nigeria (See Casillas, 2011; Abayomi, 2014; Criminal Code Act, 2004; Child Right Act, 2003; Gilbert, et al, 2009; Mahmoud et al, 2011; Criminal Code Act, 1960; Olushoga), 2018) have isolated sectarian violence such as those of the Boko-Haram insurgency, banditry and kidnap attacks as the triggers of gunshot wounds in Northern Nigeria,

while in the South; armed robbery-related gunshot injuries are prevalent. The other sources of gunshot injuries are traceable to accidental killings, wars, assassinations, political thuggery as parties and festivals turn rowdy, extra judicial killings, hunting expeditions, as well as cult and communal fights and incessant herdsman- farmers' clashes across the country.

Added to the above causes of gunshot injuries is the issue of accidental discharge by, especially, gun-wielding policemen in their daily interactions with motorists on our high ways. Accidental discharge occurs when a gun discharges or explodes on its own without the bearer operating it. Cases of accidental discharge abound in Nigeria, when some of the drivers, often extorted at police checkpoints, are either unwilling or out rightly refuse to pay bribes demanded by police operatives. Statistics from select studies of gunshot wounds in Nigeria by Umaru, et al , (2012); Oboirein, et al, 2016; David Odoyoh Odatuwa-Omagbemi etal, (2022) revealed that there were 121, 38, and 41 reported cases of gunshot wounds in the north east, north west and Niger-Delta regions of Nigeria, respectively, in that order. According to Robert (2023) whatever is the case, when a person is shot, medical doctors or practitioners ought to treat such victims pending the outcome of investigation and where the need arises, a determination of the person's case before a court of competent jurisdiction should be considered.

Up until 2017, victims of gunshot injuries in Nigeria were hardly admitted and treated by hospitals in Nigeria without a police report. Consequently, some innocent victims were made to pay with their lives on account of their inability to procure the mandatory police report, a situation (Mustapha, 2021) blamed on the misinterpretation of existing laws as well as the lack of strong legal framework addressing the treatment of gunshot victims. It is perhaps, in an attempt to halt the ugly trend that Nigeria's national assembly enacted the Compulsory Treatment and Care for Victims of Gunshot ACT, 2017 (CTCVG Act). The Compulsory Treatment and Care for Victims of Gunshot Bill which was passed by a joint session of the legislature on November 11, 2017, sought to ensure that victims receive immediate and adequate treatment whether in public or private hospital as well as assistance from security agencies without any form of police report before being attended to.

However, more than five years after the law enforcing the compulsory treatment and care for gunshot victims by doctors and hospitals, even without a police report, was signed into law in December, 2017, events after the enactment of the legislation suggest that the Act is being observed more in the breach than in compliance. Reports from across the country indicate that several victims of gunshot injuries have died on account of lack of police reports. It is in the light of this sad reality that this paper appraises the implementation of the CTCVG Act 2017. In doing this, the paper raises a number of questions: what is the level of domestication/implementation of the act, what are the challenges bedeviling its implementation, and how can the challenges be mitigated? On the flip side, the study will attempt to ascertain the level of domestication/implementation of the Act; identify the challenges bedeviling its non-implementation, and suggest ways to mitigate identified challenges.

Conceptual Clarification

The main concern of this section of the paper is to clarify the central concepts used to ensure clarity of usage. These terms are: Gunshot Wound (GSW) or Gunshot Injury (GSI); Gunshot Victim, Firearm and the Compulsory Treatment and Care for Victims of Gunshot Act (2017) or CTCVG, for short.

Gunshot Wound/Gunshot Injury

Gunshot wound (GSW), also called Gunshot Injury (GSI) in medical parlance, is an injury caused by projectile from a gun which may result in bleeding, bone fractures, organ damage, and loss of ability to move the affected part of the human body or in extreme cases, death. The Medical Dictionary for the Health Professions and Nursing (2012), simply defines GSW as injury caused by a bullet or other projectile that hits a human being or animal. It is estimated that GSWs account for approximately 32,000 deaths in the United States of America, annually. Although official statistics are not available it is however estimated that no fewer 100,000 Nigerians might have died in recent times from GSWs in the wake of the Boko-Haram insurgency, kidnapping and abduction episodes, herders-farmers' clashes, and confrontations from the IPOB and Oduduwa Republic separatist movements.

Gunshot Victim

Literally, a gunshot victim is someone who sustains injury from a gun projectile which could lead to bleeding, bone fractures and/ or organ damages. While there is no clear-cut definition of gunshot victim, the Black's Law Dictionary conceptualizes a victim as a person harmed by a crime, tort or other wrong (Bryan, 2007). Elaborating on that definition, Section 15 of the CTCVG Act (2017) defines a victim as a person who sustains injury as a result of gunshot, power burn, and other injuries arising out of or caused by the discharge of firearms. By that token, where an injury arises out of or is caused by discharge of firearms, such qualifies as gunshot injury, thereby making the victim, a gunshot victim.

