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## **PREFACE**

*The challenges of policing women and children in Nigeria fall within the challenges of policing generally. Women and children have been described to form part of the vulnerable groups of persons that exist within the country. They are said to be vulnerable because the societal framework does not operate in their interest. Nigeria is a patriarchal and adult dominated society.*

*The Nigeria police force has been tasked with the responsibility of protecting the lives and properties of all citizens and everybody that lives within the borders of the country. Section 4 of the police act (cap. 359 laws of the federation of Nigeria, 1990) lists the responsibilities of the police as follows:*

- 1. Prevention and detection of crime;*
- 2. Apprehension of offenders;*
- 3. Preservation of law and order;*
- 4. Protection of life and property;*
- 5. Due enforcement of all laws and regulations with which they are directly charged; and*
- 6. Perform such military duties within or without Nigeria as may be required of them by or under the authority of this or any other act.*

*This tool kit is aimed at serving as a resource document for the police to build the capacity of its officers and men to respond to policing issues relating to women and children in Nigeria.*

*The initial version of the tool kit was developed by CLEEN Foundation and project alert on violence against women as part of the project aimed at creating awareness and sensitizing the police in Lagos state to respond to gender based violence. The project was supported by the Delegation of the European Union.*

*The tool kit has been expanded to include a section on policing children and the child justice administration in Nigeria.*

*The tool kit is meant to serve as a daily companion to all whose duty is to provide one form of service or the other to women and children-as victims of crime. It would also serve as a guide to victims.*

*We hope that it would serve as resource material to the law enforcement officers (the police) and other service providers, on how best to respond to issues relating to women and children.*

**Oluwakemi Okenyodo**  
**Deputy Executive Director**  
**CLEEN Foundation**

## **PART ONE: RESPONDING TO GENDER BASED VIOLENCE**

## ***FREQUENTLY ASKED QUESTIONS FAQs?***

**There are some frequently asked questions, any time the issue of gender base Domestic violence. Below are some of these questions.**

- ***What is gender?***

Gender is a **social** construct. This means the different roles and responsibilities society assigns men and women. It is different from sex, which is the **biological** difference between men and women. It is a term indicating socially determined roles given to men and women in society. These roles are determined by structural and individual conditions, such as culture, tradition, religion etc

- ***Why do men feel uncomfortable any time the issue of gender is brought up for discussion?***

Gender as a concept acknowledges that there are disparities between male and female gender. A discussion about gender relation reveals the fact that women are often discriminated against in almost all sphere of life-public and private. The concept assumes that the inequality men and women can be changed, and in equality between the sexes attained. This requires a change in attitude. This makes men uneasy. Why should they ‘lose’ the power, control and dignity ‘God gave them as men’. However a better understanding of gender relations, improves communication and understanding between sexes.

- ***What is gender-base violence?***

Gender based violence as define by United Nations, is any act of violence that results in or is likely to result in physical, sexual, psychological harm or suffering to a woman, including threats of such acts, coercion, or arbitrary deprivation of liberty whether occurring in private (domestic) or public life. It is violence directed at women, because they are women.

- ***Is gender base violence the same as violence against women?***

Gender base violence and violence against women, are often used interchangeable, which means either one of them can be used to refer to various acts of violence against women and young girls. Though gender refers to men and women, the term gender-based violence as define above, refers to violence against the female gender.

- ***Can men also suffer from gender-based violence?***

Yes men also suffer from gender-based violence. However women are mostly the victims. However in recognition of the fact that worldwide, women are mostly the victims of gender-based specific forms of violence, the United Nations defines gender-base violence, as **harm or suffering to women.**

- ***Are all forms of violence experienced by women, gender-based?***  
No, not all forms of violence experienced by women are gender-based. For example when a family is attacked by robbers the violence they experience is gender-neutral. However if the robbers go a step further to rape the woman/girl in the family, then it is gender-based. This is violence directed against a woman, because they are women.
- ***What is Domestic violence?***  
The physical, sexual and psychological violence occurring in the family, i.e. on one member of the family by another member, or where the victim and the perpetrator have some form of familial or personal relationship or were they have such a relationship in the past. This include live-in (living together without formal approval) partners, boyfriend/girlfriend etc.
- ***What forms does Domestic violence take in the community?***  
Domestic violence is a common occurrence throughout Nigeria and it comes in various forms or it 'wears many faces.
- ***Do you think domestic violence violates human rights?***  
Domestic violence violates human rights i.e. rights to life, and personal dignity, threaten their (women) health restrict their labour and participation in development and can make them to maintain public silence when they should speak politically.
- ***What do the women want?***  
They want to be free and enjoy the rights given by the 1999 constitution of the Federal Republic of Nigeria i.e.
  - Right to life.
  - Right to dignity of human person
  - Right to personal liberty.
  - Right to fair hearing.
  - Right to private and family life.
  - Right to freedom of thought, conscience and religion.
  - Right to freedom of expression and the press.
  - Right to peaceful assembly and association.
  - Right to freedom of movement.

## ***CHAPTER 1***

### **Introduction**

- ***Background***

Gender-based violence is a universal abuse of women's human rights. Women from different continents, countries, ethnic groups, religious, cultural and social backgrounds; literate or illiterate; rich or poor; in peace time or in war, continue to suffer one form of violence or the other at the hands of the state, the community, or their own family. In various countries and continents the world over, conscious steps are being taken to address this problem.

In Nigeria, various literature on gender-based violence has shown that the phenomenon is not only on the increase, but also has no respect for age, social status, or geography. Several forms of gender-based violence have been identified to be prevalent in the country. These include physical, sexual, and psychological violence occurring in the home or in the public. Specifically, these are domestic violence, rape, incest, harmful traditional practices (widowhood rites, female genital mutilation etc), child prostitution, and trafficking.

In spite of the growth in the number of victims of gender-based crime, the reporting rate to the police has been very low in comparison with other crimes such as robbery and burglary. In a survey carried in 2003 in Lagos Nigeria, only 23 per cent of victims of gender-based crimes reported their victimization to the police. The figures will certainly be lower when you measure reporting rates in other cities and states in Nigeria that neither have the cosmopolitan outlook of Lagos nor the literacy level.

Among the reasons given by respondents for the low reporting rate of gender-based crimes to the police include:

- Police lack of sensitivity to the specific needs of the victims
- Inability of the police to do anything
- Ridiculing victims by the police
- Fear of inadequate protection in cases where the perpetrators are living with the victims
- Lack of where to go in the cases of domestic violence.

Yet the police are very critical in preventing and dealing with cases of gender-based violence in Nigeria in spite of the present state of affair. Not only are they needed in arresting and bringing the perpetrators to justice, they are also ideally placed to activate a chain of referral services including medical attention, counseling services, legal advise/aid; and shelter for victims and in creating awareness about gender-based crimes among the gen-

eral population. This they can only do effectively if they are gender sensitive, provided with institutional capacity to respond to gender-based crimes, and networked with other state and non-state actors especially civil society groups such as women's rights organizations/human rights organizations.

### ***Purpose of the Tool Book***

The primary purpose of the tool book is to sensitize both state and non-state actors on how best to prevent and respond to all forms of gender-based violence in the society. This includes sexual violence and other forms of gender based violence (GBV) in the society.

In developing the tool book, there was no basic assumption that the users have extensive knowledge of the various issues covered. Thus the handbook seeks first to create awareness and familiarize all users and trainers on the various issues bordering on GBV; and secondly provide guidance on the best way to respond to cases of GBV.

The tool book therefore has as its objectives:

- Providing basic information on gender based violence
- Guidance on how best to respond to GBV

### **Target Audience**

This tool book is designed for use by both state and non-state actors such as law enforcement officials particularly officers and men of the Nigeria Police Force, the social welfare ministry, Non-Governmental Organisations (NGOs), Community-Based organisations (CBOs), who come in contact with female victims of gender-based violence.

The handbook emphasizes the importance at every stage of active involvement of other local actors (referral systems) that can assist the police render the necessary assistance to GBV victims. This involvement of the referral system is fundamental to the success of a well coordinated action, and will allow for strengthening of local capacity and enhance sustainability.

### **Sections of the Tool Book**

The tool book is divided into six chapters, but begins with **Frequently Asked Questions, FAQs** on gender and gender-based violence.

Chapter 1 is the **Introduction**, which gives a brief background to the issue; states the purpose of the manual; and the target audience.

Chapter 11 is titled **Forms of Gender-Based Violence**; while Chapter 111 titled **Legal Framework**, focuses on national, regional and international laws and instruments guiding response by state and non-state actors to gender-based violence. Also the different forms of legal redress available to victims is contained in this part.

Chapter 1V focuses on **Practical Steps By Victims of Gender-Based Violence, providing a guide to victims on what to do, and where to go to, after an assault (physical or sexual), has taken place.**

Chapter V dwells on **Response of State Actors (The Police)** to gender-based violence cases. **Responses by Non-State Actors (NGOs, CBOs and Faith-Based Organisations)** is the title of Chapter VI.

## CHAPTER 11

### **Forms of Gender-Based Violence**

There are three distinctive forms of gender-based violence. These are **physical, sexual and psychological**.

