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THE RIGHT OF GUNSHOT VICTIMS TO COMPULSORY TREATMENT AND CARE IN NIGERIA: AN APPRAISAL

by

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Abstract

Gunshot victims are human beings entitled to the respect and protection of their fundamental human rights guaranteed under the CFRN 1999 (as amended). Refusal to treat and care for gunshot victims is not just morally and ethically wrongs but a gross violation of their fundamental rights especially the right to life which is basic, dignity of human person and presumption of innocence. The government of Nigeria in response to this, enacted The Compulsory Treatment and Care for Victims of Gunshot Act 2017. However, despite the enactment of this Act, gunshot victims are still being denied treatments especially in private hospitals, resulting in preventable deaths. This calls to question, the effectiveness of the Act. This paper therefore undertakes an Appraisal of Right of Gunshot Victims to Compulsory Treatment and Care in Nigeria. It examines specifically, Compulsory treatment and care for gunshot victims in Nigeria, Refusal to treat gunshot victims, a violation of fundamental rights, analysis of the Compulsory Treatment and Care for Victims of Gunshot Act 2017, Issues and challenges arising there from and the practice in other jurisdiction. The doctrinal method of research was adopted in this paper, derived from both primary and secondary sources. Generally, it is the findings of this paper issues of lack of awareness, no machinery of control and compliance, no provision for medical emergency funds and lack of implementation, accounts for the ineffectiveness of the Act. It is recommended amongst other things that provision be made for medical emergency bills, a body be established to ensure compliance with the Act.

Introduction

In the past, gunshot victims were not only required to make financial deposits for medical bills but to also present police report and clearance before they could be treated even though there were no legal backings to the requirement of police report and clearance, but was predicated on the erroneous believe and suspicion that such victims were robbers that may have escaped from a gun battle with the police and such, police report and clearance were needed to clear that doubt. It does also appear that health workers' earlier refusal to treat gunshot victims was predicated on the erroneous interpretation of the provisions of the Robbery and Firearms (Special Provisions) Act[1], relating to gunshot victims. The section provides:

> It shall be the duty of any person, hospital or clinics that admits, treats, or administer any drug to any person suspected of having bullet wounds to immediately report the matter to the police.[2] Any person who; or hospital or clinics which fails to report as stipulated under subsection 2 shall be guilty of an offence under this Act.[3] Any person convicted of an offence under subsections (1) and (3) shall be liable in the case of an individual to imprisonment and in the case of a hospital or clinic to a fine of ten thousand naira and in addition, the hospital and clinic shall be closed down.[4]

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[1]Robbery and Firearms (Special Provisions) Act Cap R11 LFN 2004

[2] Ibid s 4(2)

[3] Ibid s 4 (3)

[4] Ibid s 4(4)

Though the above provision cannot and had not been interpreted by any court to mean that gunshot victims until police report or clearance is presented, there were instances where health workers were harassed and brutalised for admitting and treating gunshot victims. To avoid liability, health workers insisted on police report or clearance before commencing treatment on gunshot victims, those who did otherwise were treated as criminal conspirators and accomplices by the police, especially where the victims turned out to be robbery suspects. This created a serious bottleneck to the timely admittance and treatment of gunshot victims and has led to so many avoidable deaths.

Refusal to admit and treat gunshot victims is not just morally and ethically wrong but a gross violation of their fundamental human right, especially the right to life, dignity of human person and presumption of innocence which is guaranteed under the Constitution of the Federal Republic of Nigeria 1999 (as amended) and under international and regional human right instruments.

To cure this anomaly, the Nigerian government enacted the Compulsory Treatment and Care for Victims of Gunshot Act 2017, to provide for not just treatment of gunshot victims without police clearance but also admittance and treatment without financial deposit.

However, despite the enactment of this Act, there are still reported and unreported cases of gunshot victims dying as a result of denial of treatments by hospitals especially private hospitals for failure to present police report and clearance and in some cases failure to make initial deposit even though hospitals would usually hide under police clearance. This therefore calls to question, the effectiveness of the Act. With the increasing level of insecurity in Nigeria, a rise in the number of gunshot cases is foreseeable, the Act is a giant step in the right direction, but the government needs to do more than just enacting the Act to ensure its effectiveness in securing compulsory treatment and care for gunshot victims.