Firearm

A firearm according to Rao (2010) is a barreled weapon from which a missile can be discharged with some momentum or velocity and which in appropriate circumstance, can cause injury or death. A gun is a good example of a firearm.

The Compulsory Treatment and Care for Victims of Gunshot (CTCVG) Act (2017)

The CTCVG Act (2017) is a piece of legislation enacted by the 9th National Assembly of Nigeria on 11 July 2017 and signed into law in December 2017, by former President Muhammadu Buhari. The Act ensures that victims of gunshot receive immediate and adequate treatment whether in public or private hospital as well as assistance from security agencies. Other provisions of the Act, according to the International Committee of the Red Cross Resource Centre (2017) include prohibition of any form of inhumane or degrading treatment as well as for the hospital to notify the police and family members of such victim. The act also established the obligation of the police to investigate the circumstances under which the person was shot, and prescribe the penalties for stipulated offences as well as the obligation to make restitution to the victim.

Theoretical Framework

This study adopted the rational choice theory to provide theoretical direction for the paper. The rational choice theory, also known as choice theory or rational action theory is a theory for understanding and often modeling social and economic as well as individual behaviour. It is central to modern political science, as well as other disciplines such as sociology and philosophy. Becker (1976) noted rational choice theory was popularized by a 1992 Nobel Memorial Prize Laureate in Economics Science, Gary Becker, who was one of the

first to apply rational actor models more widely. Elster (1989) underscored the essence of rational choice theory when he said that “when faced with several courses of action, people usually do what they believe is likely to have the best overall outcome” (Ogu, 2013, p.90).

Assumptions

Abell (as cited in Ogu, 2013, p.94) identified three assumptions made by rational choice theorists. These include:

1. **Individualism** – it is individuals who ultimately take actions. Individuals, as actors in the society and everywhere, behave and act always as rational beings, self-calculating, self-interested and self-maximizing, these individual social actions are the ultimate source of larger social outcomes. From this first overarching assumption derives the four other major assumptions summarized below.
2. **Optimality** – Individuals choose their actions optimally, given their individual preferences as well as the opportunities or constraints with which the individual faced. Abell (2000) defines optimality as taking place when no other course of social action would be preferred by the individual over the course of action the individual has chosen. The rational choice theory, therefore assumes, according to Abell, that individuals do the best they can, given their circumstances as they see them.
3. **Structures** - Abell argues that structures and norms that dictate a single course of action are merely special cases of rational choice theory. In other words, the range of choices in other circumstances differs from choices in a strong structural circumstance, where there may be only one choice.
4. **Self-Regarding Interest** – This assumption states that the actions of the individual are concerned entirely with his or her own welfare.
5. **Rationality** – This appears the most predominant assumption of the rational choice theory. All individuals, according to this assumption act in ways that would benefit them more; every individual is most likely to undertake courses of actions that they perceive to be the best possible option and one that would immensely be to their own advantage.

Application of RCT to the Study

Applied to this study, the rational choice theory has validity when juxtaposed against the “battle” between the police as enforcers of the provisions of the CTCVG Act on the one hand and the harassment of medical personnel and hospital managers for non-compliance with the mandatory presentation of police report as precondition for the admission and treatment of victims of gunshot on the other.

The police is a public institution charged with the responsibility of protecting and defending the public good, in this case, ensuring that gunshot victims obtain police report before being treated to avert the possibility of a gunshot victim being a run-away criminal. On the other hand, medical personnel and hospital managers are bound by professional ethics to attend to the sick and the injured. Evidence in the literature has, however, shown that in the performance of such duties, some medical practitioners have been assaulted, intimidated and humiliated by police officers. Therefore, in order to avoid possible police brutality, the only ‘rational choice’ open to medical personnel is to insist on police report, in contravention of the CTCVG Act, and in the end, many victims of gunshot wounds are left unattended to.

Methodology

This paper is theoretical in nature. Given the novelty of the CTCVG Act in this part of the world, there is paucity of relevant body of empirical literature relating to legislations about the Compulsory Treatment and Care for Victims of Gunshot in Nigeria. This has made it inevitable for us to rely on documentary method such as reports, medical and criminal law literature, journals, books and the internet, for our data.

Discussion

Legal Provisions predating the birth of the CTCVG Act 2017 in Nigeria

Historically, the non-treatment and care of victims of gunshot is not altogether, a novelty in Nigeria. This is because, prior to the birth of the CTCVG Act 2017, there existed legal provisions which dealt with the issue. Imosemi (2018) noted that before 2014, in Nigeria, victims of gunshot injuries were not allowed to be treated by both public and private hospitals without a police report. The wisdom or lack of it, for the insistence of a police report was to ensure that such victim of the gunshot injury was not a run-away criminal (thief, burglar, robber, kidnapper, rapist, arsonist etc.) who had either been shot by private individuals or the police and is evading an arrest.

