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Nigeria

Unheard voices

Violence against women in the family

STOP
VIOLENCE
AGAINST
WOMEN



1. Introduction

It was “Folake” who was jailed after she accused a man of rape. A domestic worker, she said her employer’s husband had forced her into his bedroom and made her watch a violent videotape before forcing her to have sex. A medical examination supported her allegation. Yet she was the one brought to court, charged with slander for making the accusation, and remanded in prison until her family could raise the bail money to have her released. The material evidence of the crime, handed over to the police, was later said to have disappeared. No charges were brought against the man she accused.

¹

“Sometime in 1999, an uncle sexually assaulted a little girl of six years old. The matter was taken to court and prosecuted. In giving judgement however, the magistrate set the accused person free for lack of [corroboration]. This was in spite of the bloodied pants, the testimony of the mother who noticed the pains while bathing her, and the medical evidence from a government hospital. The magistrate said collaboration meant testimony from another person who witnessed the alleged act. It was the type of miscarriage of justice that I could not take. Here was a woman who was courageous enough to go to court in a society where silence on violence against women

¹ Amnesty International interview with “Folake”, Lagos State, November 2004.

is the norm only to be told she could not get justice due to the technicalities of the law.”²

Countless women and girls in Nigeria are subjected to violence by some members of their families and within their communities, as in many countries throughout the world. Women of all ages and from all socio-economic groups, living in rural and urban communities, are affected. The lack of official statistics makes assessing the extent of the violence an almost impossible task, but studies suggest levels of violence are shockingly high. More than a third and in some groups nearly two-thirds of women in Nigeria are believed to have experienced physical, sexual or psychological violence in the family.

On a daily basis women are beaten and “punished” for supposed transgressions, raped and even murdered by members of their family. In some cases, vicious acid attacks leave them with horrific disfigurements. Girls and young women are forced into early marriage by parents and relatives. In many communities, the traditional practice of female genital mutilation continues to traumatize young girls and leave women with lifelong pain and damage to their health.

Such violence is all too frequently excused and tolerated in communities where women are assigned

² Interview with a human rights defender who campaigns to end violence against women in the family, Lagos State, November 2004.

an inferior role, subordinate to the male head of the family and effectively the property of their husbands. Husbands, partners and fathers are responsible for most of the violence against women. The violence persists because discriminatory laws condone and even legalize certain forms of violence against women. Dismissive attitudes within the police and an inaccessible justice system compound the failures of the state to protect women's rights.

Violence against women and in the home is generally regarded as belonging in the private sphere and is shielded from outside scrutiny. A culture of silence reinforces the stigma that attaches to the victim rather than the perpetrator of such crimes.

Increasingly however, women and men in Nigeria are drawing attention to injustice and discrimination against women, and asserting the rights of the women and girls who suffer violence in the home. Amnesty International is supporting their campaign, and highlighting the abuse of human rights that family violence represents. Government at federal and state level in Nigeria must meet obligations under international human rights law to prevent violence against women, and where it occurs, assist women in escaping violence and securing a full remedy. Amnesty International is calling for the authorities to monitor violence against women in the home, to ban it in law and repeal laws that allow it to flourish, to end discrimination against women in the criminal justice system, and to take positive measures to challenge social prejudices against women.

Violence against women is a human rights abuse. The 1993 UN Declaration on the Elimination of Violence against Women defines it as any act of gender-based violence – that is, violence directed against a woman because she is a woman or that affects women disproportionately – that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.³

Federal, state-level and customary laws contribute to the persistence of violence in the family, and in

³ UN Declaration on the Elimination of Violence against Women, para. 1; CEDAW Committee, General Recommendation 19, Violence against women (11th session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, UN Doc. HRI/GEN/1/Rev.1 at 84 (1994), para 6.

some cases directly condone certain forms of violence against women. The Penal Code, applicable in northern states, allows the “*correction of child, pupil, servant or wife*” as long as it does not amount to grievous hurt (Section 55).⁴ Marital rape is explicitly excluded from the definition of rape and is therefore not a crime under state-level *Sharia* penal legislation in northern states or under the Criminal Code in force throughout southern states.

This report relies on Amnesty International's own research, including during visits to Lagos State in March and November 2004, and on work done with Nigerian NGOs. Lagos State is Nigeria's most populous state, containing within its borders the nation's economic capital. In the city of Lagos, women's organizations and human rights defenders have been active in highlighting family violence and legislative reforms are imminent. Moves to confront violence against women in Lagos are likely to have a major impact elsewhere in Nigeria. While in Nigeria, Amnesty International representatives met women who had experienced violence in the family, national and local officials, and a range of non-governmental individuals and bodies, including health and legal professionals, traditional and religious leaders, and community workers.

Positive developments in policy and law reform have included, in 2000, the adoption by the Federal Government of a National Policy on Women, which aims to integrate women fully into national development as “*equal partners, decision-makers and beneficiaries*” by removing gender-based inequalities.⁵ A federal Violence Against Women (Prohibition) Bill was expected to receive its first public reading in the National Assembly on 23 May 2005. The Lagos State House of Assembly is currently considering the first state-level bill in Nigeria on violence in the family, which provides remedies under civil and criminal law. In addition, criminal courts have developed jurisprudence in relation to discriminatory practices under customary law that are contrary to the

⁴ Nigeria is a Federal Republic of 36 states and a Federal Capital Territory (Abuja). The states are further subdivided into 589 local government areas. The federal government defines and monitors national policy, for implementation by state and local governments. In addition, each state has its own government, laws and judiciary.