**Physical:** The physical form of gender-based violence includes acts such as slapping, hitting, kicking, stabbing, shooting, marital rape/acquaintance rape; threatening with weapons, forced pregnancies, pouring acid or any other corrosive substance, men bringing STDs/HIV to their wives and murder. These various types of assault can occur both in public and in private (the home). This means that a woman or young girl could either be assaulted by someone who is not related to her in anyway, in the public or by a family member inside the home.

**Harmful Traditional Practices** constitute yet another form of physical violence experienced by women in Nigeria. These include burden and workload being put on women, men going away from the home leaving the children and mother without any support, in-laws and relations of the husband tormenting the wife and the power they wield determines the fate of the wife in the family, widowhood rites, widow inheritance/denial of inheritance rights and female genital mutilation, (FGM). Under the guise of culture and tradition, widows are subjected to all sorts of inhuman practices such as drinking the water used to bath the corpse, sleeping with the corpse; sitting on the floor and eating from an unwashed and/or broken plate etc. In some cultures, widows are either inherited as properties themselves or denied the right to inherit their late husband, even where there are children to feed, clothe, housed and trained. While some widows are forcefully ejected from their matrimonial home on the death of their husbands, others are physically assaulted.

Female genital mutilation is yet another form of harmful traditional practice. For a very long time, this practice was known as female circumcision. However the name female genital mutilation was adopted to emphasis the harmful effects of the practice on women/young girls. This Harmful practice involves the cutting and removal of part or all of the clitoris for reasons which are cultural and not medical or ethical. The consequences of FGM are numerous, including medical, gynaecological, emotional and psychological. Immediate complications such as severe blood loss leading to anaemia or death could occur; while long term implications such as chronic pelvic inflammatory disease, infertility etc, could set in.

**Economic violence;** this includes women losing their job when they are pregnant, men/fathers not providing adequate financial support for the family, feminization of poverty, husbands taking wife's salary or wife's income, men spending much money on beer and girlfriends when their children are hungry and have no money for school fees and wife's property considered as the husband's.

**Sexual:** This includes rape, indecent assault of women and young girls, incest, and sexual harassment, child pornography

***Rape*** is having sex with a woman without her agreement, which in law is called ***Consent***. Rape is a crime. According to Section 357 of the Criminal Code, any person who has ***unlawful carnal knowledge*** of a woman or girl without her consent; if the consent is obtained by force or by means of threat or intimidation of any kind, or by fear of harm, or by means of false and fraudulent representation as to the nature of the act...

By ***unlawful carnal knowledge***, the law means the man's penis must enter the woman or girl's vagina. Also if a man attempts penetrating a woman or young girl but does not either because the woman/girl is able to ward him off, or he is caught in the act, he is still guilty of attempted rape.

***Indecent Assault*** is the sexual exploitation (seduction or prostitution) of a young girl below the age of sixteen years.

***Incest*** is sexual relations between blood relations. In its commonest form, it is sexual abuse of young girls in the home by adult male family members such as father, brother, uncle, cousin, grandfather. Incest constitutes one of the most dangerous forms of gender-based violence because of the silence and denial that surrounding it. It is considered a taboo and as such the often young victim is not believed, and no attempts made to protect her from the abuser. As a result incest might go on for a long time before it gets exposed.

***Sexual harassment*** is yet another form of sexual violence. This means unwanted and unwelcome sexual advances. It includes unwanted sexual speech, looks, and gestures that could lead to sexual assault/rape. Sexual harassment can take place at home, in schools, workplaces, and other public places.

**Psychological:** This form of gender-based violence is not immediately obvious to the eye. It involves threats to life, threats of physical abuse, verbal abuse resulting in deep rooted fear and trauma to the victim; neglect and abandonment physically, sexually, and financially.

- ***Reasons for domestic violence***

This include provocation resulting from insubordination, disrespect to husband and in-laws, denial of sex, inability to take care of home and children, engaged in social activities outside the home, complaint over insufficient housekeeping allowance, keeping company not approved by husband and infidelity.

- ***Causes of domestic violence***

The cause of domestic violence are too numerous some of them include; the use of alcohol and drugs by the abusive husband, victims provocative actions, mental derangement, stress, frustration, lack of economic power, under-development, inferiority complex, violent family background and perception of women as chattel

## ***How have various stakeholders in society responded historically to GBV?***

Historically, the response by various stakeholders in the society, such as the police, service providers, religious organizations, family members and friends, has been highly insensitive to the plight of the female victims. Victims of GBV, are often blamed for their plight,

In domestic violence cases, it is often considered a private matter, with the female victims, being blamed for not being submissive enough, patient and tolerant. They become doubly victimized by being accused of having provoked their husbands into beating them. Sexually abuse children in the home (victims of incest) are not believed when they report. Instead they are often called **bad** children who tell lies. This response often exposes the young victims to further and more severe abuse from the perpetrator.

In the case of rape, victims are often accused of dressing provocatively, behaving in such a manner as to invite the rape upon themselves (e.g entering a man's car, going out on a date with a man/boy; being in the same room/house with a man alone etc). By so doing no attention is paid to the perpetrator (suspect) and the fact that a crime has been committed. Instead the victim becomes the villain. The victims' family on their part consider it too shameful to report and support the victims' in seeking justice.

## ***What are the major consequences of this historical response to gender-based violence?***

There are three major consequences of the insensitive response to reported cases of gender-based violence. These are:

- Under-reporting
- Health problems (physical and mental)
- Death

**Under-reporting.** One of the characteristics of GBV, and in particular sexual violence, is under-reporting. Survivors/victims generally do not speak of the incident for many reasons, including self-blame, fear of reprisals, pressure from family members; ignorance of rights and options available; economic dependence on batterer; mistrust of authorities, and risk/fear of re-victimization.

Acts of GBV evoke shame and blame, social stigma, and often rejection by the survivor/victim's family and community. Stigma and rejection can be especially severe when the survivor/ victim speak out or report the incident.

**Health Problems.** Survivors/victims of GBV are at high risk of severe and long-lasting health problems, which could be physical or psychological in nature. These include permanent physical disabilities because of injuries sustained; mental imbalance/psychological

trauma due to social stigma and rejection; unsafe abortion; and sexually transmitted diseases including HIV/AIDS.

**Death.** This constitutes a major consequence of wrong response to reported cases of gender-based violence. Disbelieve, apathy, and blame of victim could result in murder or suicide.

## CHAPTER 111

### Legal Framework

In responding to various forms of gender based violence, the existing legal frameworks need to be clearly understood. Legal frameworks mean the laws that exist which prohibit gender based violence. **It is note worthy that there is no one general law on gender-based violence.** However there are various laws or legal instruments that prohibit the various forms of gender-based violence listed in Chapter 11 of this tool book. These legal frameworks can be divided into three – national, regional and international instruments.

#### *National Instruments*

In Nigeria, there are various legal frameworks for responding to gender-based violence. These are the Nigerian Constitution, the Criminal Code, the Penal Code and State Laws.

**The Nigerian Constitution (1999)** protects the dignity of the human person and guarantees the right of every Nigerian (man, woman and child), to equality (**section 42**) The section states that **every Nigerian has a right not to be subjected to** cruel, inhuman, and degrading treatment or punishment. All forms of gender-based violence are inhuman, degrading, and dehumanizing.

Section 42 of the constitution also provides that no Nigerian shall be subjected to discrimination on the basis of sex or gender. This means that violence that is targeted at women further violates the constitution, not just because it constitutes inhuman and degrading treatment, but also because it is **discriminatory**.

Gender based violence overwhelmingly involves physical and sexual assault. Assault is a criminal offence and occurs when a person who strikes, touches, or moves, or otherwise applies force of any kind to, the person of another, either directly or indirectly, without his/her consent, or with his/her consent, if the consent is obtained by fraud, or who by any bodily act or gesture attempts or threatens to apply force of any kind to the person of another without his/her consent, in such circumstances that the person making the attempt or threat has actually or apparently a present ability to effect his/her purpose, is said to assault that other person, and the act is called an assault<sup>1</sup>.

The term "applies force" includes the case of applying heat, light, electrical force, gas, odour, or any other substance of thing whatever, if applied in such a degree as to cause injury or personal discomfort. (Refer to the work session of this manual for other laws on assault).

Though presently there is no law on domestic violence specifically, the law on assault as contained in the Criminal Code, does not exclude the domestic sphere. The **Criminal Code** prohibits unlawful assaults (assault being the technical term in law for violence). An assault is

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<sup>1</sup> Chapter 77 (252)Criminal Code Act

unlawful when it is not **excused, justified or authorized** by law. For the purpose of Criminal Law, an act of violence may be **excused** when it is done under provocation or mistake or insanity or intoxication; **justified** when it is done under necessity or in self-defence; **authorized** when there is legal power to use force without consent.<sup>2</sup> Thus domestic violence is unlawful assault as it is not excused, justified or authorized by law.

Various States Houses of Assembly have also enacted laws on various forms of gender based violence. For instance in Enugu State there is a law prohibiting Harmful Widowhood Practices. In Edo, Cross-River and Delta States, there are laws prohibiting Female Genital Mutilation, FGM.