Denying victims of stabbing/gunshot treatment for failure to tender police reports is traceable to the Nigerian civil war. The outbreak of the 30-month bloody war of 1967-1970 and its aftermath, led to a proliferation of firearms and armed robbery cases across the country and the attendant spike in deaths and gunshot wounds. Therefore, in order to halt the trend, the post-civil war military regime in Nigeria, promulgated the Robbery and Firearms (Special Provisions) decree in 1970.

However, following the transition from military to democratic governance in Nigeria, many of the inherited decrees were received as if they were Acts of the National Assembly. Consequently, the decree became known as the Robbery and Firearms (Special Provisions) Act, now particularly known as the Robbery and Firearms (Special Provisions) Act, 2004. Thus, the Robbery and Firearms (Special Provisions) Act, 2004 (RFSP Act) was one of the early legislations that provided for the treatment and care of gunshot victims. Section 4 of the RFSP Act provides for the offences relating to sheltering and treating an armed robber. The Act specifically makes it an offence for any person to knowingly house, shelter, or give quarters to any person who has committed the crime of robbery. Although the law particularly bothers on the offence of robbery, it provides for the duty of any person, hospital or clinic that treats any gunshot or bullet victim to report the matter to the police. Section 4 (2) of the RFSP Act provides thus:

It shall be the duty of any person, hospital or clinic that admits, treats or administers any drug to any person suspected of having bullet wounds to immediately report the matter to the police (Robert, 2023, p.6).

This was the situation until 2014. Even though the pre-2014 non-treatment of victims of gunshot without police authorization would appear to be fait accompli, a number of events that unfolded thereafter, showed that its review was only a matter of time. Growing disquiet from the human rights community and non-governmental organizations underscoring the sanctity of human lives which the law seemed to undermine made the government to begin to tinker with the idea of a review. Thus, as recounted by Imosemi (2018), the then Minister of Health Professor Onyebuchi Chukwu in a media chat with journalists spoke of a dialogue between the

Federal Ministry of Health and the Nigerian Police force to treat victims of gunshots thereby saving lives.

Consequently, in December 2014, former President Goodluck Jonathan signed the National Health Act (8:2014) into law, The law provided for the treatment of clients in cases of emergencies, emphasizing that a health care provider, health worker or health establishment shall not refuse a person emergency medical treatment for any reason. The provisions of the National Health Act were however, not elaborate enough since the law did not specify situations that could be regarded as emergency, even as it provided that an offender “is liable on conviction to a N100, 000.00 fine or imprisonment for a period not exceeding six months or to both” (NHA, 2014). This lacuna made health care providers and institutions not to include gunshot injuries as an emergency to be treated in practice, so as to avoid police matters.

The inadequacy of the National Health Act literally began to bear negative fruits from 2015, following a surge in the rate of gunshot wounds traceable to criminal and lawless activities like terrorism, communal clashes, armed robbery and militancy across the country (Ethelbert, 2015) as too many innocent persons were daily losing their lives from these criminal occurrences after being shot and rushed to hospitals but were never treated without police reports. According to Ethelbert, the government, the lawmakers, the public and even the hospital managements and every other stakeholder knew that something drastic had to be done to save lives. Respite was to come on May 3, 2016, when the federal government through the then Minister of Health Professor Isaac Adewole issued a directive to all health care providers in Nigeria to treat all victims of gunshot injuries without any hindrance, especially requesting for a police report. However, despite the ministerial directive many public and private hospitals were reported to have been lukewarm in attending to victims of gunshot. This state of affairs prepared the grounds for the eventual enactment of the Compulsory Treatment and Care for Victims of Gunshot Act 2017.

Provisions of the Compulsory Treatment and Care for Victims of Gunshot Act.2017

The Compulsory Treatment and Care for Victims of Gunshot Act 2017, was signed into law by former President Muhammadu Buhari on December 29, 2017. This followed the enactment of the bill for an Act to establish the CTCVG by the joint session of the 9th National Assembly on November 11, 2017. The provisions of the Act have enjoyed enormous mention and treatment in official gazettes, research reports, sponsored studies and publications of not-for-profit organizations in Nigeria and beyond. In general, the Act provides for the rights of gunshot victims, the obligations and/or duties of hospitals and of the police as well as the attendant offences and penalties. The specifics of the law as escalated by Sani-Omolori (2017), the ICRCRC (2017), Imosemi (2018), Nwali-Chukwu, (2021) and Robert (2023), among others, are interrogated below to bring further clarity to discussions surrounding the Act.