⁵ National Policy on Women 2000, p. 6, cited in Ali-Akpajak, Sofu C.A., and Pyke, Toni, *Measuring Poverty in Nigeria*, Oxfam Working Papers, 1 June 2003.

Constitution. In one court of appeal ruling, the practice of *oli ekpe* under the customary law of Nnewi in Anambra State, which allowed only men to inherit their father's property, was found to be "repugnant to natural justice, equity and good conscience" and thus incompatible with the Constitution.⁶

Yet massive levels of family violence remain untouched by these developments. In most cases, the criminal justice system fails to offer protection, justice or redress to women who have been subjected to violence in the home. The federal government and state administrations have yet to provide a protective framework for women seeking escape from family violence, to amend or repeal discriminatory laws, or take action to end discrimination against women by the police, prosecution officials and judiciary. In practice, women are actively discouraged from lifting the veil of silence over violent crimes in the home. The criminal justice system provides scant protection, the police and judiciary often dismissing domestic violence as a family matter and failing to investigate or press charges.

Ignorance and inaction have characterized the state's response to acts of violence in the home. Yet the state has a duty to protect women from any acts of violence not only by its own agents but also by private individuals and employers. Under international human rights law, states must exercise "due diligence" to secure women's rights to equality, life, liberty and security, and to freedom from discrimination, torture and cruel, inhuman and degrading treatment, whether or not the discrimination is perpetrated by state agents or private citizens. The authorities must have policies and plans to fulfil these rights, to protect people from abuses of these rights, and to provide redress and reparation to those whose rights have been violated.

Legal reforms have come about in large part as a result of campaigning by women's organizations and human rights activists in Nigeria. As well as exposing violence against women and violence in the family, such non-governmental organizations (NGOs) help women to find shelter from abusive partners or families and provide legal assistance to bring the perpetrators to justice. They confront social prejudices and discriminatory practices against

⁶ See *Mojekwu vs. Mojekwu* [1997] 7 NWLR p. 283. For further information, see chapter 6, National and state laws, Customary laws.

women by bringing together women and men from a range of cultural, religious and socio-economic backgrounds to combat the violence.

Acts of violence against women take place in every country in the world. This report is one of a series published as part of Amnesty International's global campaign to Stop Violence Against Women, launched in March 2004.⁷ The campaign highlights the failure of states the world over to prevent, investigate and punish violence against women in the family and community. Through the campaign, Amnesty International joins the women and men who have struggled and who are still struggling to stem this violence and who have often achieved dramatic changes in laws, policies and practices by their efforts. Amnesty International seeks to show how a human rights approach can galvanize governments, communities and individual men and women everywhere to confront and overcome violence against women.

In spite of the obstacles that women face in reporting violence in the home and achieving justice, many are prepared to speak out. Their courage deserves the recognition and support of their government and the international community. In this report, Amnesty International has altered the names of all survivors and victims of violence against women. Local press reports of such cases are frequently sensationalist, increasing the humiliation and suffering of the victims.

Among its recommendations in the report, Amnesty International is calling on the federal government to ensure that all legislation contains prohibitions of all forms of discrimination and violence against women, and that effective measures to protect women from violence are introduced, supported and implemented. Amnesty International is also calling on both federal and Lagos State authorities to ensure that the police and judiciary

⁷ See campaign launch report: *It's in our hands – Stop violence against women*, March 2004. See also Amnesty International: *Iraq: Decades of suffering – Now women deserve better*, February 2005; *Turkey: Women confronting family violence*, June 2004; *Kosovo (Serbia and Montenegro): 'So does that mean we have the rights?' – Protecting the human rights of women and girls trafficked for forced prostitution in Kosovo*, May 2004; *Rwanda: 'Marked for death' – Rape survivors living with HIV/AIDS*, April 2004; *Afghanistan: Justice denied to women*, October 2003; *Mexico: Intolerable killings – 10 years of abductions and murder of women in Ciudad Juárez and Chihuahua*, August 2003.

monitor, investigate and act upon complaints by women of violence in the family. The authorities must establish shelters for women and give support to shelters already established by NGOs. Women who have been subjected to violence must have prompt access to investigative and judicial bodies, and to appropriate health care. Officials should receive training in providing support in a non-discriminatory and sensitive manner. Amnesty International calls on federal and state authorities actively to promote changes in social attitudes and to publicize their reform programmes to end violence against women.

The authorities, both at the federal and state level, must cooperate with women's rights groups and other NGOs in ending the restrictions and impediments on women's rights to make decisions about their lives – their mobility and access to economic and social rights, their engagement in political life and their right to freedom of movement and to leave a marriage.

2. Violence in the home

In Nigeria large numbers of women are regularly subjected to violence in the family, to physical, sexual and psychological violence. Husbands, partners and fathers are responsible for most of this violence. However, both male and female members of the extended family are involved, including in their capacity as employers of women domestic workers in the household.