It is against this backdrop that this paper undertakes an appraisal of the right of gunshot victims to treatment and care, examining critically, the legal framework for the compulsory treatment and care for gunshot victims in Nigeria: The Compulsory Treatment and Care for Victims of Gunshot Act 2017, discussing the issues and challenges arising there from with reference to other jurisdictions.

Conceptual Clarification

2.1Compulsory

Compulsory means mandated by a legal process or statute to do something.[5]

2.2 Treatment

Treatment means the action or way of treating a patient or a condition medically or surgically: management and care to prevent, cure, ameliorate or slow progression of a medical condition.[6]

2.3 Gunshot Wound

Gunshot wound is an injury caused by a bullet or other projectile from a firearm that hits a human.[7]
Gunshot Victim is therefore a person who sustains an injury caused by a bullet or other projectile from a firearm.

2.4 Right/Human Right/Fundamental Human Right

Right- means a moral or legal entitlement to have or do something.[8] It is an advantage or benefit conferred on a person by law or conceived to be necessary to him for the full development of his personality and due to him by other people or the community.[9]

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[5]B A Garner, *Black's Law Dictionary* (8th edn West Publishing Co 2004) 305
[6] Merriam Webster, 'Merriam Webster Dictionary' <https://www.merriam-webster.com/dictionary>
[7]Farlex, 'Free Medical Dictionary' <https://medical-dictionary.thefreedictionary.com/gunshotwound> accessed 12 August 2023
[8]Michael Proffitt, *Oxford Languages* (Oxford University Press 2022)
[9] J M Elegido, *Jurisprudence* (Spectrum Books Ltd 2010) 163

Human rights have been defined as the freedoms, immunities, and benefits that, according to modern values all human beings should be able to claim as a matter of right in the society in which they live.[10]It incorporates the body of entitlements which humans enjoy or should enjoy by no other reason that they are human beings.[11]

They are universal values and legal guarantees which aim at protecting individuals and in some cases groups against actions and omissions primarily by government or governmental agencies which often times interfere with fundamental freedoms, entitlements and human dignity.

In *Uzoukwu v Ezeonu*[12] the court in distinguishing human rights from fundamental human rights state thus;

> Due to the development of constitutional law in this field, distinct difference has emerged between fundamental rights and human rights. It may be recalled that human rights were derived from and out of the wider concept of natural rights. They are rights which every civilized society must accept as belonging to each person as a human being. When the United Nations made its declaration, it was in respect of human rights as it was envisaged that certain rights belong to all human beings irrespective of citizenship, race, religion and the realm of domestic law. They are fundamental because they have been guaranteed by the fundamental law of the country; that is by Constitution.

3. Refusal to Treat Gunshot Victims in Nigeria: A Violation of Fundamental Human Rights

Gunshot victims are by all standards entitled to fundamental human rights guaranteed under chapter IV of the Constitution of the Federal Republic of Nigeria. Refusal to treat them for whatever reason is a gross violation of their fundamental rights, specifically the right to life, right to the dignity of human person and the right to presumption of innocence.

3.1 The Right to Life

The It is guaranteed not only under the Constitution of the Federal Republic of Nigeria 1999 (as amended) but also under both regional and international instrument.

Section 33 of the CFRN 1999 (as amended) provides; 'every person has a right to life, and no one shall be deprived intentionally of his life…' Thus, the section imposes on individual and the state, the obligation not to deprive another intentionally of his right to life except through the legally recognised exceptions.

Article 4 of the African Charter on Human and People's Right (Ratification and Enforcement) Act[13]provides; 'human beings are inviolable. Every human being shall be entitled to respect for his life and integrity of his person. No one shall be arbitrarily deprived of this right.'

Article 6 (1) of the International Covenants on Civil and Political Rights 1976 provides; 'every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.'

The common factor in the above provisions on the right to life is that no one should be intentionally or arbitrarily deprived of his right to life. Refusing to treat a gunshot victim even with the knowledge that it will lead to death is a good example of 'intentional or arbitral deprivation of life', thus a gross violation of their right to life.