1. **Rights of gunshot victims.** This section provides for:
 - i. The right of the victim to receive immediate and adequate treatment from any hospital in Nigeria, with or without police clearance, and without initial deposit of money.
 - ii. The right to receive from any person or security agents any possible assistance; and to be taken to the hospital for treatment.
 - iii. The right not to be subjected to inhuman and degrading treatment or torture by any person, whether an individual, or of an authority, or of the police or other security agencies.

- iv. The right to be certified fit and no longer in need of Medicare before he or she can be invited by the police.
- v. Right to restitution for loss sustained by any victim through the direct or indirect action of the person who so caused the loss.
 - . Right to enforce an order of restitution given by the court.

2. **Right of a Volunteer or Helper of Victims of Gunshot:**

The Act accorded volunteers or helpers of gunshot victim the right to be treated with respect and not to be subjected to unnecessary and embarrassing interrogation, in their genuine attempt to save life.

Implicit in the foregoing sections of the Act, is the fact that is not just a duty but also a right for all hospitals in Nigeria, whether they are private or public, to attend to victims of gunshot without a police report. Furthermore, any person, whether civilian or security agent has a duty to be a “Good Samaritan” and give every possible assistance to any person with gunshot injuries by ensuring that such a person is taken to the nearest hospital for prompt medical care.

3. **Obligations of the Hospital or Health workers working with hospital**

In keeping with the requirements of section three of the Act, any hospital that receives a person with gunshot wounds is expected do the following:

- i. Report to the nearest police station within 2 hours of commencement of treatment.
- ii. Notify the family members or relations within 24 hours of becoming aware of the victim's identity.
- iii. Keep adequate record of treatment given to the injured person.
- iv. Ensure that the victim is fit and no longer in need of dire Medicare before the Chief Medical Director certifies him fit to be invited by the police for investigation.

4. **Obligations of the Police**

Given the key role of security agents, particularly the police, in the success or failure of the Act, the law listed the responsibilities of the police as follows:

- i. To render every possible assistance to any person with gunshot wounds and ensure that the person is taken to the nearest hospital for immediate treatment.
- ii. To commence investigation to ascertain the circumstances under which the person was shot.
- iii. To furnish the hospital with background information of the victim.

5. **Penalties under the Act**

To give adequate legal teeth to the implementation of the provisions of the CTCVG Act, the law unambiguously provided that:

- i. Any hospital, who fails to make a report, commits an offence and is liable on conviction to a fine of N100, 000 and every doctor directly concerned is equally liable on conviction to a term of six months or a fine of N100, 000 or both.
- ii. A person who commits an offence under this Act which leads to or causes substantial physical, mental, emotional and psychological damage to the victim, commits an offence and is liable to imprisonment for a term of not more than 15 years and not less than 5 years without an option of fine.

- iii. Any person or authority including any police officer, other security agents who stands by and fails to perform his duty under this Act which results in the unnecessary death of any person with gunshot wounds, commits an offence and is liable on conviction to a fine of N500,000 or imprisonment for a term of five years or both.

As noted by Nwali-Chukwu (2021) and we share in such sentiment, the language of the law is very clear and unambiguous as no initial monetary deposit is required to accept and commence immediate treatment of a victim of gunshot, neither is police report a requirement. However, the hospital has a duty to report to the police within two hours of receiving such a person.

Apparent from the foregoing provisions of the CTCVG Act, is that the primary purpose of the legislation is to preserve the life of gunshot victims by removing obstacles that may prevent quick dispensation of medical attention to them. This, the Act did, by balancing the desire of persons injured by gunshot to receive medical attentions as soon as possible with the need to protect hospitals, doctors and even 'good Samaritans' who attend to gunshot victims, from molestation and harassment by the police, without undermining the duty of the police to apprehend and prosecute criminals.

Level of Domestication and Implementation of the CTCVG Act 2017

Without doubt, the CTCVG Act is a good piece of legislation bearing in mind the fact that life is sacrosanct, and any life carelessly lost in the process of subjecting gunshot and accident victims to the rigours of police report negates the tenets of universal guarantees for the protection of fundamental human rights. What is more, the enactment of the law further reinforces Nigeria's commitment to the letter and spirit of the Universal Declaration of Human Rights adopted by the UN General Assembly in 1948 and as enshrined in Chapter 5 (Section 33) of the 1999 Constitution as amended.

Given this reality, it was expected that Nigeria's federating units will domesticate the law, in view of the rising crime wave in the country occasioned by acts of insurgency, terrorism, kidnapping, abduction, sectarian crisis, herders-farmers' clashes, and armed robbery, among other instances of insecurity in Nigeria. Sadly, literature evidence shows that more than five years after its enactment, only three States out of the 36 States and the FCT, Abuja, representing 1.08 percent, have domesticated and indeed, begun the implementation of the CTCVG Act. The States are Rivers, Lagos and Delta.