“Fatima”, a domestic worker aged 12 years old, was reported to have been doused with kerosene and set on fire after she was accused of stealing meat from her employer. The alleged perpetrator was charged in connection with her death, but the outcome of the case is not known.⁸

Women and children are most frequently the victims of violence in the home. Men are affected to a lesser degree. Violence against one member of the family profoundly affects everybody in the home, and children are traumatized by the abuse of their mother. Witnessing violence can also have a brutalizing effect, leading to a cycle of violence perpetuated down the generations.

⁸ See *Guardian*, 22 July 2002.

The violence cannot be associated with a particular socio-economic background, education, culture or geographical area, but affects men, women and children from across society.

Forms of violence

The violence that women and girls experience in the home takes many forms, and includes physical, psychological and sexual abuse.

The battering of women by husbands or other intimate partners is the most common form of gender-based violence in the family, according to NGO workers, health professionals and religious and community leaders interviewed by Amnesty International in Lagos State. Such physical abuse ranges from shoving and slapping to kicking and stabbing. It can result in severe injuries, permanent disability or disfigurement, and sometimes even death. Women domestic workers are among members of the household reported by human rights activists to be sometimes beaten by employers as “punishment”.

“Shehi” said she was regularly subjected to violence by her husband. After one assault, she was left permanently blind in her left eye. Her husband had reportedly suspected her of having a sexual relationship outside their marriage. She obtained dissolution of the marriage in the Lagos High Court, and later sought damages for grievous bodily harm.⁹

Rape of girls and women in the family or of domestic workers, marital rape and other forms of sexual abuse are often accompanied by violence. The immediate consequences for the girl or woman may include pregnancy or a sexually transmitted disease. The long-term effects are often depression, other mental health disorders and suicide. Local health professionals and human rights activists increasingly see the prevalence of violence in the family as a public health issue.¹⁰

In some communities in Nigeria, young girls continue to be forced into early marriages, often to much older men. Such marriages reinforce women's

⁹ See Suit no. ID/1202/2001, High Court, Ikeja, Lagos State, reported in Project Alert on Violence Against Women, *Annual Report and Accounts 2001-2003*, p. 13.

¹⁰ Charles Ezenwa, “The role of medical practitioners in dealing with victims of domestic violence”, in Legal Defence and Assistance Project (LEDAP), *Domestic violence: zero tolerance*, Lagos, 2003, p. 63.

unequal status in society and leave them vulnerable to violence. The girls are at risk of harsh punishment if they try to run away from their husband or his family, and often cannot find refuge with their own family, which arranged the marriage.

Acid is thrown at women in a particularly brutal form of punishment known as an “acid bath”, often carried out by former intimate partners or relatives. Such violence is deliberately intended to mutilate or kill.

“Ronke”, from Lagos, died of her injuries after she had acid thrown over her, allegedly by her husband’s younger brother. Her husband had died from a stroke, but when she attended his funeral in Delta State, she was apparently “accused of wanting to kill him”.¹¹

Between half and three quarters of women subjected to an acid bath die as a result of the attack, according to medical professionals who participated in a survey on violence against women in Lagos State in 2001.¹² The survey was conducted by the NGO, Project Alert on Violence Against Women, based in Lagos.

The killing of women by husbands and intimate partners is frequently reported in the news media and by human rights defenders, lawyers, journalists, care workers and medical professionals. However, it is often difficult to obtain information about the outcome of any investigation by the police into such cases, sometimes because of the difficulties experienced by the press in obtaining information from the police. There is widespread lack of confidence in the capacity or resources of the police to carry out thorough investigations, for example in the collecting and preserving of evidence.

Women reported in the news media to have been killed by their husbands in Lagos have included 22-year-old “Tunde”, allegedly beaten to death in 2003; “Abiola” in July 2003; and “Amina”, who allegedly died before she could receive medical treatment for a severe beating on 18 June 2001.

The scale of the violence

Human rights and women’s rights organizations in Nigeria believe that violence in the family is the most

¹¹ Project Alert on Violence Against Women (Project Alert), *Beyond boundaries: violence against women in Nigeria*, Lagos, 2001, p. 71.

¹² Project Alert, *Beyond boundaries: violence against women in Nigeria*, Lagos, 2001, Table 9, p. 54.

prevalent form of violence against women in Nigeria. Its scale may be of “endemic proportions”, the government reported in 1997 to the CEDAW Committee, which monitors implementation of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), to which Nigeria is a party.¹³

In the absence of official records or statistics of incidents and patterns of violence, NGOs and the news media provide the only documentation available on violence in the family. One such group is the Women’s Rights Advancement Project (WRAPA). Another, Project Alert on Violence Against Women, receives increasing numbers of complaints of violence in the family, Director Josephine Effah Chukwuma told Amnesty International.¹⁴ Other human rights defenders told Amnesty International that they meet many women and men in the course of their work who have experienced violence in the family but who are reluctant to have their cases publicized. Newspapers frequently report incidents of family violence, as does the weekly national television programme “Newline”, which covers human rights issues and has reported cases of family violence against both men and women.