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[10] B A Garner, *Black's Law Dictionary* (8th Edn, West Publishing Co 2004)

[11] R J Vincent, *Human Rights and International Relations* (Cambridge University Press 1986)

[12] (1991) 6 NWLR (200) 708

[1313] LFN 2004

Though the right to life is not absolute in Nigeria, watching a gunshot victim die because he is suspected to have sustained the injury from a criminal activity and there is no police clearance to negate that or because he is unable to make financial deposit is clearly not an exception under s 33(2) and s 45 of the CFRN 1999 (as amended).

The right to life encompasses a wide variety of rights which are dependent on the existence of life for their enjoyment; it is the nucleus of all other rights. By depriving a gunshot victim of his right to life, he has also been deprived of all other rights.

3.2 Right to Dignity of Human Person

S 34(1)(a) provides: 'Every individual is entitled to respect for the dignity of his person and accordingly, no person shall be subjected to torture or human or degrading treatment.'

This right is also guaranteed under S 5 of the African Charter on Human and People's Right (Ratification and Enforcement) Act and Art 7 of the International Covenants on Civil and Political Rights.

Refusal to treat a victim of gunshot is also a gross violation of his fundamental right to dignity of human person. What can be more inhumane and cruel than watching a gunshot victim wriggle in pain and bleed to death because of police clearance or deposit of money that still be provided after the victim has received medical attention. Being put through this kind of painful experience is worst form of torture not just physical but mental.

This right is one right that is absolute both under the CFRN 1999 and under international and regional instruments. It is not subject to any form of derogation not even under a state of emergency. Therefore, refusing to treat gunshot victims for whatever reason cannot be a legal justification.

3.3 **Right to Presumption of Innocence**

This right is guaranteed under S 36(5) of the CFRN 1999, S 7(1)(b) of the ACHPR Act and Art 14(2) ICCPR. It is to the effect that any person charged with a criminal offence shall be presumed innocent until proven guilty.

Charging a person of criminal offence is a further step from suspecting and investigating. Thus, whether a person (gunshot victims inclusive) is being suspected, investigated or charged with a criminal offence, he is presumed innocent until proven guilty in a court of competent jurisdiction. Refusing to treat a gunshot victim because he is suspected to have sustained the wound from a criminal activity is a gross violation of this right.

4.Some Death Incidences from Refusal to Treat Gunshot Victims

There are countless cases of preventable deaths in Nigeria, reported and unreported, resulting from refusal to treat victims of gunshot but for want of space, few will be stated.

In 2014, my final year at the Rivers State University of Science and Technology now Rivers State University Port Harcourt, armed robbers visited my off-campus residence, Billy Close, at the Rivers State University back gate and in the process of robbing, shot a final year student. His roommates rushed him to a private hospital, but the doctors insisted on police clearance before commencing treatments. Because they were scared of police harassment, they instead of going straight to the nearest police station to obtain clearance decided to come back to fetch our landlord who was a lawyer, to help obtain the clearance. The victim died before they could obtain police clearance.

In 2018, it was reported that one Adebayo Akinwumi, an Ogun State based Engineer was shot by robbers who robbed in his house at Ofada-Mokoloki. Obafemi Owode Local Government Area of Ogun State. His family alleged that he was rushed to a private hospital in the area but was rejected because he didn't have police report; he was then taken to Reddington Hospital, the company hospital where he was also rejected for the same reason. From there, he was moved to Lagos State University Teaching Hospital

but there was no surgeon to attend to him due to the ongoing industrial action of health workers. He eventually died at the Teaching Hospital.[14]

There is also the case of Ebenezer Ayeni a music instructor, who was shot by armed robbers who invaded his residence and was allegedly rushed to the University College Hospital Ibadan, and another private hospital but was refused treatment without a police report. He later died hours later.[15]

On the 25th of December 2022, a pregnant Lagos based lawyer Omobolanle Raheem was shot dead by an Assistant Superintendent of Police. She was said to have been refused treatment by two hospitals and gave up by the time they got to the third hospital.[16]

Reports abound, not just documented reports, of very many Nigerians who have died under circumstances as this, either while on the waiting list for police clearance or because of their inability to make initial financial deposit for treatment.