Rivers State blazed the trail with the signing into law, of the Compulsory Treatment and Care of Victims of Gunshot Bill on September 15, 2022 by the then Governor Nyesom Wike of Rivers State. This was followed by Lagos State whose House of Assembly, enacted the law on September 22, 2022. Delta State followed suit with the passage of the bill in Asaba, on May 17, 2023, after the adoption of a motion moved by Ferguson Onwo, majority leader of the house, at the plenary session presided over by the Deputy Speaker, Christopher Ochor.

The sponsor of the bill, Mr. Onwo was quoted by *The Cable News* (2023) as saying that when signed into law, the legislation would help to abolish the mandatory request for police reports by most healthcare providers in the State before commencing care of gunshot victims, thereby fast-tracking treatment. While commending the lawmakers for the speedy passage of the bill, the majority leader had said that the bill had placed a moral duty on hospitals and other

healthcare providers to administer treatment to gunshot victims, irrespective of the circumstances of the case.

On his part, Deputy Speaker while underscoring the relevance and import of the bill, declared:

Most people have lost their loved ones to avoidable deaths due to demand for police reports by hospitals before giving treatment to gunshot victims. This is a great relief and victory for democracy. I, therefore, expressed (sic) my gratitude to the sponsors and to all of you for the successful passage of this very important bill. With the passage of this bill, we have solved a puzzle that has bedeviled our society for a long time (*The Cable News*, 2023).

Not unexpectedly, the failure of many States of the federation to key into the domestication and implementation of the CTCVG Act has elicited reactions from well-meaning individuals and organizations in Nigeria. One of such organizations is the Nigeria-based Crime Victims Foundation of Nigeria (CRIVIFON); a non-governmental organization. The CRIVIFON had way back in 1998, championed the cause of gunshot and accident victims by urging medical staff in private and public hospitals to admit victims for treatment before asking them or their relations to produce police report.

CRIVIFON Executive Director, Mrs. Gloria Egbuji, also a lawyer and a human rights activist had lamented that despite the passage of the Compulsory Treatment and Care for Victims of Gunshots Act in 2017 and the presidential assent in 2017, many states were yet to domesticate the law. Egbuji who spoke at a media briefing in Lagos on Wednesday, October 27, 2022 alleged that in the last 18 months, Nigeria has lost some of her citizens through the careless refusal of the hospitals to accept the victims for treatment.

The Cable News (2022) which described the CRIVIFON as a pioneer in the fight against non-treatment of gunshot victims quoted Mrs. Egbuji as recalling that “since 1998, the organization has been leading the cause of gunshots and accidents victims by urging medical staff in private and public hospitals to admit the victims for treatment before asking them to produce a police report,” adding that even though there is already a law on the treatment of gunshot and accident victims before police report, some hospitals have continued to demand police report, thereby putting lives at risk. The Human rights activist who singled out government-owned hospitals among the most defaulters, urged medical practitioners to always remember the Hippocratic Oath which enjoined them to always save lives and avoid discriminatory attitude towards patients or clients simply because of one suspicion or the other.

Some Case Scenarios after the 2017 enactment of the CTCVG Act in Nigeria

Despite concerted efforts by the Nigerian government to address the issue of people dying from gunshot wounds, the climax of which was the signing into law of the Compulsory Treatment and Care for Victims of Gunshot Act 2017, on December 29, 2017, pieces of evidence exist to show that the numbers are still on the rise. In this section of paper, we tease out details of a number of such incidents to underscore the gravity of non-compliance with the provisions of the CTCVG Acts by some hospitals and the avoidable deaths arising there from.

We drew appreciable insights from the works of Nwali-Chukwu (2021) and the Guardian (2022).