### ***Regional Instruments***

In the African region, there are also laws or regional instruments that prohibit gender-based violence. **The African Charter on Human and People's Rights, in Part 1, Chapter 1, Articles 1- 18 stipulates the basic rights of every African (man, woman and child).** While Article 2 talks about non-discrimination based on sex, among other things such as race, colour, language etc; Articles 4 -7 talks about respect for life and integrity of human person; dignity and security of person; and the right to have his/her case heard. Article 18, No.3 specifically states that the state shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of women and children as stipulated in international declarations and conventions.

**The Protocol on the Rights of Women in Africa**, an instrument for the advancement of women's rights in the continent was adopted on July 11, 2003 by the 53 member nations of African Union. The protocol came into force November 2005, when the 15<sup>th</sup> country (Togo) as required, ratified the instrument. The Protocol reflects the specific violation of women's rights in Africa, justifying its adoption in the preamble, with the continued discrimination against women and harmful traditional practices despite states' commitment at both regional and international levels.

### ***International Instruments***

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the UN General Assembly, is often described as an international bill of rights for women. It defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination. Nigeria signed and ratified this convention in 1985. The Convention defines discrimination against women as "...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their

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<sup>2</sup> Atsenuwa.A. 2006 "***Gender Based Violence: Legal Framework for Response***" being paper presented at Sensitization Seminar for the Police in Lagos State. July 18, 2006

marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field" <sup>3</sup>

By signing and ratifying the convention, the Nigerian government was telling the whole world that it condemned all forms of discrimination against women, and agreed to pursue all appropriate means and without delay, a policy of eliminating discrimination against women.

### **What Legal Redress are Available?**

Legal redress available to GBV victims can be classified into two levels. These are:

- Personal Level
- Institutional Level

**Personal Level:** This means that a victim can bring an action in court against a person who perpetrates violence against her directly; and also bring an action against those whose legal duty it is to protect her from violence, but failed to do so. It is possible for the court to award damages for these constitutional breaches.

**Institutional Level:** It is the duty of the Nigerian state through laws and policies enforced by its agents such as the police, to take effective steps to ensure that gender-based violence is prevented, and where it has occurred, the perpetrators, are brought to book. It is based on this that a victim can on a personal level, sue the Nigerian state and its agents, where there is evidence of failure or neglect to carry out their constitutional obligations.<sup>4</sup>

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<sup>3</sup> Article 1 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1997

<sup>4</sup> Atsenuwa.A. 2006 “*Gender Based Violence: Legal Framework for Response*’ being paper presented at Sensitization Seminar for the Police in Lagos State. July 18, 2006

## *CHAPTER IV*

### **Practical Steps to take By Gender-Based Violence Victims**

Often times victims of gender-based violence do not know the next steps to take immediately after their victimization has taken place. Knowing what to do immediately after an assault has occurred, is very important in both getting support services, and ensuring justice.

Thus a victim of gender-based violence must take the following practical steps immediately after the assault/abuse takes place.

- Leave the environment and go to a safe place such as a police station, hospital, friend's house, relatives or shelter;
- Contact a friend or family member that is trusted for support

If planning to make a report to the police, it is advisable not to clean up or dispose evidences of physical or sexual assault such as blood, semen, torn clothes, pants etc. Save all the clothing you were wearing at the time of the assault. Place each item of clothing in a separate paper bag, do not use **plastic** bags. Do not clean or disturb anything in the area where the assault occurred. It is also important to protect the evidence e.g. from another person's touch for evidence that may require finger print e.g. blood stain, foot path on the sands, and any physical object that the accused person may have touched.

- In the case of rape do not use the toilet unless it is urgent and **do not** wash up after the act;
- In the company of a relative, friend or any trusted person, report incident immediately at the nearest police station/post in the area where the crime occurred. It is always better to inform the police as soon as the incident occurs;
- Go for a medical examination/treatment as soon as possible. In the case of rape, victim should be accompanied to the hospital for medical examination by a policeman/woman;
- Whether or not you are sure that you want the matter charged to court, it is important that evidence of sexual assault and/or physical assault in the form of pictures, medical/forensic reports, are taken immediately it occurs. This is because all physical evidence such as semen, vaginal tear, blood, and other injuries disappear with time. Then the evidence is lost forever;
- Discuss with your health care provider the risk of exposure to sexually transmitted infections such as HIV/AIDS, syphilis and the possibility of pregnancy resulting from the sexual assault;
- Do not on your own go to a private hospital for medical examination (especially in rape cases), as reports from private hospitals are can not be presented in court. Only reports from government hospitals are honoured. If the assault occurred over the weekend, when it is difficult to get doctors in government hospitals except during accidents/emergencies, you can go to a private hospital, but remember to take the report first thing on Monday morning to the government hospital for endorsement;

- Take pictures of physical injuries and preserve the negative if possible. This is important if and when the case is charged to court;
- The victim is encouraged (particularly in sexual assault cases), to write down as much as she can remember about the circumstances of the assault, including a description of the assailant;
- Ask to be referred to a counselor trained in assisting rape victims cope with the emotional and psychological trauma they are undergoing because of their victimization. Counseling can help the victim learn more about what she is going through, and find support;
- If you are scared of going back home, for fear of further abuse and possible death, ask to be referred to a shelter;
- Do not hesitate to report to a higher officer e.g. the Divisional Police Officer (DPO), Area Commander, State Command, Investigating unit e.g. the State Criminal Investigation Department (CID), the Criminal Investigation Bureau (CIB) or State Monitoring Unit if you feel the policemen/women officers you met at the counter were either not sensitive in their response or were bias against you;

You can also call the following organizations immediately after you have been physically or sexually abused or threatened at home, at work; or in any public place: **Project Alert on 01- 4737270, 09- 8708618, 08052004698, 08066370029. CLEEN Foundation on 09 – 7817025, 09 – 8708379, 01 – 7612479, 01 – 7395498. Other organizations that can be contacted are Gender Awareness Trust (GAT) Barnawa, Kaduna, Rights Based Awareness Campaign, Kano, LEADS, Kaduna, MEDIACON, Lagos, CIRDDOC.**

## CHAPTER V

### **Response by State Actors: The Police**

The response by various state actors especially the police is very important tackling GBV cases. Police response to reported cases of gender-based violence, could save a life, or ruin it; encourage further violence or discourage it. Thus when a woman or young girl turns up at any police station to complain that she had been assaulted, the police are expected to respond sensitively by doing the following:

1. The police man or woman must show empathy to the victim. This will help the victim feel more comfortable, relaxed and feel safe.
2. Where the facility is available take the victim to an office, offer her a seat, allow her some few minutes to comport herself before taking her statement.
3. The charge room officer should be made aware of the presence of the victim in the police station immediately
4. The complaint of the victim should be taken in writing (statement) and referred immediately to the crime section of the police station
5. Investigation should be carried out by the crime section of the police station and an Investigating Police Officer, IPO attached to the matter
6. Where the victim has sustained injuries, photographs of the victim should be taken by a photographer (who could be a journalist, a policeman/woman; or any ordinary photographer). The negatives of the photographs taken should be well retained.
7. Where the victim is in need of medical attention or examination, the victim should be given a referral accompanied with a Police Medical Request Form to a government hospital by the police
8. Where there is a need for preservation of medical evidence and /or report, the police should liaise closely with the hospital(s) to ensure that this is done
9. Whether or not victim indicates interest in charging the matter to court, she should be advised on the importance of collecting evidences of sexual assault and/or physical assault in the form of pictures, medical/forensic reports, are taken immediately it occurs. This is because all physical evidence such as semen, vaginal tear, blood, and other injuries disappear with time. Thus it is important that such evidences are taken soon after the incident.

A file should be opened for proper documentation of statements taken, photographs taken, hospital reports, and all steps taken by the police in the course of investigating the matter.

11 Where it is obvious that the victim has been displaced and/or is in need of shelter, due to evident fear of going back home to their abuser, police should contact any of the referral centers listed below<sup>5</sup>

The suspect should either be arrested, or an official police letter of invitation sent to him, to respond to the allegations, by writing his own statement.

If detained at the police station, the suspect should be charged to court within 24 hours, or granted bail (if the victim does not die).

14. The IPO should ensure that the case file and all supporting documents are transferred to court on time.

15. The IPO should also make himself or herself available to meet with the victim's lawyer for pre-trial preparations

16. In some cases of gender-based violence such as domestic violence, the victim might not want the matter charged to court (especially if no grievous bodily harm has been inflicted), but want him to be warned to desist from such violent acts as it could lead to much more severe crimes such as murder. In such cases, both parties should be counseled. The batterer should be warned sternly to desist from further acts of physical assault and/or threats to life. He should also be made to sign an undertaking not to do same again. They should also be referred to organizations (government and non-governmental) who provide counseling to families in distress. *(Please find list of organizations behind)*

17. Where the victim wants the matter prosecuted, the IPO should ensure that the matter is prosecuted diligently, without fear or favour. Whereby the victim attempts withdrawing from the case midway, in an attempt to frustrate the prosecution, then the victim becomes criminally liable as a person who has given false information to the police. Hence it is important to let the victim know at the first contact with the police, that once the matter is charged to court, withdrawal would not be tolerated.