4. Compulsory Treatment and Care for Victims of Gunshot Act 2017: Analysis

The Act makes provision for various rights and obligations, as well as penalties. It provides specifically:

1. The rights of a gunshot victim
2. The right of a volunteer or helpers of the gunshot victim
3. Obligations of the hospital
4. Obligations of the police
5. Penalties for the violation of the provisions of the Act

4.1The Rights of a Gunshot Victim

a. The right to receive immediate and adequate treatment in any hospital, whether public or private with or without police clearance,[17]
b. The right to assistance to the nearest hospital for immediate treatment,[18]
c. The right to be received for immediate and adequate treatment in any hospital with or without monetary deposit,[19]
d. the right not to be subjected to inhuman and degrading treatment or torture by any person or authority including the police or other security agencies,[20]
e. The right not to be invited by the police from the hospital for the purpose of investigation unless certified fit and no longer in dire need of medical care by the Chief Medical Director of the hospital.[21]

4.2 The Rights of a Volunteer or Helper of the Gunshot Victim

The Act protects both the health workers who attend to gunshot victims and other volunteers and helpers who assisted the victim against police harassment. Many gunshot victims lost their lives because people for fear of police harassment failed to render assistance. In most cases, those who rendered assistance suffered untold hardship in the hands of the police for doing so especially young men. As a result, people feared to be associated with gunshot victims.

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[14] E Nnadozie and C Obinna, 'Treatment of Gunshot Victims: Police, NMA Disagree' *Vanguard* (Abeokuta May 22 2018)
[15] K Oyero, 'Ebenezer Died of Gunshot Wound Because Hospitals Demanded Police Report' *The Punch* (Ibadan June 11 2021)
[16]Onozure Dania, 'My Wife Battled for Survival as Hospitals Refused Treatment: Slain Lawyer's Husband' *Punch* (Lagos 7th January 2023)
[17]Compulsory Treatment and Care for Victims of Gunshot Act s 1
[18]Ibid s 2(1)
[19]Ibid s 2(2)(a)
[20]ibids 2 (2)(b)
[21]Compulsory Treatment for Victims of Gunshot Act s 4

The Act has changed this narrative by offering protection to volunteers and helpers. It provides thus 'every volunteer or helper of a victim of gunshots shall be treated with respect and shall not be subjected to unnecessary and embarrassing interrogation in their genuine attempt to save life.'[22]

However, what is offered under the Act is protection from 'unnecessary' embarrassing interrogation in their 'genuine' attempt to save life. Thus, it does appear that where the in the circumstance and/or further investigation as to the circumstances of the gunshot it becomes necessary to interrogate such volunteer, such volunteer will be subjected to interrogation.

The Act places a duty on every person render every possible assistance to a gunshot victim to ensure such person is taken to the nearest hospital for immediate attention. Failing to give assistance is a crime, punishable under the Act.

4.3 Obligations of the Hospital

The Act places on any hospital whether public or private that receives a gunshot victim, the following obligations:

a. To receive for immediate and adequate treatment, a gunshot shot victim with or without police clearance.[23]
b. To receive for immediate and adequate treatment, a gunshot victim with or without initial monetary deposit.[24]
c. To report the fact of the treatment to the nearest police station within two hours of commencement of treatment.[25]
d. To notify the family members or relations of the victim within 24 hours of becoming aware of the victim's identity.[26]
e. To keep adequate record of treatment given to the victim.[27]
f. To ensure the victim is fit and no longer in need of medical care before the Chief Medical Director of the hospital certifies him fit to be invited by the police for investigation.[28]

This provisions not only closes the channels of excuse by hospitals for refusal to attend to a gunshot victim but also rules out the possibility of treating and releasing to the street, a person suspected to have sustained the gunshot injury while involving in a criminal act.