1. The first officially reported case of death as result of the non-compliance with the legal provisions compelling treatment of gunshot victims, without police report was that of Mr. Precious Owolabi. Mr. Owolabi was a member of the National Youth Service Corps (NYSC) serving with the Abuja office of the Channels Television. He suffered gunshot injuries, on Monday 22, 2019, while covering the clash between operatives of the Nigeria Police Force and members of the Islamic Movement in Nigeria (IMN). He finally died after several hospitals allegedly rejected him for failure to produce a police report.
2. The second case was that of one Emmanuel Samuel, a 34-year-old furniture maker, who on July 11, 2020, went to watch the Euro 2020 finals between Italy and England at the Emperor Gardens Bar in Abuja. In the course of the game, some policemen stormed the place in search of one Jafaru. One of the police operatives was said to have pointed his gun at the people in the bar. Mr. Emmanuel reportedly cautioned the cop of the danger of the act, and thereafter decided to leave the bar only to be shot at his thigh by one of the cops. He was rushed to the general hospital in Abuja, but the hospital declined treatment on the ground that there was no police report.
3. There was also the case of one Ebenezer Ayeni, who was shot by armed robbers in his Ibadan residence, on June 11, 2021. He was allegedly rejected by two hospitals in Ibadan, because there was no police report. Sadly, Ebenezer died without medical attention after two hours of battling for his life.
4. Also, in 2021, a businessman, Anthony Igwe, who lived in the Adeniyi Jones area of Ikeja in Lagos, died of gunshot injuries because after he was rushed to one of the hospitals in Ikeja, the doctors allegedly demanded a police report and N200, 000 deposit before treating him. His neighbours, who rushed him to the hospital immediately, deposited the money, but the doctors were said to have stood their ground that a police report must be produced. He died before friends and family members could obtain such report from Area F, Ikeja, Lagos.
5. Another victim was Odiri Onosigho, who was shot by armed robbers at First Gate Bus Stop, Festac, Amuwo Odofin Local Council, in 2021, but was allegedly rejected by the hospitals that he was taken to because there was no police report.
6. It was the same story for Beatrice Popoola, who was reportedly gunned down on the eve of her wedding, by armed robbers at Maryland Bus Stop, Lagos.

In light of the casualty cases cited above, one is tempted to ask the following questions: why do we still have cases of hospitals demanding for police reports before treating victims of gunshot in 2023 in spite of the CTCVG Act, are medical workers still being arrested and harassed for accepting to treat gunshot victims without police reports, are hospital authorities oblivious of the existence of the law, are victims aware of their rights under the Act and not seeking redress where such rights are violated? Possible answers to these questions constitute the fulcrum of the next segment of the paper.

Fetters against the Implementation of the CTCVG Act 2017

A number of factors have been implicated for the lax or outright non-domestication or implementation of the CTCVG Act. The first major factor is the seeming lack of understanding of the workings of the Act by the major actors involved in the implementation of the law, notably, the police, medical personnel and hospital administrators. The Police are the biggest most visible and perhaps, the most important leg in the enforcement of the provisions of the Act. The police organization is the main institution that provides regular direct contact with the public, a situation that makes it unique among the other components of the criminal justice system. In carrying out its constitutional responsibility of maintaining law and order, many operatives of the police force have tended to be authoritarian rather than civil in attitude.

There is a palpable carryover of this attitude by the police in its enforcement of compliance with the provisions of the CTCVG Act. According to Robert (2023), the police have over the years put up an attitude of harassing, assaulting and intimidating medical practitioners who treat gunshot victims without police report, thereby making medical practitioners to deny gunshot victims adequate treatment and care. In consequence, many gunshot victims have been turned down and some might have died from avoidable death, as hospitals are careful in admitting patients with gunshot victims to forestall possible mistreatment from men of the Nigeria Police Force.

Another bottleneck is the absence of a provision in the Act regarding who should bear the cost for the treatment of a gunshot victim, especially in the event that the victim is indigent. As it is well known, even though medical practitioners and managers of hospitals may want to treat victims of gunshot in keeping with the professional imperative to save life, the fact remains that such services are not free and where there is no guarantee of who pays the bills, hospital managements may be lukewarm in attending to such cases.

The third impediment is that there is no yardstick to be followed by the court to determine which amount is equivalent for the loss sustained by a victim, based on an order of restitution as provided in Section 14 of the CTCVG Act. More worrisome is where the person who is made to pay is not financially capable to pay the amount ordered by the court for restitution (Robert, 2023).

Aside the forgoing fetters, there appears to be a fundamental legal cog in the wheel of domestication of the CTCVG Act. This has to do with the question of the validity of the Act. Providing a legal opinion, Robert (2023) explained that Section 4 (2) of the CFRN empowers the National Assembly to make laws on any of the 68 items in the exclusive legislative list, while Section 4 (7) (b) of the CFRN empowers both the National Assembly and the States Houses of Assembly to legislate on any of the items found in the concurrent list. Surprisingly, the compulsory treatment and care for victims of gunshot is not found in any of the lists. In other words, there is no application provision in the Act. This poses a fundamental question as to the validity of the CTCVG Act, and therefore translates to a challenge, which may have explained why many states are not in a hurry to enact the CTCVG Act.

Findings, Conclusion and Recommendations

This study appraised the implementation of the Compulsory Treatment and Care for Victims of Gunshot Act 2017 in Nigeria. The study asked a number of questions: what is the level of the domestication/implementation of the Act, what are the challenges against the implementation of the law and how can the identified challenges be mitigated?