Tolerance of family violence

Violence in the family reflects the power relationships between husband and wife, parent and child, and employer and employee, as observed in one Nigerian study:

*“The husband derives power from being the supposed provider and head of the family, which is ideologically based. The power includes coercive power which is often manifest in physical and mental subjugation through violence.”*¹⁵

This perspective in turn closely mirrors international analyses.

¹³ Nigeria’s combined Second and Third period reports to CEDAW, UN Doc. CEDAW/C/NGA/2-3, 26 February 1997, p. 23.

¹⁴ Amnesty International interview, Lagos, November 2004. See Project Alert on Violence Against Women, *No Safe Haven: Annual Report of Attacks on Women in Nigeria December 2002-November 2003*, Lagos, 2003, p. vii.

¹⁵ J. Uffah, D. Mbachu and S. Onyegbula, *Unequal rights: discriminatory laws and practices against women in Nigeria*, Constitutional Rights Project, Lagos, 1995.

The UN Declaration on the Elimination on Violence against Women states that: “violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women”.¹⁶

Violence against women in the family occurs in all communities and across all economic boundaries. However, it can be particularly persistent where families are poor, where husbands feel threatened by their wives’ increased independence, or where men regard beating their partners as the only way to resolve a dispute. Men who grew up in violent households frequently perpetuate the cycle of violence in later relationships, passing on to another generation the perception of violence in the home as acceptable. Such acts of violence are also frequently associated with excessive consumption of alcohol.

Envy appeared to be a factor in the beating of a teacher by her husband, a medical professional in Lagos told Amnesty International:

“A middle-aged teacher with a university degree was brought to me by her sister due to her collapsing after the last set of battering by her husband. Her husband had just left her on the floor. She was advised to go to the police, but she wanted to go home for the children and did not want to prosecute. She kept being beaten, and went to LUTH [Lagos University Teaching Hospital] to have an operation where they removed a clot of blood... I suspect her husband was jealous of her success.”¹⁷

In many cases, women’s actions or inactions are used to excuse violence against them. Such attempts at justification portray violence against women as in some sense “self-inflicted”, as the expected outcome of the woman’s act or failure to act. Socially unacceptable conduct is often invoked as an excuse for violence against women in families. Such “provocation” can include:¹⁸

- refusing sex, “nagging”, or challenging the man’s behaviour, for example if he takes a second wife or abuses alcohol;
- showing lack of respect for a husband’s family;
- having too many engagements outside the home, and paying too little attention to cleaning the home or preparing meals on time;
- having, or under suspicion of having, a sexual relationship outside marriage;
- being accused of witchcraft.

Violence against women in the home is widely regarded in Nigeria as a fact of married life that must be tolerated. In the only known official survey of public opinion on violence against women in the home, the proportion of women and men who justified wife-beating was found to be highest in the north-central zone of Nigeria, and lowest in the south-west zone, which includes Lagos State.¹⁹ The proportion was also found to be higher in rural areas than in towns. A higher proportion of female than male respondents justified “wife-beating” where:

- the wife goes out without telling her husband (women 36.3 per cent, men 21.3 per cent);
- the woman neglects her children (women 39.3 per cent, men 25.4 per cent);
- the husband thinks that the wife is unfaithful (women 52.5 per cent, men 31.0 per cent);
- meals are not ready on time (women 23.7 per cent, men 13.0 per cent);
- the wife argues with her husband (women 33.3 per cent, men 18.3 per cent); and
- the wife refuses to have sex with her husband (women 34.4 per cent, men 19.1 per cent).

In Lagos State, fewer women than the national average thought wife-beating was justified where the wife had neglected the children (29.3 per cent) or food was not ready on time (7.9 per cent).

Tolerance of violence in the home reflects high levels of violent crime, street violence and patterns of violent behaviour in society, according to many human rights defenders and commentators in Nigeria. A former High Court judge from Anambra State said:

¹⁹ Federal Ministry of Health, *National HIV/AIDS and reproductive health survey*, October 2003.

¹⁶ UNDEVAW, preambular paragraph.

¹⁷ Amnesty International interview, Lagos, November 2004.

¹⁸ See for example Morolake Omonubi-McDonnell, *Gender Inequality in Nigeria*, Ibadan, 2003, p. 39, and J. Uffah, D. Mbachu and S. Onyegbula, *Unequal rights: discriminatory laws and practices against women in Nigeria*, Constitutional Rights Project, Lagos, 1995, pp. 54-55.

“We cannot continue to deny the increasing violence on our street, armed robbery, insecurity and brutality without facing up to the facts that the perpetrators of violence in the larger society were nurtured in homes where they not only saw but experienced some form of violence?”²⁰

Human rights defenders have expressed concern that the easy availability of video tapes showing extreme brutality and violent behaviour may contribute to the swift resort to violence to settle disputes and conflicts. Despite prohibitions in law, and the establishment of a Censorship Board and a Nigerian Communication Commission to regulate the distribution of such material, laws and rulings are largely not implemented.