4.4 Obligations of the Police

The Act places on the police, the following responsibilities:

a. To render every possible assistance to a gunshot victim to ensure such person is taken to the nearest hospital.[29]
b. Not to subject any person with gunshot wound to inhuman and degrading treatment or torture.[30]
c. To commence, upon receiving report from the hospital, investigation with a view to determining the circumstances under which the person was shot.[31]
d. Not to invite any person with gunshot wounds from the hospital for purposes of investigation unless such person is certified fit and no longer in need of medical care by the Chief Medical Director of the hospital where the victim is receiving treatment.[32]

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[22]Compulsory Treatment for Victims of Gunshot Act s 8
[23]Ibid s 1
[24]Ibid s 2 (1)(a)
[25]Compulsory Treatment for Victims of Gunshot Act s 3
[26]Ibid s 10
[27]Ibid s 12
[28]Compulsory Treatment and Care for Victims of Gunshot Act s 4
[29]Ibid s2(1)
[30]Ibid s 2(2)(b)
[31]Compulsory Treatment and Care for Victims of Gunshot Act s 3(2)
[32]Ibid s 4

e. To treat every volunteer or helper with respect and not subject such person to unnecessary and embarrassing interrogations. [33]

4.5 Offences/Penalties

a. Any hospital that fails to make a report commits an offence and is liable upon conviction to a fine of N100,000 and every doctor directly involved in the treatment will be liable upon conviction to a term of six months imprisonment of N100,000 or both.[34]
b. Any person who commits an offence under the Act, which leads to or causes substantial physical, mental, emotional, and psychological damage to the victim commits an offence and shall upon conviction be liable to imprisonment to a term not more than 15 years and not less than 5 years without an option of fine.[35]
c. Any person or authority including the police that stands by and fails to perform his duty under the Act which results in unnecessary death of any person with gunshot wound commits and offence and is liable upon conviction to a fine of N500,000 or imprisonment to a term of 5years or to both.[36]

5. Compulsory Treatment and Care for Gunshot Victims Act 2017: Issues and Challenges

The Act has not been very effective in protecting the right of gunshot victims to compulsory treatment and care. Despite the enactment of the Act, there are stills reported and unreported cases of victims of gunshot dying as a result of hospitals' (especially private) refusal to attend to them without police report or initial financial deposit. The following may account for some of the reasons for the ineffectiveness of the Act:

1. **Lack of awareness/Ignorance of the Act**- most persons, hospitals, and institutions including the police are not aware of the existence of the Act, those who are aware are not fully abreast with the provisions of the Act as to know the extent of their right, obligations, and liabilities under the Act. For this reason, most families of victims and volunteer victims rarely seek the enforcement of their rights under the Act.

2. **No machinery of control and compliance**- the Act does not provide for an independent institution that will enforce and ensure compliance with the Act. Considering how cumbersome, time wasting and expensive the judicial process in Nigeria is, most persons would rather not put themselves in the position where they would have to go to court especially volunteers or helpers, especially where the action will be against the police.

3. **The question of who pays the hospital bill**-the Act does not answer the question of who pays the bill should the victim fail to pay. As a result, most private hospital avoids the treatment of gunshot victims and often refer them to government hospitals. This concern was expressed by the National Secretary of the Nigerian Medical Association, Olumuyiwa Odusile in a telephone chat with Vanguard news.[37]This concern is legitimate and should not be swept aside. Private hospitals are people's private businesses, kept going by incomes generated from the hospital, such treatment of victims with hospital facilities and equipment without a corresponding income will crumble the business.

The Speaker of the House of Representatives in the opening ceremony of the 44th/45th Annual General Scientific Meeting of the West African College of Physicians, Nigeria Chapter, held in Abuja, Femi Gbajabiamila represented by Tanko Sunumu, the Chairman House Committee on Health stated that they are considering the amendment of the National Health Act and that in the proposed amended Act,

[33]ibid s 8
[34]Ibid s 5
[35]Compulsory Treatment and Care for Victims of Gunshot 2017, s 9
[36]Ibid s 11
[37](n14)

provisions were made for health care service providers to claim funds used to treat gunshot victims during emergencies.[38]This question has to be taken care of for the Act to be effective.