### **Police Duties after a Reported Case of GBV**

After a victim of gender based violence must have reported her case to the police, it is the duty of the police to do the following:

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<sup>5</sup> CLEEN FOUNDATION, No. 21, Akinsanya Street, Taiwo Busstop, Ojodu, Lagos. [www.cleen.org](http://www.cleen.org), [gbv@cleen.org](mailto:gbv@cleen.org). Tel no: 01-7612479, 08033322740; PROJECT Alert on Violence Against Women, No. 21 Akinsanya Street, Taiwo Busstop Ojodu, Lagos. Tel NO: 01-4737270, 08066370029, 08052004698 or No 26 Bamenda Street, Off Abidjan Street, Zone 3, Wuse Abuja 09 8708618  
Media Concern for Women and Children (MEDIACON), House 11 Dideolu Court, Dideolu Estate by Sweet Sensation, Ijaiye Road. [www.mediaconcern.kabissa.org](http://www.mediaconcern.kabissa.org), [info@mediaconcern.kabissa.org](mailto:info@mediaconcern.kabissa.org). Tel; 01-8944195

- Investigate
- Invite the suspect/make an arrest
- Detain the suspect

### ***Investigation***

Investigation could be embarked upon by the police based on the nature of the complaint. Investigation is carried out for the following reasons:

- Gather sufficient facts or evidence to identify the perpetrator(s);
- Build up a prima facie case in order to bring the matter to trial

Investigation may take few hours, weeks, months or years depending on the gravity of the violence or attack and the consequences of such assault such as murder and whether the accused person is apprehended.

### ***Invite the Suspect/Make an arrest***

The police have a duty to invite/make an arrest of a suspect of an alleged crime for interview/interrogation. make an arrest when an offence has been committed. Arrest is when the police takes a person into custody and deprives him/her of freedom of movement for allegedly committing a criminal act.

An invitation and/or arrest is legal when all of the following conditions exist:

1. A written complaint/report has been made about a criminal activity e.g rape, assault etc.
2. The police issues the suspect an official invitation letter to the station
3. An arrest made at the crime scene, or with a warrant issued by a magistrate, and presented to the suspect at the point of arrest.

### ***Detention***

The police cannot detain/keep the suspect for more than 24 hours and 48 hours in serious cases<sup>6</sup> except weekends. The purpose of the time frame is to enable the IPO take and record personal information about the suspect, gather further information and evidence; allow witnesses to view the suspect and substantiate the case that the police is building up. The suspect may be asked to identify others involved in the crime.

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<sup>6</sup> See Section 35 (4) and (5) of the 1999 Constitution

## ***CHAPTER V***

### **Response By Non-State Actors**

Victims of gender-based violence also lay complaints of their victimization to non-governmental organizations (human rights organizations, women's rights organizations) and other societal structures/institutions such as family, friends, traditional rulers, religious leaders etc). In this chapter the complaints procedure with non-state actors is listed below, and also their response to reported cases.

#### **Complaints procedure with human rights/women's rights organizations**

The procedure is as follows:

- Victim is referred to the organization by law enforcement officials, the media, friends, relatives, neighbours, civil society groups etc.
- The victim either phones in or physically goes to the organization to lay her complaint orally.
- If she phoned in, she is given some safety tips on phone (especially in cases of domestic violence) to avoid further battering, while trying to get out of the environment.
- Thereafter after she is required to fill a complaint form where she is expected to give a detailed account of the act of violence meted out on her, giving the name of the alleged offender (if known to her); her relationship with him; his contact address and phone number
- In the complaint form, she is expected to state clearly, the form of assistance she is expecting from the organization.
- Based on an on the spot assessment of the physical and psychological well being of the victim, she is either advised on what steps to take, or offered a temporary shelter in the case of being thrown out by a spouse, in-laws, or parents; or where there is a threat to life by the alleged perpetrator. Steps to take often includes formal report to the police by either the victim, or the organization on behalf of the victim.
- If there are evidences of physical injuries, pictures will be taken and the victim taken to the hospital.
- The alleged perpetrator of the violent act will thereafter be either invited by the police, or by the organization, for a meeting to investigate the matter further, and for counseling.

## Responses by Non-State Actors

In responding to victims of gender based violence, the following support services are rendered: **counseling, legal aid, and shelter**. Most organizations provide counseling and legal aid. Only one organization, Project Alert, provides shelter for battered women.

**Counseling.** This is primarily aimed at assisting the victim deal positively with the violence she has experienced. Ideally counseling should be done by a professional counselor, equipped with counseling skills, and quite knowledgeable in women's rights as guaranteed by the constitution, criminal code, and other regional and international instruments. However victims of gender-based violence do run to the following people for counseling:

Religious leaders - priests, pastors, imams  
Family members - father, mother, uncles, aunties, other relations  
Friends - at work, at home, in school  
Traditional rulers - chiefs, obas, ezes, sultans etc

Through counseling, the victim, with the help of a professional counselor or any of the above-listed people/interveners, gradually takes the essential steps to healing, regaining self confidence and esteem; overcoming shame and self blame; and taking control of her life. She comes to terms with the fact that there is life after her experience of violence.

In counseling, a non-directive approach should be employed by non-state actors. This is a client – centered method of counseling. It gives very minimal directions and instructions. This method provides a warm permissive atmosphere in which the client feels free to discuss her problems frankly. The counselor/intervener on his/her part should not be critical, show understanding and when necessary, reflect and clarify a client's expressions.

There are some **do's and don'ts every counselor/intervener should observe in counseling victims of gender-based violence**. Below are some of them:

### Do's

- Let the victim know that you believe her
- Listen carefully, and let her express her feelings.
- If she wants to cry, allow her time to do so, and then comfort her.
- Give very clear messages e.g ***violence is never okay or justifiable; the safety of the woman and her children is paramount; wife assault is a crime; she is not the cause of the abuse; apologies and promises will not end the abuse; she is not alone; she is neither crazy or paranoid; she has choices.***
- Let her know you will invite her alleged abuser for a meeting
- Find out what other support she has around her (friends, relatives, neighbours, pastors etc)

- Discuss a safety plan for her and her children.
- Let her know the various options she has but **allow her to decide for herself**. When she decides for herself, she takes responsibility for her decision.
- Help her find and concentrate on the good things about herself and her children.
- Respect her confidentiality
- If available, give her a list of referral sites available)

### **Don'ts**

- Don't tell her what to do. This includes when to leave or when not to leave her matrimonial home.
- Don't tell her to go back to the abusive environment and try a little harder.
- Don't ask her to stay back for the sake of the children.
- Don't ask her to go back and beg her assailant

**Legal Aid.** Free legal advise/aid is given to gender based violence victims in order to ensure justice and protection of their human rights. Legal advise provides the victims with the various legal options they have in protecting their rights and the implications of each option. However the final decision on what course of action to adopt is that of the victims. It is important that female victims of violence decide for themselves, so that they can take responsibility for their decisions.

In offering legal aid to abused women/girls the legal officer should do the following:

- Accompany the victim to the police station
- Ensure that the abuse is incidented at the police station
- Participate in any meeting that could be called between both parties at the station
- Follow up with the Investigating Police Officer, to ensure that the matter is treated diligently
- Represent the victim in court

**Shelter:** Presently there is only one shelter for battered women in Lagos State, and it is being run by Project Alert on Violence Against Women. The shelter, known as *Sophia's Place*, provides victims (women and young girls) a safe place away from their abuser. A woman or young girl who believes her life is threatened in marriage, in the family, her neighbourhood, etc, can be offered shelter, while the issue is being investigated. The shelter provides victims both time and space away from an abusive environment, for them to reflect on where they are coming from, and where they are going to. The National Agency for Prohibition against Traffic in Persons (NAPTIP), the Women Trafficking and Child Labour Eradication Foundation (WOTCLEF) and the Federal Ministry of Women Affairs, Abuja. For referrals to other organizations please call **Project Alert on 01- 4737270, 09- 8708618, 08052004698, 08066370029. CLEEN Foundation on 09 – 7817025, 09 – 8708379, 01 – 7612479, 01 - 7395498**

## **Conclusion**

One of the major challenges that the police may face while handling GBV cases is the withdrawal of complains by victims. If this occurs, the police should address the following questions:

*Does the case have an element of a crime? If yes, under what category?*

*If the answer to the above is yes, then the case should be charged to court because it is against the state and not just a civil matter and the police have the mandate to protect the constitution<sup>7</sup>.*

As stakeholders in promoting and protecting the rights of women/young girls from all forms of gender-based violence, it is important that we clearly understand the issue, and know the appropriate way to respond to it. Our response could either save a life, or take a life. **THE CHOICE IS OURS.**

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<sup>7</sup> Section 4 of the Police Act

## Part Two: Policing Children

## ***PART 2***

### ***FREQUENTLY ASKED QUESTIONS FAQs?***

**There are some frequently asked questions, on the Convention on the Rights of the Child and the Child Rights Act. Below are some of these questions.**

- ***Who is a child?***

Definition according to Article 1 of the UN Convention on the Rights of the Child (UNCRC) defines a child as a person under 18 years of age.

Definition according to the Child Rights Act 2003 a child is any one who is below the age of 18 years.

- **What are the other things said about the child?**

The UNCRC presents two conceptions of the child. The first is of the child as a recipient of adult care and concern. This is reflected in Article 2 of the UNCRC which provides that the State has a duty to ensure that children are protected from any form of discrimination. The second conception is that children should be promoted through the UNCRC; they must be allowed to contribute to decision making process that affects their lives, communities and societies.