Social prejudice and pressures

“Adeola”, a 15-year-old girl in Lagos, blamed herself when she was raped by the lodger, a friend of her father, and became pregnant. Violence was a frequent occurrence in the family home. Her father had physically assaulted her mother, who had subsequently left the house. He accused Adeola of being a prostitute after he found out about the rape. Instead of protecting her from further violence, her parents ostracized her. She fled the house, eventually finding her way to the only shelter for women in Lagos, run by a women’s human rights organization. She hoped to continue her studies after the delivery of her baby, and after Amnesty International’s visit in April, she confirmed that she is studying for her final exams with support from the shelter. She did not want to press charges against the lodger.²¹

The crimes of rape and other forms of violence in the home are seriously under-reported, and the perpetrators are rarely brought to justice. The stigma attached to the victims of sexual violence, rather than to their attackers, deters most women from reporting such crimes. Men subjected to violence in the family may not report it for fear of humiliation and diminishing the notion of men’s superiority to women.

Women remain silent about other forms of violence in the home for a range of reasons. They feel there is no point in taking complaints to the police

²⁰ Quoted in LEDAP, *Domestic violence: zero tolerance*, Lagos, 2003, p. 15

²¹ Amnesty International interview, Lagos, November 2004 and April 2005.

because they will not be taken seriously. Women in a long-term cohabitation or marriage may endure physical abuse in silence for fear of breaking up the relationship and facing financial insecurity. Many women in Nigeria experience deprivation and discrimination in access to economic resources. Discrimination against women starts at birth. In Nigeria, families force young girls into early marriages. In education, fewer girls than boys attend school or go on to higher education. In adult life, women face discriminatory treatment at home, in their communities, and in employment. The physical violence they face in their homes and communities can leave them traumatized, seriously injured or dead.

Women are frequently unaware of their human rights or that violence against women in the family may constitute a human rights violation by the authorities. Women’s lack of awareness of available legal remedies may also contribute to the under-reporting of domestic violence. They may fear violent reprisals if they attempt to bring an abusive partner to justice.

Relatives may put women under pressure not to disturb the family peace or bring shame on the family. One woman, who had lost some teeth and suffered other injuries in the latest serious assault by her husband, was urged by her brother to resolve her marital problems on her own. She reported the abuse to the Lagos office of the International Federation of Female Lawyers (FIDA), but did not return to discuss further action. A journalist based in Lagos reported the case of her cousin, who is subjected to constant physical abuse by her husband:

“My cousin is beaten up by her husband every second because he suspects her of having an affair. They have no children and my cousin has told me to stay away and not report the case to the police although he almost killed her once. She thinks the husband’s extended family supports him, and will isolate and dishonour her if she reports him.”

Women in Lagos State who have turned to religious leaders for “counselling” have frequently been discouraged from making any formal complaint to the police. Many of the people interviewed by Amnesty International said that, where there was violence within marriage, the priority for religious leaders was to keep married couples together at all costs. Religious taboos around sexuality and rape, including marital rape, also deter religious leaders

from encouraging women to make public the abuses against them.

If women take complaints to traditional leaders with jurisdiction to administer customary law in their communities, their rights may not be protected by a male-dominated justice system in which women are rarely represented and which may uphold traditional practices harmful to women's health and autonomy.²² For example, when a marriage takes place under customary law, the family of the prospective husband must pay a bride price or dowry in the form of money or a gift to the family of the prospective wife. Although historically this payment indicated appreciation for the characteristics and skills of the bride, it is now frequently regarded simply as payment for a commodity and reinforces the inferior status of women within customary marriages.

Some customary law systems also prescribe that a widow is "inherited" by a male relative of the former husband. The widow is seen as the property of the former husband's family. Families that migrate to Lagos continue to apply such customary rules to their relationships, even after they have moved away from their traditional areas of origin.

In the absence of state provision and regulation of counselling for victims of violence in the family, few girls or women have access to the social, medical and legal services and support they need.

Under-reporting of rape and other forms of sexual violence in the family or community is also the result of families resorting to alternative measures. Human rights defenders reported that the father or family of a rape victim often seek a financial settlement out of court, when a child has been raped for example, rather than pressing for prosecution through the criminal justice system. Criminal prosecution incurs expenses which for most Nigerians are too high and which is unlikely to be successful. A medical practitioner told Amnesty International of an nurse employee in a violent marriage whose husband refused to allow his raped daughter to be medically examined:

"The nurse fled to a friend's house and stayed there until the family begged her to come back home. After her return she was not beaten, but verbally abused. And when the six or seven-year-

²² For information about the response of customary courts to violence against women in the home, see chapter 5.

old daughter was raped by the neighbour, the problems of the man beating his wife increased. I was called to examine the daughter and, although I suggested to do a swab and a HIV test, the father preferred to settle financially with the neighbour.²³

Where women and families seek alternative ways of addressing violence against women within the community, it is in part a response to official failures to meet obligations under international and national law to address the violence. However, such alternative measures can further bind women to violent situations in the home and family. They also deny women access to justice and the right to redress.

Suspect injuries

Women subjected to violence in the home may be seriously injured, disabled or even killed. However, many women are unable to afford medical treatment.