4. Lack of Implementation/enforcement- this is another challenge. This may be due to the fact that the police, the agent of government saddled with the responsibility of enforcement is fully involved under the Act and as a result are not readily available and willing to enforce as they often turn out to be the reason for the non-compliance.

6. Lessons from Other Jurisdictions

6.1 South Africa

Both the Constitution of South Africa [39] and the National Health Act[40] provide that nobody shall be denied medical treatment during an emergency. This right is available to all including victims of gunshot injury. Emergency medical treatment under the Act means where a person suffers a sudden catastrophe that calls for immediate medical attention.

Aside the Constitution of the Republic and the National Health Act, South African Medical and Dental Council imposed a duty on all doctors to render assistance in all circumstances during an emergency. What this impliesis that all victims of accident or any injury requiring emergency attention, whether or not of gunshot shall be attended to.[41] The implication of this rule is that where any person needs medical assistance to save his life a doctor who is available whether or not the victim is his patient is legally and ethically wrong not to render such assistance.

By providing for emergency medical treatment in the Constitution, South African government have not only expressed it to be fundamental but have also solve the first challenge discussed above. The Constitution of country as in Nigeria is one statute that is read and discussed daily by almost everybody, constitutional rights are known to almost every Nigerian. Providing for emergency medical treatment in the CFRN will almost solve the problem of ignorance of the law.

6.2 United States of America

In USA, the Emergency Medical Treatment and Active Labour Act 1986 (EMTALA) also known as 'anti-dumping' law was enacted to cure the ugly trend of hospitals refusing to treat emergency patients or transferring them to charity or public hospitals because victims are unable to pay or had no medi-aid coverage. The purpose is to screen and treat the emergency condition of patients in a non-discriminatory manner, regardless of the ability to pay, insurance status, national origin, race, creed or colour.[42]

EMTALA requires hospitals with emergency departments to provide emergency medical care to everyone who needs it, regardless of ability to pay or insurance status. It also provides that where a victim of emergency is brought to the hospital, the hospital must provide treatment until the patient is stabilized, or if they do not have the capabilities, transfer the patients to another hospital. Hospitals with specialized capabilities are obliged to accept transfers if they have the capabilities to treat them. Medical care cannot be delayed by question about method of payment or insurance coverage. Under EMTALA, transfer can be done if one of the following conditions exist:

i. The patient or someone acting on his behalf provides a written request of transfer despite being informed of the hospital's obligations under EMTALA.
ii. A physician certifies that medical benefits reasonably expected from the transfer outweighs the risk to the patient.

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[38]Vanguard News, <vangaurdngr.com/2021> accessed 15 August 2023

[39] Constitution of the Republic of South Africa 1996 s 27(3)

[40] National Health Act No 61 2003 s5

[41] Medical and Dental Council, 'Ethical and Professional Rules of the Health Profession Council of South Africa' *Government Gazette 31825* (February 2 2009) .

[42]W Ann and J D Latner ' Law 101: Emergency Medical Treatment and Active Labour Act' <https://www.empr.com> accessed 12 September 2021

Where a hospital has decided to transfer a patient that has not been stabilized, the following steps must be taken:

i. The transferring hospital must provide all medical treatment within its capacity, which minimizes the risk to the patient's health.
ii. The receiving facility must accept the transfer and must have space available and qualified personnel to treat the patient.
iii. The transferring hospital must send copies of all medical records related to the emergency medical condition.
iv. Qualified personnel with the appropriate medical equipment must accompany the patient during the transfer. The transferring physician has the responsibility of selecting the most appropriate means of transport to include qualified personnel and equipment.

Under EMTALA, the patients care during the transfer is the responsibility of the transferring physician/hospital until the patient arrives the receiving hospital.
Under EMTALA, the following notice to the public is required is required to be displayed in all public entrances, registration areas, emergency department, waiting areas of the hospitals:

> IT'S THE LAW, IF YOU HAVE A MEDICAL EMMERGENCY OR ARE IN LABOUR, YOU HAVE THE RIGHT TO RECEIVE (within the capability of the hospital's staff and facilities) AN APPROPRAITE MEDICAL SCREENING EXAMINATION NECESSARY STABILIZING TREATMENT (including treatment for an unborn child) and, if necessary, AN APPROPRAITE TRANSFER to another FACILITY EVEN IF YOU CANNOT PAY OR DO NOT HAVE MEDICAL INSURANCE or EVEN IF NOT ENTITLED TO MEDI-CARE OR MEDI-AID. THIS HOSPITAL DOES/DOES NOT PARTICIPATE IN THE MEDI-AID PROGRAM.