One of the major findings of the study is that there existed legal provisions against the treatment of gunshot victims without police report, dating back to the aftermath of the Nigerian civil war between 1967 and 1970. From the study, it was discovered that the civil war led to the preponderance of guns and other firearms in the hands of non-state actors, a development which led to the promulgation of the Robbery and Firearms (Special Provisions) decree of 1970.

Another finding from the study attributed the enactment of the CTCVG Act 2017 to the upsurge in the number of gunshot victims arising largely from criminal acts such as insurgency, terrorism, kidnapping, banditry, communal clashes, herders-farmers' crisis, armed robbery as well as agitations by members of the Oduduwa Republic and the outlawed Independent People of Biafra (IPOB). The Act sought to ensure that victims of gunshot received prompt Medicare without the hitherto mandatory police report.

The study revealed that more than five years after its enactment, only three States, Rivers, Lagos and Delta, have domesticated the CTCVG Act. Also revealed is that in spite of the Act, many hospitals across the country still do not admit gunshot victims without presentation of the repealed mandatory police report.

Another finding of the study blamed the reluctance of hospital personnel and administrators to attend to gunshot victims on the persistent acts of harassment, assault and intimidation by police operatives.

A major revelation from the study is that the CTCVG Act lacks legal validity as the Act is neither listed in the 68 items covered under the exclusive and concurrent lists as enshrined in Sections 4(2) and 4(7) (b) of the Constitution of the Federal Republic of Nigeria (CFRN) 1999, as amended.

Arising from the foregoing, the following recommendations are made to enhance the implementation of the CTCVG Act 2017 in Nigeria.

1. From available literature evidence, there is apparent lack of congruence among stakeholders and operators on the workings of the provisions of the Act. This calls for proper advocacy. Governments and other stakeholders should ensure nationwide engagement of the Nigeria Police Force and the hospitals by educating, sensitizing, and training them on their duties and/or obligations as provided in the Act. Such awareness could be through webinars, seminars and workshops. Government agencies such as the National Orientation Agency of Nigeria, the Nigerian Communication Commission (NCC), and the News Agency of Nigeria, are also critical in driving the process through.
2. In view of the highhandedness of the police in the treatment of medical personnel and hospital administrators on account of violations of the Act, the law should be incorporated into the curriculum of the Police College to properly guide police operatives on their expected rules of engagement.
3. Similarly the Medical and Dental Practitioners Council of Nigeria should emphasize compliance with the provisions of the Act in their rules of conduct while the Medical and Dental Practitioners Disciplinary Committee should sanction members who violate provisions of the Act.
4. To stem the incidence of needless deaths arising from non-compliance with the Act, the police should prosecute those, including security agents, who fail to perform their duty under the Act. This will ensure compliance by hospitals and security agents.

- 5 In order to address the challenge associated with the abandonment of indigent victims of gunshot wounds by hospitals, there is the need for both the federal and state governments to create a special fund which should be accessible to health workers and/or hospitals anytime they treat gunshot victims without initial deposits. That way, hospitals will be guaranteed of not running at a loss each time they render such services.
- 6 Evidence in the literature suggests a low level of awareness of the rights of victims under the Act. It is imperative for Non-Governmental Organizations (NGOs), human rights activists and other stakeholders, to enlighten individuals on the provisions of the law and how to enforce their rights stated therein. This could be done by way of seminars, workshops, and conferences through both the mainstream and social media outlets.
- 7 The issue of lack of validity of the CTCVG Act should be resolved through the convocation a meeting of the Attorneys-General of the 36 States and the Attorney General of the Federation, to propose a bill to include the Act in either the Legislative or Concurrent lists with a view to fast tracking the domestication of the law by the remaining 33 States and the FCT, Abuja.