Patients whose injuries apparently result from violence in the family are frequently unwilling to explain their cause, medical professionals in Lagos told Amnesty International. A person who complains of stomach ache may on examination be found to have broken ribs from a beating by an intimate partner or relative. One doctor told Amnesty International that only a tiny proportion of victims of family violence admits the real origin of their injuries.²⁴

Every month one doctor in a private medical clinic on the outskirts of Lagos sees one or two cases of women, and some men, who have suffered physical abuse in the family. She was not able to provide figures on the numbers of such cases that are seen in the clinic. Out of four women whose cases she described, only one admitted that her injuries were the outcome of a beating by her husband. In two cases, violence in the family was only revealed indirectly in the course of the examination. In the fourth, a relative brought the unconscious woman to the clinic.

The same doctor reported two cases in which young domestic workers had been abused by their employers. One of the women was beaten. The other, a young Lebanese woman, was raped on several occasions by

²³ Amnesty International interview, Lagos, November 2004.

²⁴ Interview with Dr Ehindero at the Oluwatomisin Clinic, Lagos, 15 November 2004.

her employer, and as a result was infected with and subsequently died of HIV/AIDS.

A doctor working in a privately funded hospital in Orile Igannu on the outskirts of Lagos told Amnesty International that he treats women who have been physically abused within the family, and a large number of young girls who have been raped. Out of four girls whose cases he mentioned, two were brought to the hospital by a close relative. He had never encountered any cases of marital rape, although he too confirmed that patients did not always admit to violence in the family. He had treated the victim of an acid attack by an employer on an employee. He did not know the total numbers of family violence cases reported to his hospital, but stressed the need for national statistics to be gathered in order to properly assess and combat the problem.

3. No records, no statistics

Individuals in Lagos State, asked whether they knew of women who had experienced violence in the family, invariably told Amnesty International of a relative, neighbour, friend or colleague who had been subjected to physical abuse by her husband, intimate partner or his relatives. Yet the scale of the violence is difficult to establish because there are hardly any official figures or statistics. Government representatives, police and justice officials uniformly told Amnesty International representatives in November 2004 that no statistics were compiled on gender-based violence or violence in the family.

No mechanisms are known to have been established to record such complaints of violence in the family systematically, despite acknowledgment for several years that such monitoring was needed and that women were fearful of bringing complaints to the authorities. In 1998 the then Minister for Women Affairs and Social Development, Hajo Sani, told the UN Committee that monitors state implementation of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), to which Nigeria is party:

“There is no record of the prevalence of violence against women especially within the home. This is because women hardly report violence to the police for fear of reprisal from both the husband and wider family. In addition, the law enforcement agents do not readily entertain complaints of domestic violence. They treat such

complaint as a minor offence of ‘two people fighting’ or laugh it off as ‘husband and wife problem’.”²⁵

When presenting Nigeria’s second and third report to the CEDAW Committee, Nigeria’s representative stated that

“Domestic violence was seldom reported because of fear of reprisal and lack of response from law enforcement officials. Statistics relating to this problem would not be available until women were motivated to report domestic and other forms of violence.”²⁶

The CEDAW Committee also expressed concern about the “continued prevalence of violence against women and girls, including domestic violence and sexual harassment in the workplace”, in its concluding comments on Nigeria’s fourth and fifth reports.²⁷

The only official records of complaints are made by Nigeria’s National Human Rights Commission which received 34 complaints of violence in the family in the first nine months of 2004.²⁸ The cases reported by the Commission in 2004 included complaints of torture and inhuman treatment, wife-beating, denial of medical care and forced marriage, as well as desertion by husbands, denial of freedom of worship, denial of inheritance and unauthorized withdrawal of funds.²⁹

The police do not compile statistics on the basis of complaints they receive of violence in the home, and there are very few criminal prosecutions in such cases. The Lagos police told Amnesty International that there were no specific statistics on violence in the family in Lagos State, and that available statistics on reported crime were unreliable.³⁰ Figures for reported crime in 2004 up to September contained only one reported rape and two cases of sexual abuse and

²⁵ As reported in Project Alert, *Beyond boundaries: violence against women in Nigeria*, Lagos, 2001, p. 4.

²⁶ CEDAW Concluding Observations: Nigeria UN Doc. A/53/38/Rev.1, 1998, para. 145.

²⁷ UN Doc. A/59/38, para. 297.

²⁸ From October 1996 to 2003 the Commission received: 1996, 0 cases; 1997, 0 cases; 1998, 4 cases; 1999, 3 cases; 2000, 9 cases; 2001, 11 cases; 2002, 11 cases; 2003, 32 cases.

²⁹ The reporting of these abuses by the Commission as examples of “violence in the family” do not denote an official definition of violence against women or violence in the family.

³⁰ Interview with Mr Ighodalo, Headquarters of the Nigerian Police Force Lagos State, Lagos, 12 November 2004.

harassment.³¹ The police had never recorded an allegation of a husband raping his wife.

“States should encourage the compilation of statistics and research on the extent, causes and effects of violence, and on the effectiveness of measures to prevent and deal with violence”.