The Child Rights Act states that the **child's best interests shall remain paramount in all considerations**. The child is to be given such protection and care as is necessary for its well being, retaining a right to survival and development and to a name and registration at birth.

- ***Why do we need a law for children?***

Pre 1989 there were various human rights documents – although they were applicable to all human beings, they were not necessarily child specific and failed to address the peculiar needs of children.

- ***What is the genesis of the Child Rights Act, 2003?***

The Universal Declaration of Human Rights is the legal basis for all international legal standards for children's rights. It was influenced by some historical documents such as the 1923 Declaration of the Rights of the Child, drafted by Eglantyne Jebb and her sister Dorothy Buxton in London, England in 1919, endorsed by the League of Nation and adopted by the United Nations in 1946. It served as the basis for the Convention on the Rights of the Child, which was adopted by the United Nations General Assembly on the 20<sup>th</sup> November 1989. The OAU Assembly of Heads of States and Governments adopted the African Charter on the Rights and Welfare of the Child (CRCW) in July 1990.

Nigeria was signatory to both international instruments. Both instruments were ratified in 1991 and 2000 respectively; they both contain universal set of standards and principles for survival, development, protection and participation of children. The international instruments reflected children as human beings to be respected and protected until they are 18 years of age.

The Convention on the Rights of the child enjoins that "Member States shall undertake to disseminate the Conventions principles and take all appropriate legislative, administrative and other measures for the implementation of the Rights recognized in the present Convention.

The Child Rights Bill was drafted – it was aimed at enacting into law in Nigeria the principles enshrined in the Convention on the Rights of the Child and the AU charter on the Rights and Welfare of the Child.

The Bill was passed into Law by the National Assembly in July 2003. It was assented to by the Federal of Republic of Nigeria, Chief Olusegun Obasanjo in September 2003, and was promulgated as the **Child's Right Act 2003**

- ***What is the structure and content of the Child Rights Act?***

The structure of the Child Rights Act 2003 was informed by the mandate to provide a legislation which incorporates all the rights and responsibilities of children, and which consolidates all laws relating to children into one single legislation, as well as specifying the duties and obligations of government, parents and other authorities, organizations and bodies.

- ***What are examples of basic provisions of the Child Rights Act?***

Provisions of freedom from discrimination on the grounds of belonging to a particular community, or ethnic group, place of origin, sex, religion, the circumstances of birth, disability, deprivation or political opinion; and it is

- **Which States in Nigeria have passed the Child Rights Act into Law?**

**Abia, Anambra, Bayelsa, Benue, Cross Rivers, Delta, Ebonyi, Edo, Ekiti, Imo, Jigawa, Kwara, Lagos, Nasarawa, Ogun, Ondo, Oyo, Osun, Plateau, Rivers and Taraba**

# *CHAPTER 1*

## **Introduction**

### **Background**

Crimes and violence against children and young persons have become a topical issue in need of urgent attention across the globe. This is as a result of the growth in the number of children who are victims of various types of crime. Due to their vulnerability, children are a majority percentage of victims of crime and are themselves sometimes perpetrators of crime which bring them in conflict with the law.

In Nigeria, children constitute more than half of the Nigerian population, yet they are categorized as one of vulnerable and most neglected segment of our society. The experiences and treatment they are subjected to within the criminal justice system, particularly with the police (either as victims or perpetrator of crime) is far from being desirable. The attitude and general lack of responsiveness on the part of the police is not unconnected to Nigeria's largely patriarchal and adult dominated society, where more attention is placed on protecting the rights of males than females resulting in women and children being subjected to varying degrees of inhuman, cruel and degrading treatments ranging from rape, domestic violence, trafficking, child labour, early marriage among others.

In spite of the present state of affairs, the police play a very critical role in preventing and dealing with cases of child abuse and other related crimes in Nigeria. Not only are they needed in arresting and bringing the perpetrators to justice, they are also ideally placed to activate a chain of referral services including medical attention, counseling services, legal advise/aid; and shelter for victims and in creating awareness about child related crimes and violence among the general population. This they can only do effectively if they are sensitized on the importance of policing children(either as victims or perpetrators of crime), well trained and provided with institutional capacity to respond to child related crimes, and networked with other state and non-state actors especially civil society groups such as, children's rights organizations/human rights organizations.

## CHAPTER 2

### **Forms of Violence Against Children**

There are various forms of child related crimes or violence. The most prevalent crimes include rape/ indecent assault; child abuse and Domestic violence, trafficking; child labor and early marriage.

#### **Rape/ Indecent Assault:**

There has being a continuous increase in the number of young girls and children who are victims of the crime of rape/indecent Assault. The law stipulates that any sexual intercourse with a child, with or without his/her consent is rape and it is immaterial that the offender believed the victim to be 18 and above<sup>8</sup>. Religious and cultural practices in some part of the country (e.g early marriages of young girls in northern Nigeria<sup>9</sup>) have been identified as contributory factors to rise in the crime.

#### **Child Abuse and Domestic Violence:**

Child abuse *is also called cruelty to children* is the willful infliction of pain and suffering on children through physical, sexual, or emotional mistreatment<sup>10</sup>. In recent times, the term has being expanded to include, in addition to inordinate physical violence, unjustifiable verbal abuse; the failure to furnish proper shelter, nourishment, medical treatment, or emotional support; incest and other cases of sexual molestation or rape; and the use of children in prostitution or pornography. An act or failure to act that presents an imminent risk of serious harm to a child is child abuse. Domestic violence is closely linked to child abuse. It encompasses violence against the child (physical abuse, child labor, incest).

#### **Trafficking**

This is another prevalent violence being experienced by children. Child Trafficking entails the trade in and move-

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<sup>8</sup> Section 31 of the Child's Right Act 2003

<sup>9</sup> The Child Rights Act has been passed in other states in Nigeria. The legal age of liability has been fixed by each State House of Assembly which ranges from 14 – 17.

<sup>10</sup> Encyclopaedia Britannica, 2008

ment of young persons and children from one state/country to another for illicit and illegal services like prostitution; drug pedaling and also as domestic helps. Poverty has been identified as the root cause of the rise in child trafficking and abduction.

### ***How have various stakeholders in society responded historically to Violence Against Children?***

Historically, the response by various stakeholders in the society, such as the police, service providers, religious organizations, family members and friends, has been highly insensitive to the plight of the children and young persons.

Often times, cases of early marriages go unreported because of the domestic and private nature of the offences. Often than not, they are perpetrated by relatives, spouses, parents etc

The use of children for child labor and as domestic helps has become a widespread practice across the country. The high level of poverty in the country has compelled parents and guardians to concede giving away their children and wards for monetary consideration.

Also Assaultive behaviours among family members like father-on-children violence are regarded as normal. It is taken as forms of discipline and control for children and wards.

### ***What are the major consequences of this historical response to violence against children?***

There are three major consequences of the insensitive response to reported cases of violence against children. These are:

- Under-reporting
- Health problems
- High level illiteracy
- Truancy

**Under-reporting.** Most of the cases, such as sexual violence, Assaultive behaviors and other forms of child abuse usually are under-reported. In cases of sexual violence of children, parents tend to keep secret the incident to avoid public shame to the family. It is also due largely to ignorance and failure on the part of the community to properly police rape, cruel cultural and religious practices and poverty.

**Health Problems.** Cases of child marriages practiced in northern Nigeria have with it, the attendant high rate of Vesico Vaginal Fistula (VVF), HIV/AIDS and other sexually transmitted diseases.

**High level illiteracy:** The high illiteracy level in our present day society has been engendered by early marriages of young girls and child labor. For instance in the northern part of Nigeria where early marriages are very predominant, young girls forced into marriages are deprived the opportunity of formal education.

**Truancy:** The deviant's theory states that youths or young children who exhibit or are engaged in truancy has a history of an abusive father or victims of violence .

# *CHAPTER 3*

## **Legal Framework**

There are various laws or legal instruments that protect the rights of children. These legal frameworks can be divided into three – national, regional and international instruments.

### *National Instruments*

In Nigeria, the two main legal frameworks are the Nigerian Constitution and Child's Rights Act, 2003.

**The Nigerian Constitution (1999)** protects the dignity of the human person and guarantees the right of every Nigerian (man, woman and child), to equality (**section 42**) The section states that **every Nigerian has a right not to be subjected to** cruel, inhuman, and degrading treatment or punishment. All forms of gender-based violence are inhuman, degrading, and dehumanizing.

**The Child's Rights Act (2003)** protects and promotes the rights of children. It guarantees the rights and responsibilities of children, as well as specifying the duties and obligations of government, parents and other authorities, organizations and bodies.

At the State level, the Child's Rights Act has been promulgated into Law in the following states- Abia, Anambra, Bayelsa, Eboniyi, Edo, Ekiti, Imo, Jigawa, Kwara, Lagos, Nassarawa, Ogun, Ondo, Plateau, Rivers, Taraba.

**Trafficking in Persons (Prohibition) Law Enforcement and Administration Act 2003 and the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act (2005)** prosecutes, punishes offenders; counsels and rehabilitates victims of trafficking.

### *Regional Instruments*

In the African region, there are also laws or regional instruments that protect the rights of children. Some of these instruments include:

#### **AU charter on the Rights and Welfare of the Child**

The African Charter on the Rights and Welfare of the Child (also called the ACRWC or Children's Charter) spells out the rights that African States must ensure for children living in their jurisdiction. It is the main instrument of the African human rights system for promoting and protecting child rights.