References

- Adesanya, A.A, Afolabi, I.R, Da Rocha-Afodu, J.T. (1998). Civilian abdominal gunshot wounds in Lagos. *JR Collsurg Edinb.* 43: 230-4.
- Afuwape, O. & Alonge, T. (2006). An audit of gunshot injuries seen in an accident emergency department of a Nigerian tertiary hospital. *WAJM.* 25: 295-7.
- Becker, G. (1976). *The Economic Approach to Human Behaviour.* Chicago and London: The University of Chicago Press. Pp.3-14.
- Bryan, A. (2007). *Black's Law Dictionary (8 Edition).* West Thomson Reuters Publishers. P. 1598.
- Cummings, P. Lemier M, & Reck D.B. (1998). Trends in firearm related injuries in Washington State 1989 – 1995. *Ann Emerg.* 32: 37-43.
- David Odoyoh Odatuwa-Omagbemi, Cletus, I.O. Roy EFTE, Ejiro, S.I. & Theophilus, E.S. (2022). Gunshot injuries in a tertiary health facility in the Niger-Delta region of Nigeria. *Pan African Medical Journal.* 43: 133.
- Elster, J. (1989). Social and economic theory. *Journal of Economic Perspectives.* American Economic Association. Vol. 3(4). Pp. 99-117.
- Ethelbert, O.L. (2915). Nigeria and incidences of homicide. *American International Journal of Social Sciences.*4:103-144.
- ICRCRC (2017). *Compulsory Treatment and Care for Victims of Gunshot Bill 2017.* Nigeria. (SB. 247). Act to make provisions for the compulsory treatment and care for the victims of gunshot and for other matters connected therewith. 11.7.2027.
- Imosemi, A.F. (2018). *Compulsory Treatment for Victims of Gunshot Act (2017): Saving lives in Nigerian hospital or a contravention of the provisions of the Administration of Criminal Justice Act (2015)?* *NigerJmed.*Vol.27 (4) 333-341.
- Kaim Khani, G.M. et al. (2015). Pattern of bonny injuries among civilian gunshot victims at a tertiary hospital in Karachi, Pakistan. *Chin J, Traumatol.* 18(3) 161-3.
- Kathleen Relch et al. (2002). Children, youth and gun violence: Analysis and recommendations. 12(3) 2. No page numbers. Available @<https://www.jstor.org/stable/16027357>. Accessed: 8 July, 2023.

- Mustapha, A. O. (2021). Compulsory treatment and care for victims of gunshot Act 2017: An appraisal. Available @ <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3117564> Accessed: 09 July 2023.
- NHA (2014). National Health Act Section 10(2).
- Nwali-Chukwu, C. (2021). Nigeria: Compulsory treatment and care for victims of gunshot Act 2017. How effective? Olisa Agbakoba (OAL).
- Oboirein, M, Agbo, S.P, & Adedeji, B.K, (2016). Civilian gunshot injuries: Experience from Sokoto North-West, Nigeria. *Journal of Trauma and Treatment*.5: 1-3.
- Odling-Smee, G.W. (1970). Ibo civilian casualties in the Nigerian civil war. *Br.Med J.* 2: 592-6
- Ogu, M.I. (2013). Rational Choice Theory: Assumptions, strengths, and greatest weaknesses in application outside the Western milieu context. *African Journal of Business Management Review* (Nigerian Chapter). Vol. 1(3) 90-99.
- Ogunlusi, J.D & Oginni, L.M, (2006). Death from celebratory gunshot injuries. *Internet J Surg.* 8: 1528-8242.
- Ogunlusi, J.D, Oginni, L.M, Ikem, I.C, Olasinde, A.A, Hamilton, O.G, Akinbolagbe, A.M. Temitope, M. (2006). Gunshot injuries in a Nigerian hospital. *Nig J Orth Trauma.* 5: 34-7.
- Percy, A. (2021). Police report: Families of gunshot, accident victims in tears amidst rising cases of needless deaths. Available @ <<https://www.punch.com/police-report-families-of-accident-victims-in-tears-amidst-rising-cases-of-needless-deaths/%3famp>>
- Persad, I J, Reddy, R.S, Sanders, M.A. Patel J. (2005). Gunshot injuries to the extremities: Experience of a U.K. trauma centre, *Injury* 36: 407-11.
- Rao, N.G. (2010). Firearms and Explosive Injuries In: Rao. Text Book of Forensic Medicine & Toxicology (2nd Edition). New Delhi: JayPee. P.272.
- Robert, E. (2023). "Towards effective compliance of the Compulsory Treatment and Care for Victims of Gunshot Act 2017". In: Current Issues in Law, Justice and Society: Essays in Honour of Hon.Justice Suleiman D, Kawu, OFR, Chief Judge of Kwara State. Published by: Kwara State University, University of Ilorin and Nigeria Bar Association, Ilorin Branch. Pp. 1-14.
- Sani-Omolori, M.A. (2017). Compulsory Treatment and Care for Victims of Gunshot Act 2017. Explanatory Memorandum. National assembly, Abuja.
- Smart, E, (2017). An analysis of the method of approach and modus operandi of armed robbers in contemporary Nigeria. *Security Journal* 30(2). No page numbers.
- The Cable News & Views Unlimited (May 17, 2023). Delta Assembly passes bill seeking compulsory treatment of gunshot victims without police report.
- The Cable News & Views Unlimited (October, 27, 2022). NGO asks States to adopt law on treating gunshot victims before police report.
- The Guardian (March 10, 2022). Deaths mount as lax enforcement of victims of gunshot act persists.
- Umar, H. Bwala, S.T& Bunu, B. (2012). Firearm violence in northeastern Nigeria: University of Maiduguri Teaching Hospital experience. *International Journal of Medicine & Medical Sciences.* 2(8) pp. 171-174.