CEDAW Committee, General Recommendation 19.³²

Amnesty International is gravely concerned that, in Nigeria’s most populous state, where there is widespread rape and violence in the family, there is a near-zero record of these crimes. This clearly points to the failure of the state – its lawmakers, government, judiciary and police – to exercise due diligence in preventing, investigating and prosecuting such serious crimes. The women who have had to endure such violence must totally mistrust the readiness and ability of the state to help them if the level of reporting is so low. There is clearly an urgent need for an official reporting system by law enforcement agencies of cases of violence against women, in the community as well as within the family. Officials must be trained on how to respond to such cases and women must be protected from reprisals if they bring complaints. There needs to be a national programme to combat the stigma associated with violence in the home and to encourage women to come forward to report the crimes against them.

Violence against women in the home rarely comes before the courts, except when cited as grounds for divorce. The Directorate for Public Prosecution in Lagos State confirmed to Amnesty International that it had no official statistics specifically on violence in the family.³³ The majority of family violence cases considered for prosecution involved rape allegations, not assault, the Deputy Public Prosecutor said. In November 2004 her office was handling up to seven cases in which underage girls were alleged to have been raped. It was not clear whether all the rapes took place in the domestic sphere.

³¹ Statistics on Return of Incidents for the month of September 2004.

³² CEDAW Committee, General Recommendation 19, Violence against women (11th session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, UN Doc. HRI/GEN/1/Rev.1 at 84 (1994), para. 24(c).

³³ Interview with Mrs Bola Ighile-Okikiolu, Deputy Public Prosecutor, 13 November 2004.

The Citizen’s Mediation Centre, administered by the Lagos State Ministry of Justice, offers free mediation services for citizens of Lagos State at six offices staffed by about 26 lawyers and trained mediators.³⁴ Most of the disputes concern inheritance or child custody, and the Centre has no statistics on gender-based violence. In 2004 it mediated in one or two family violence cases.

In one case, a woman was reportedly beaten by her husband when she protested at the rape of her daughter by her husband. The Citizen’s Mediation Centre warned the relative to stop raping the daughter and pressed him to support the family materially, and referred the wife to an NGO working on violence against women and violence in the family, for possible material support and protection during the police investigation.

No specific official study of violence against women in the family is known to have been conducted. The lack of comprehensive or gender-disaggregated official statistical data, especially on cases resulting in deaths, demonstrates the government’s lack of commitment to protecting women from violence.

Unofficial studies of family violence

In the absence of official studies, research into the prevalence of violence in the family has been conducted by individuals and NGOs. In a recent study of gender inequality in Lagos and Oyo States, 40 per cent of the women interviewed said they had been victims of violence in the family, in some cases for several years.³⁵ The study concluded that such violence was not documented in Nigeria because of widespread tolerance of violence against women: “*once a woman is married, she is expected to endure whatever she meets in her matrimonial home*”. There is little awareness of psychological abuse in marriage, and 20 per cent of the urban women interviewed and 29 per cent of the rural women did not know if they had been subjected to abuse or not.

In the 2001 survey by Project Alert on Violence Against Women, interviews were conducted with women working in markets, women in other work places, and with girls and young women in secondary

³⁴ Interview with Mrs J. Efunbowale Gbadebo, Director, November 2004.

³⁵ Morolake Omonubi-McDonnell, *Gender Inequality in Nigeria*, Ibadan, 2003, p. 171.

school and at university. The women and girls were from all over Nigeria, including Lagos State. They were asked about physical abuse in the family, rape and reporting incidents of violence. For Lagos State, the following percentages of women said they had been beaten by a partner, boyfriend or husband:³⁶

- 64.4 per cent of 45 women in work places;
- 56.2 per cent of 48 market women.
- 7 per cent of 57 girls and young women in secondary schools and universities.

When asked why they had been physically abused, the causes given by women in work places were:³⁷

- 8 per cent, the man was drunk;
- 8 per cent, financial problems;
- 15 per cent, the woman had refused sex.

The market women's response to the same question was:

- 16.6 per cent, financial problems;
- 25 per cent, the woman had worked late or returned home late;
- 18.7 per cent, the woman had refused sex.³⁸

The girls and young women in secondary schools and universities were not asked this question.

When asked whether they had been threatened, including with death, maiming or divorce, the responses were:

- 22.2 per cent of women in work places;
- 27 per cent of market women.

On reporting violence in the family:

- 11 per cent of the women in work places had reported physical injuries and threats twice, and 8.8 per cent several times, 13.3 per cent of them to the perpetrator's family, 6.6 per cent to their church or a religious leader;
- 18.75 per cent of market women had reported violence, 10 per cent of them to the woman's

³⁶ Project Alert, *Beyond boundaries: violence against women in Nigeria*, Lagos, 2001, Table 1, p. 28; Table 3, p. 35; Table 5, p.41.

³⁷ Only 15 out of the 45 women surveyed replied to this question.

³⁸ Only 29 out of the 48 women surveyed replied to this question.

own family, and 8 per cent to the perpetrator's family;

- 11.1 per cent of women in work places said the abuse had been going for months before they reported it; 6.6 per cent had endured it for years before reporting it;
- of 7 per cent of girls and young women at secondary school and universities who reported being raped (all cases, not just those where the perpetrator was an intimate partner), only 1 per cent had reported the abuse.

Notably, none of the respondents had reported the violence to the police.