The Charter, which was adopted by the Organization of African Unity (now the African Union) in July 1990, entered into force in November 1999. The Charter was the first regional treaty to address child rights.

The African Charter was created partly to complement the UN Convention on the Rights of the Child (CRC), but also because African countries were under-represented in the drafting process of the CRC, and many felt another treaty was needed to address the specific realities of children in Africa. The CRC and the charter have the same over-arching principles of non-discrimination, participation, the best interests of the child, survival and development, evolving capacities.

### ***International Instruments***

#### **UN Convention on the Rights of the Child (UNCRC)**

The UNCRC in Article 2 provides that the State has a duty to ensure that children are protected from any form of discrimination. It further stipulates that children must be allowed to contribute to decision making process that affects their lives, communities and societies.

The UNCRC enjoins that “Member States shall undertake to disseminate the Conventions principles and take all appropriate legislative, administrative and other measures for the implementation of the Rights recognized in the present Convention. Thus, the Convention forms the bedrock for the Child Rights Act, 2003.

**Protocol to prevent suppress and punish trafficking in persons (especially women and children)** the purpose of the protocol was to provide guidance to States in dealing with the vast combinations of trafficking activities. Mainly it was aimed at providing support for countries implementing measures that were beyond what they could do on their own. The protocol lays out general descriptions of actions that would be taken but does not provide countries with resources or suggestions on how to implement these actions. It also provided limited requirements for the scope of services to be provided to protect victims.

### **What Legal Redress are Available?**

Legal redress available to victims of child crimes can be classified into two levels. These are:

- Personal Level
- Institutional Level

**Personal Level:** This means that a child victim either through his/her parents or guardian ad litem can bring an action in court against a person who perpetrates violence against him/her directly; and also bring an action against those whose legal duty it is to protect him/her from violence, but failed to do so.

**Institutional Level:** It is the duty of the Nigerian state through laws and policies enforced by its agents such as the police, to take effective steps to ensure that child crimes are prevented, and where it has occurred, the perpetrators, are brought to book. It is based on this that a victim can on a personal level, sue the Nigerian state and its agents, where there is evidence of failure or neglect to carry out their constitutional obligations.

## *CHAPTER 4*

### **Practical Steps By Child Victims of Violence**

Often times children who are victims of child abuse (physical or sexual) and other forms of child related crimes do not know the next steps to take immediately after the crime has been committed and are most times afraid to report either as a result of threat by the perpetrators or to avoid scorn from family members and friends . Knowing what to do after an assault (physical or sexual), is very important in both getting support services, and ensuring justice.

Thus a child victim of violence (physical or sexual) must take the following practical steps immediately after the assault/abuse takes place.

- Leave the environment and go to a safe place such as a police station, hospital, friend's house or relatives.
- Report to a friend or an adult family member that is trusted for support
- Before making a report to the police, it is advisable not to clean up or dispose evidences of physical or sexual assault such as blood, semen, torn clothes, pants etc. Save all the clothing you were wearing at the time of the assault. Place each item of clothing in a separate paper bag, do not use **plastic** bags. Do not clean or disturb anything in the area where the assault occurred. It is also important to protect the evidence e.g. from another person's touch for evidence that may require finger print e.g. blood stain, foot path on the sands, and any physical object that the accused person may have touched.
- In the case of rape do not use the toilet unless it is urgent and **do not** wash up after the act.
- In the company of an adult relative, friend or any trusted person, report incident immediately at the nearest police station/post in the area where the crime occurred. It is always better to inform the police as soon as the incident occurs.
- The child or young person should be taken for a medical examination/treatment as soon as possible. In the case of rape, victim should be accompanied to the hospital for medical examination by a policeman/woman.
- Whether or not you are sure that you want the matter charged to court, it is important that evidence of sexual assault and/or physical assault in the form of pictures, medical/forensic reports, are taken immediately it occurs. This is because all physical evidence such as semen, vaginal tear, blood, and other injuries disappear with time. Then the evidence is lost forever.

- Discuss with your health care provider the risk of exposure to sexually transmitted infections such as HIV/AIDS, syphilis and the possibility of pregnancy resulting from the sexual assault.
- Do not on your own go to a private hospital for medical examination (especially in rape cases), as reports from private hospitals are cannot be presented in court. Only reports from government hospitals are honored. If the assault occurred over the weekend, when it is difficult to get doctors in government hospitals except during accidents/emergencies, you can go to a private hospital, but remember to take the report first thing on Monday morning to the government hospital for endorsement.
- Take pictures of physical injuries and preserve the negative if possible. This is important if and when the case is charged to court.
- The victim is encouraged (particularly in sexual assault cases), to write down as much as she can remember about the circumstances of the assault, including a description of the assailant.
- Ask to be referred to a counselor trained in assisting rape victims cope with the emotional and psychological trauma they are undergoing because of their victimization. Counseling can help the victim learn more about what she is going through, and find support.
- If you are scared of going back home, for fear of further abuse and possible death, ask to be referred to a shelter, social welfare or specialized children police unit<sup>11</sup>.
- Do not hesitate to report to a higher officer e.g. the Divisional Police Officer (DPO), Area Commander, State Command, Investigating unit e.g. the State Criminal Investigation Department (CID), the Criminal Investigation Bureau (CIB) or State Monitoring Unit if you feel the policemen/women officers you met at the counter were either not sensitive in their response or were bias against you.

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<sup>11</sup> Section 207 of the Child Rights Act provides for the creation unit. These units are still non existence in the NPF. The juvenile welfare centres and the Anti trafficking units are the units within the NPF that deal with children.

## ***CHAPTER 5***

### **Children in Conflict with the Law**

The term ‘children in conflict with the law’ refers to anyone under 18 who comes into contact with the justice system as a result of being suspected or accused of committing an offence. Most children in conflict with the law have committed petty crimes or such minor offences as vagrancy, truancy, begging or alcohol use. Some of these are known as ‘status offences’ and are not considered criminal when committed by adults. In addition, some children who engage in criminal behaviour have been used or coerced by adults. Too often, prejudice related to race, ethnicity or social and economic status may bring a child into conflict with the law even when no crime has been committed, or result in harsh treatment by law enforcement officials.

In Nigeria today, the high level of poverty and inability of parents and guardians to adequately provide basic needs – food, shelter and clothing, have forced many children on to the streets to fend for themselves. The adverse effect is that children get involved in various forms of crime ranging from petty stealing, armed robbery, and in recent times kidnapping as a means for survival. Also in northern Nigeria, the recent spate of religious crisis has seen children and youths being used to fuel the crisis bringing about huge loss of human lives and infrastructure.

The following have being identified as key issues that bring children in conflict with the law:-

1. The use of the justice system for children in need of care and protection; the criminalization of normal, petty misbehavior, survival behaviors and status offenses; and the criminalization of children who are victims of abuse;
2. Violence in the home and dysfunctional families;
3. The failure of care and protection systems, including the lack of social support systems, appropriate social policies, and preventive programs;
4. Discrimination against vulnerable groups of children, including negative attitudes and stigmatization of children based on race, gender, ethnicity, etc.;
5. Social and economic conditions, particularly poverty and socio-economic inequalities.

The resulting violent treatment by law enforcement officials particularly the police on children in conflict with the law have being ascribed to the following:-

1. Impunity and lack of accountability by law enforcement agents, institutions and staff that are responsible for violence against children;

2. The over-use of detention, particularly pre-trial detention, including the detention of non-offenders;
3. Lack of community based alternatives to the formal justice system (including appropriate diversion mechanisms) and alternatives to detention, including care and protection systems;
4. The lack of appropriate juvenile justice systems, including appropriate facilities and separation from adults;
5. The lack of external controls on institutions including effective independent complaints and investigation procedures, independent monitoring and NGO access;
6. The “acceptability” of violence in society leading to tolerance of violence at all levels—family, school and community;
7. Lack of training and sensitization of law enforcement and juvenile justice personnel;
8. “Tough on crime” policies and negative media and public images of street children and other socio-economically disadvantaged children based on discrimination.

## ***CHAPTER 6***

### **Response by State Actors: The Police**<sup>12</sup>

The response by various state actors especially the police is very important tackling cases of violence against children. Police response to reported cases could save a life, or ruin it; encourage further violence or discourage it. Thus when a child or young person turns up at any police station to lodge a complaint, the police is expected to respond sensitively by doing the following:

1. The police man or woman must show empathy to the victim. This will help the victim feel more comfortable, relaxed and feel safe.
2. Where the facility is available take the victim to an office, offer him/ her seat, allow him/ her some few minutes before taking her statement.
3. The charge room officer should be made aware of the presence of the victim in the police station immediately
4. The complaint of the victim should be taken in writing (statement) and referred immediately to the crime section of the police station
5. Investigation should be carried out by the crime section of the police station and an Investigating Police Officer, IPO attached to the matter
6. Where the victim has sustained injuries, photographs of the victim should be taken by a photographer (who could be a journalist, a policeman/woman; or any ordinary photographer). The negatives of the photographs taken should be well retained.
7. Where the victim is in need of medical attention or examination, the victim should be given a referral accompanied with a Police Medical Request Form to a government hospital by the police
8. Where there is a need for preservation of medical evidence and /or report, the police should liaise closely with the hospital(s) to ensure that this is done
9. Whether or not victim indicates interest in charging the matter to court where it is a crime of sexual/ physical assault, she should be advised on the importance of collecting evidences of sexual assault and/or physical assault in the form of pictures, medical/forensic reports, are taken immediately it occurs. This is because all physical evidence such as

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<sup>12</sup> Section 205(1) of the Child Justice Act provides that the right of the child to privacy specified in Section 8 of this Act shall be respected at stages of the criminal justice administration in order to avoid harm being caused to the child by undue publicity or by the process of labelling.

semen, vaginal tear, blood, and other injuries disappear with time. Thus it is important that such evidences are taken soon after the incident.