The sign above must be visible from patients' likely viewpoint and posted in a manner likely to be seen. Penalties for violation of the Act include: fines of $50,000 for hospitals and physicians, termination of the hospital and the physician's medi-care provider agreement and private civil suits.[43] In the year 2000, the US congress made EMTALA enforcement a priority, fines of more than $1,7 million was collected, nearly as much as in the first ten years of the existence of the Act of $1.8 million.[44] Many of the provisions of the Act are now considered as the standard of care due to its wide spread enforcement. [45]

The department of Health and Human Services oversees EMTALA enforcement which is a complaint driven process spanning three potential agencies: the Office of Inspector General (OIG), the Centre for Medi-care and Medi-Aid Services (CMS) and the Office for Civil Rights to which OIG and CMS may refer specific cases. The agencies may also act on the basis of independently initiated investigations.[46] Although the initial intent of the Act was to ensure non-discriminatory access to emergency medical care, its practical ramification have broadened significantly over the years and arise from 3 sources: the statute's original language, the interpretative guidelines that have been issued which are not mere suggestions but have the force of law, and the various federal courts decisions that have resulted from alleged EMTALA violations.[47]

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[43]Sanjit Shah, 'Examining Emergency Medical Treatment and Active Labour Act: Impact on Telemedicine and Neurotrauma' [2020] (49)(5) Journal of Neurosurgery <https://thejns.org/focus/view/journal/neurosurgery> accessed 12 August 2023

[44]American College of Emergency Physicians, 'EMTALA Fact Sheet' <https://www.acep.org/life-as-a-physician> accessed 13 August 2023

[45](n46)

[46]S Rosenbuam, 'The Future of Emergency Medicine: Challenges and Opportunities' [2013](32)(12) *Health Affairs*24

[47]J Zibulewsky, *The Emergency Medical Treatment and Labour Act: What it is and What it Means for Physicians* (Baylor University Medical Centre 2001) 339-346

The provisions of the EMTALA provides solution for the four issues raised above and more, including the question of who pays the medical bills.

7.1 Conclusion

Gunshot victims are human beings, entitled to the fundamental rights especially the right to life. Their rights should not be sacrificed in the altar of bureaucracy, technicalities and irresponsibility by the government, health workers and other persons who are obligated to protect or respect their rights. The Nigerian government in fulfilling the duty of protecting the rights of gunshot victims has enacted the Compulsory Treatment and Care for Gunshot Victims 2017, but more needs to be done towards ensuring the effectiveness of the Act, especially in the area of implementation. The major reason for examining the practice in other jurisdictions is to draw lessons that can better the situation in Nigeria. The practice in South Africa and the United States of America proffers solutions to the key issues in Nigeria in the treatment and care of gunshot victims, which if taken into consideration would enhance the effectiveness of the Compulsory Treatment and Care for victims of Gunshot 2017.

7.2 Recommendations

It is recommended as follows;

1. The Federal and State governments through the Ministries of Health and Justice and Nigerian Police Force should take the initiative to create awareness through sensitization programs, seminars, workshop to educate hospitals, law enforcement authorities and the general public on their rights and obligations under the Act. It should be made mandatory for all hospitals to display conspicuously, a notice informing victims who come into to the hospital of their right to emergency treatment, with pr without police report, with or without financial deposit, just as required by the EMTALA 1986, emergency medical treatment should also be provided for in the CFRN.
2. As under the EMTALA, the government should set up an independent institution that will see to the implementation of the Act and ensure compliance with the Act.
3. Provisions should be expressly made for health care providers to claim funds used in the treatment of gunshot victims during emergencies. Government should set up a scheme and allocate separate funds for this purpose.
4. The police and the Ministry of Justice should be active in the prosecutions of offenders.