10. A file should be opened for proper documentation of statements taken, photographs taken, hospital reports, and all steps taken by the police in the course of investigating the matter.
11. Where it is obvious that the victim has been displaced and/or is in need of shelter, due to evident fear of going back home to their abuser, police should contact the nearest referral centers
12. The suspect should either be arrested, or an official police letter of invitation sent to him, to respond to the allegations, by writing his own statement.
13. If detained at the police station, the suspect should be charged to court within 24 hours, or granted bail (if the victim does not die).
14. The IPO should ensure that the case file and all supporting documents are transferred to court on time.
15. The IPO should also make himself or herself available to meet with the victim's lawyer for pre-trial preparations
16. Where the victim wants the matter prosecuted, the IPO should ensure that the matter is prosecuted diligently, without fear or favour. Whereby the victim attempts withdrawing from the case midway, in an attempt to frustrate the prosecution, then the victim becomes criminally liable as a person who has given false information to the police. Hence it is important to let the victim know at the first contact with the police, that once the matter is charged to court, withdrawal would not be tolerated.
17. When dealing with children in conflict with the law, the law stipulates that compulsory information and explanation **MUST** be given to the child on his/her rights, and on procedures and rules, at each stage of the process

## **Police Duties after a Reported Case**

After a victim of child abuse or violence must have reported his/her case to the police, it is the duty of the police to do the following:

- Investigate
- Invite the suspect/make an arrest
- Detain the suspect

### ***Investigation***

Investigation could be embarked upon by the police based on the nature of the complaint. Investigation is carried out for the following reasons:

- Gather sufficient facts or evidence to identify the perpetrator(s)
- Build up a prima facie case in order to bring the matter to trial

Investigation may take few hours, weeks, months or years depending on the gravity of the violence or attack and the consequences of such assault such as murder and whether the accused person is apprehended.

### ***Invite the Suspect/Make an arrest***

The police have a duty to invite/make an arrest of a suspect of an alleged crime for interview/interrogation. make an arrest when an offence has been committed. Arrest is when the police takes a person into custody and deprives him/her of freedom of movement for allegedly committing a criminal act.

An invitation and/or arrest are legal when all of the following conditions exist:

1. A written complaint/report has been made about a criminal activity e.g rape, assault etc.
2. The police issue the suspect an official invitation letter to the station
3. An arrest made at the crime scene, or with a warrant issued by a magistrate, and presented to the suspect at the point of arrest.

### ***Detention***

The police cannot detain/keep the suspect for more than 24 hours and 48 hours in serious cases<sup>13</sup> except weekends. The purpose of the time frame is to enable the IPO take and record personal information about the suspect, gather further information and evidence; allow witnesses to view the suspect and substantiate the case that the police is building up. The suspect may be asked to identify others involved in the crime.

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<sup>13</sup> See Section 35 (4) and (5) of the 1999 Constitution

# *CHAPTER V*

## **Response By Non-State Actors**

To effectively tackle the menace of child abuse and violence, it requires collective efforts from state and non- state actors. The contributions of non-governmental organizations (human rights organizations, women’s rights organizations) and other societal structures/institutions such as family, friends, traditional rulers, religious leaders etc) will go along in ensuring the protection of the rights of children( either as victims or perpetrators). In this chapter the complaints procedure with non-state actors is listed below, and also their response to reported cases.

### **Complaints procedure with human rights organizations**

The procedure is as follows:

- The victim is referred to the organization by law enforcement officials, the media, friends, relatives, neighbours, civil society groups etc.
- The victim either phones in or physically goes to the organization to lay his or her complaint orally.
- If he or she phones in, he or she is given some safety tips on the phone (especially in cases of domestic violence) to avoid further battering, while trying to get out of the environment.
- Thereafter after he or she is required to fill a complaint form where he or she is expected to give a detailed account of the act of violence meted out on him or her, giving the name of the alleged offender (if known to him or her); her relationship with him or his relationship with him or her; his or her contact address and phone number.
- In the complaint form, he or she is expected to state clearly, the form of assistance he or she is expecting from the organization.
- Based on an on the spot assessment of the physical and psychological well being of the victim, he or she is either advised on what steps to take, or offered a temporary shelter in the case of being thrown out by a spouse, in-laws, or parents; or where there is a threat to life by the alleged perpetrator. Steps to take often include formal report to the police by either the victim, or the organization on behalf of the victim.

- If there are evidences of physical injuries, pictures will be taken and the victim taken to the hospital.
- The alleged perpetrator of the violent act will thereafter be either invited by the police, or by the organization, for a meeting to investigate the matter further, and for counseling.

## Responses by Non-State Actors

In responding to victims of child abuse and violence (sexual/physical assault), the following support services are rendered: **counseling, legal aid, and shelter**. Most organizations provide counseling and legal aid.

**Counseling:** This is primarily aimed at assisting the child deal positively with the violence he or she has experienced. Ideally counseling should be done by a professional counselor, equipped with counseling skills, and quite knowledgeable in children's rights as guaranteed by the constitution, criminal code, and other regional and international instruments. However children who are victims of violence or are in conflict with the law do run to the following people for counseling:

- Religious leaders - priests, pastors, imams
- Family members - father, mother, uncles, aunties, other relations
- Friends - at home, in school, in church, mosques
- Traditional rulers - chiefs, obas, ezes, sultans, district heads etc

Through counseling, the child, with the help of a professional counselor or any of the above-listed people/interveners, gradually take the essential steps to healing, regaining self confidence and esteem; overcoming shame and self blame; and taking control of his or her life. He or She comes to terms with the fact that there is life after his or her experience of violence.

In counseling, a non-directive approach should be employed by non-state actors. This is a client – centered method of counseling. It gives very minimal directions and instructions. This method provides a warm permissive atmosphere in which the child feels free to discuss his or her problems frankly. The counselor/intervener on his/her part should not be critical, show understanding and when necessary, reflect and clarify the child's expressions.

**Legal Aid:** Free legal advice/aid is given to children in order to ensure justice and protection of their human rights. Legal advice provides the children with the various legal options they have in protecting their rights and the implications of each option. However the final decision on what course of action to adopt is that of the children. It is important that the children or their guardians decide for themselves, so that they can take responsibility for their decisions.

In offering legal aid to abused children the legal officer should do the following:

- Accompany the victim to the police station
- Ensure that the abuse is incidented at the police station
- Participate in any meeting that could be called between both parties at the station

- Follow up with the Investigating Police Officer, to ensure that the matter is treated diligently
- Represent the victim in court

## **Conclusion**

As stakeholders in promoting and protecting the rights of children from all forms of child abuse and violence, it is important that we clearly understand the issues, and strive to ensure that children are adequately catered for and protection from all forms of inhuman treatments. We should know the appropriate way to respond to crimes against children and ensure that we put a stop to it. Our response could either save or take a life. **THE CHOICE IS OURS.**

## Appendix

### *APPENDIX*

#### **The Domestic Violence Bill**<sup>14</sup>

In the course of advocating for an end to all forms of gender based violence in Nigeria, it became glaring to human rights and women's rights organizations, that there was a need to review existing laws on various forms of gender based violence in general, and domestic violence in particular. The review, revealed that since presently there was no specific law on domestic violence, the general law on assault as contained in the Criminal Code, was what was and still is being used by lawyers and women's rights organizations to ensure justice for female victims of domestic violence. However, this law presents some obstacles to victims, and as such, abused women shy away from it. The obstacles include:

Fear by victims that the incarceration of their partner will result in a loss of face or social status for the family or even economic support from the incarcerated spouse

Fear of accusing their husband of having assaulted them, and placing their children in a situation where they will have to see their father go to jail.

Fear that their partner will become more violent before or after the imprisonment or even by the only fact of her reporting the matter to the police.

Victims' fear that their husbands' family and the community will apply pressure on them for having caused the imprisonment of their brother and son.

They are often worried that they will be left without a source of income if their partner is in jail, especially if he is the major breadwinner

They do not want the marriage to end because of fear or shame of being called a divorcee.

Based on the above, a domestic violence bill was drafted by a non-governmental human rights organization known as Legal Defence and Assistant Programme, LEDAP, to tackle the problem posed by the law on assault. The bill has been presented to 12 state Houses of Assembly across the country. However only two state Houses of Assembly have passed the bill. These are Cross River and Ebonyi states. The bill is largely victim-focused and is quasi-criminal in nature (i.e partly criminal, and partly civil). Amongst other things, it seeks to introduce the following:

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<sup>14</sup> It was passed by the Lagos State House of Assembly as the Laws to Provide Protection against domestic violence and connected purposes. It was signed by Senator Bola Ahmed Tinubu on the 18<sup>th</sup> May, 2007.

- A system that is less complicated and quicker legal proceedings which will result in enforced discipline or separation of the perpetrator of violence from home for a certain period of time as well as rehabilitation of the victim.
- Facilitate what women need most – a cessation of violence without them having to leave their home.
- The Protection order being introduced under the Bill will compel the spouse to continue to provide for his family during the time he is under legal sanction and counseling.

### **Other ways the Domestic Violence Bill seeks to protect women**

Quasi – criminal, quasi – civil procedure: the legal process under the Bill does not involve arrest, or trial or punishment of the perpetrator but only aims at protecting the survivor from further violence within the home.

2. The Protective Order of the Court: A survivor of domestic violence or third party who is qualified to do so may approach any court in the state and ask for a protective order against the perpetrator for a certain period of time, within which also the perpetrator undergoes counseling. It is a quasi criminal remedy, in that if the perpetrator continues with the violence despite the Protective Order against him or her, the court may make an order to protect the victim with respect to her subsistence, shelter and maintenance of the children while the perpetrator is compelled to comply with the protective order.

3. Confidential proceedings: The Bill enjoins the court to hear complaints under the Bill in strict confidence and in chambers. This is to protect the social, psychological and personal integrity of the parties, especially the survivor. It also aims at protecting the children from undue attention and publicity. In Nigeria, the Supreme Court condemned hearing of matters in camera, and held that all cases must be heard in public.

4. Third party complaint: a third party, usually, welfare officer, community health, social or welfare worker, the community itself, or such other person as defined by the Bill may intervene to obtain a protective order in favour of the survivor who has refused to seek legal remedy.

## THINGS YOU NEED TO KNOW !!!!

While the Interpretation Act does not define who a woman is, the Penal Code of Northern Nigeria (applicable in Plateau State) defined woman as a female human being of any age. (*Section 4*)

A more conceptual definition of a woman was given by Prof. Joy Ogwu (*Perspective on human Rights, 1992*). She defined the concept of women as the feminine component of the human species who apart from serving as a vehicle for nurturing human life, is also a producer, a consumer and an equally endowed agent for fostering a wholesome political, social and economic development in the society.

### POSER

- Why, if women and men make up the human family and the UDHR and other subsequent international regional and domestic instruments affirm that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth in them without distinction of any kind (sex or circumstances of birth) is there need to speak of women's rights or by extension, rights of the Nigerian woman as distinct rights?
- In other words, if men and women are equal and entitled to all human rights, why are we now talking about women's rights without men's rights?

### ANSWER

- A good starting point to answering this poser is to acknowledge the historical fact of women's inequality with men with women placed at the disadvantage. At the time of global, continental and regional organizations were rolling out these noble declarations, there were some forms of established inequality between men and women which were taken for granted or rather considered acceptable at those periods.
- It must be noted here that these discriminatory beliefs and practices existed globally though with varying degrees.

### EXAMPLES

- In ancient Greek, women were regarded as less than human and were conferred with same status as slaves, children and the insane. A woman was a perpetual minor.
- In England, though human rights movement dated back to 1215 (the Magna Carta), it was not until the end of 19th century, that married women acquired any rights over their own property and it was not until mid-20th century that they had any chance of obtaining custody of their children after divorce.

- In the same England, 200 years ago, judges considered it entirely lawful for a husband to use force to ‘chastise’ his wife.
- 160 years ago, the courts accepted that a husband had the right to ‘confine or imprison’ the wife until she rendered conjugal rights’. **See Cochrane’s case (1840) 8 Dowl. 630**
- Still in England, In the 1700s and 1800s it was accepted law that a man could not be guilty of raping his wife, since in marriage (the wife) hath given up her body to her husband – See Hale; History of the Pleas of the Crown (1736) vol 1 ch. 58, p. 629.
- It was not until 1992 case of Regina V.R (1992) 1 AC 599 that the House of Lords, in a landmark decision, overturned the previous common law rule in England that a man could not rape his wife.

Attempt to remedy this discriminatory situation gave birth to the concept of women rights.

The gap, it must be noted, has been narrowed down in more developed countries.

#### **WAY FORWARD**

- Advocacy for attitudinal change and reorientation
- Advocacy for improved legal framework
- Establishment of response agencies/institutions with adequate structures
- Awareness on the rights of women
- Training and retraining of law enforcement agents – police
- Women empowerment
- Litigation *Priscilla Amadi vs. NIS*

Just in 1913, in *Bebb V Law Society* (1914) 1 ch. 286, the Court of Appeal in England ruled that women were not eligible to practice as solicitors of the Supreme Court because that right was given under statute to “persons” and that the word referred only to men. It took 10 years of advocacy by women for that judgment to be overturned by the Privy Council in *Edwards v AG of Canada* (1930) AC 124.

**With more advocacy, campaigns and litigation, CHANGE IS POSSIBLE.**

**LIST OF ORGANIZATIONS OR GOVERNMENT AGENCIES THAT WORK ON ISSUES RELATING TO WOMEN AND CHILDREN<sup>15</sup>**

S/N	Name of organization or State Agency	Contact details
1	CLEEN Foundation	21 Akinsanya Street off Taiwo Busstop Ojodu, Lagos and 26 Bamenda Street Off Abidjan Street, Zone 3 Wuse. <a href="mailto:cleen@cleen.org">cleen@cleen.org</a>
2	Civil Resource Development and Documentation Centre (CIRRDOC)	Fourth dimension complex, 16 fifth avenue, city layout (New Haven). Tel/Fax: 234 – 459969; <a href="http://www.cirddoc.org">www.cirddoc.org</a> ; <a href="mailto:cirddoc@aol.com">cirddoc@aol.com</a>
3	Grass roots Initiative	10, Mbari Street, Owerri, First Floor 08034772168, Email <a href="mailto:grassroots_ein@yahoo.com">grassroots_ein@yahoo.com</a>
4.	Media Concern Initiative for women and children (MEDIACON) House 11, Dideolu House, Dideolu Court Dideolu Estate Ijaiye Road, Ogba Lagos	P. O. Box 1343 Tel: 01 8944915 Email: <a href="mailto:info@mediaconcern.net">info@mediaconcern.net</a> <a href="http://www.mediaconcern.net">www.mediaconcern.net</a> Helplines: 0802 333 1036, 0805 820 7164, 0809 952 2487 Help <a href="mailto:counsel@mediaconcern.net">email:counsel@mediaconcern.net</a> , <a href="mailto:helponline@mediaconcern.net">helponline@mediaconcern.net</a>
5	League of Human Rights	6 Tafawa Balewa Street, Opposite Panam Music World , Jos. Email: <a href="mailto:leaguerights@yahoo.com">leaguerights@yahoo.com</a> Tel: 08036278067
6	LEADS – Nigeria League of Democratic Women	4 <sup>th</sup> Floor, NNIL Building, 4 Muhammadu Buhari Way. Tel/Fax 234 – 62-243267, <a href="http://www.leadsnigeria.org">www.leadsnigeria.org</a>
7	Network on Police Reform in Nigeria (NOPRIN)	44 Kofoworola Crescent of Balogun Busstop, Ikeja, Lagos <a href="mailto:noprin@noprin.org">noprin@noprin.org</a> 08064974531
8	Project Alert On violence against Women	No 21 Akinsanya Street, By Taiwo Busstop, Ojodu, Lagos
10	Rights based Awareness Coalition, Kano	Suit 8, Second Floor, Zaria Road, Jyabi Jyabi, Kano. 08032161356
11	Social Justice and Advocacy Initiative (SJA)	44 Kofoworola Crescent of Balogun Busstop, Ikeja, Tel 08023299708
12	Federation of Women Lawyers (FIDA)	Ministry of Justice, Abuja
13	Federal Ministry of Youth Development	Federal Secretariat, Phase I, Abuja
14	National Agency for the Prohibition of Trafficking in Persons and other	Plot 2028 Dalaba Street, Wuse, Zone 5. PMB 5161 Wuse, Abuja. Tel 09 – 5241584 email: <a 111="" 855="" 875="" 907"="" data-label="Footnote" href="mailto:antitraffick-&lt;/a&gt;&lt;/td&gt; &lt;/tr&gt; &lt;/tbody&gt; &lt;/table&gt; &lt;/div&gt; &lt;div data-bbox="> <p><sup>15</sup> This list is not exhaustive. If you get in touch with one or two of the organisations listed here, the organisation would be able to assist with referrals to other organisations in your area or locality.</p> </a>

	related matters (NAPTIP)	<a href="mailto:ingagency@yahoo.co.uk">ingagency@yahoo.co.uk</a>
15	National Human Rights Commission	No 19 Aguyi Ironsi Street, Maitama. <a href="mailto:info@nigeriarights.gov.ng">info@nigeriarights.gov.ng</a> , Tel: 234 – 9 – 5231762, 5241589, Fax: 234 – 9- 5238657, <a href="http://www.nigeriarights.gov.org">www.nigeriarights.gov.org</a>
14	Nigeria Bar Association	Offices all over the country.
.15	Nigeria Police Force: Juvenile Welfare Unit, Anti trafficking unit	The Police State Command nearest to you.