In its annual report for December 2002 to November 2003, Project Alert recorded cases of violence against women in the family in Lagos State that had been reported in the newspapers. In six murder cases, two of the alleged perpetrators were from the extended family; one was a former employee, and three were the husband or partner. Among the cases reported was that of a young girl who fled Lagos to escape a forced marriage. In two cases of assault, the alleged abuser was the husband, in another a woman member of the husband's family. In three cases of rape, one of the alleged rapists was a member of the extended family and one a neighbour.

Nowhere to find safety

The failure of federal and state authorities to establish policies and programmes to address violence against women in the home is reflected in the lack of support for women in urgent need of a place of safety. The authorities provide no shelters for women forced to flee their homes.

Most women who are abused by their partners are abused persistently over a long period of time, but economic dependency hinders them from leaving home, according to the NGO Project Alert. Nigerian women are in general less financially independent than men, and their dependency on a partner or husband deters most women from leaving an abusive relationship or from seeking a divorce.

Litigation to obtain a divorce or to seek custody of the children is expensive and beyond the means of most women. For this reason, some women have to report violence in the home to the news media or to NGOs, to highlight their plight and to obtain legal advice and assistance.

The provision of short-term escape routes in the form of shelters would provide protection and accommodation to women and girls at risk from a violent relationship. At present there is no state-run shelter in Lagos State, only a single shelter run by Project Alert.³⁹

Women who seek a divorce may be at particular risk of violence.

“Ebun”, aged about 30, said her husband had physically assaulted her during pregnancy and after the birth of their son in 2003, and had threatened to kill her and her family. A court official conducting initial divorce hearings and a welfare officer reportedly advised her not to proceed with the divorce for fear of exacerbating her husband’s mental health problems and putting her safety at risk.⁴⁰

4. Failures of the criminal justice system

The criminal justice system provides scant protection, the police and judiciary often dismissing domestic violence as a family matter and failing to investigate or press charges. The few rape victims who take their cases to court face humiliating rules of evidence, patronizing and discriminatory attitudes from court officials, and little chance of justice. The prohibitive cost of legal action encourages families to seek financial compensation out of court. In such cases – and where women subjected to violence in the family or rape cannot attain justice through criminal proceedings – the state is failing to provide effective and accessible justice for women, is depriving them of the right to redress, and is allowing the perpetrators to operate with impunity.

In early 2005, the UN Committee on the Rights of the Child noted its deep concern about the “*generally high level of acceptance of domestic violence among law enforcement officials and court personnel*” in Nigeria.⁴¹ It is these figures of authority – as well as religious and traditional leaders – on whose support abused women should be able to count. Yet they often exhibit attitudes that discourage women from turning

³⁹ See chapter 5, Human rights defenders speak out.

⁴⁰ Interview with Abiola Afolabi, Director, Women Advocates Research and Documentation Centre (WARDC), Lagos, November 2004.

⁴¹ UN Doc. CRC/C/15/Add.257, 28 January 2005, unedited version, para 44(b).

to them for help and contribute substantially to the normalization and persistence of violence against women in the family.

Police officers, prosecutors and judges lack sensitization and training on issues of violence against women in general and violence in the family in particular. No sensitization or educational initiatives are known to be run by the Lagos State administration.

“Gender-sensitive training of judicial and law enforcement officials and other public officials is essential for the effective implementation of the Convention.”

CEDAW Committee, General Recommendation 19.⁴²

“Member States and the private sector, relevant professional associations, foundations, non-governmental and community organizations, including organizations seeking women’s equality, and research institutes are urged, as appropriate: (b) To develop multidisciplinary and gender-sensitive approaches within the public and private entities that participate in the elimination of violence against women, especially through partnerships between law enforcement officials and the services that are specialized in the protection of women victims of violence.”

UN General Assembly, 1997, on the need for cross-sectional awareness raising and training.⁴³

Police inaction

Women and men who go to the police to report cases of violence in the family, including rape and physical assault, are often met with a patronizing and discouraging attitude. A police spokesperson in Lagos told Amnesty International that they did not take violence in the family seriously, “unless it is a case of the rape of a child or the husband kills his wife”.⁴⁴ Few rapes are reported to the police, because of the

⁴² CEDAW Committee, General Recommendation 19, Violence against women (11th session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, UN Doc. HRI/GEN/1/Rev.1 at 84 (1994), para. 24(b).

⁴³ UN General Assembly Resolution 52/86 Crime prevention and criminal justice measures to eliminate violence against women, Annex: Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, 12 December 1997, para 14.

⁴⁴ Interview with Mr Ighodalo, Public Relations Officer, Lagos Headquarters of the Nigerian Police Force, 12 November 2004.

social stigma attached to the victim and the difficulty in obtaining medical evidence. Women who bring a complaint of rape cannot insist on speaking to a woman police officer as of right, and proposals for specific women's and human rights desks in all police stations have not yet been implemented.

Amnesty International believes that the failure of law enforcement officials to register adequately and investigate cases of violence in the family, and to prosecute suspected perpetrators, indicates a lack of willingness to treat violence in the family as a criminal offence and a violation of human rights.

Social tolerance of gender-based violence in the family is replicated among Nigeria's law enforcement officials. The police frequently dismiss complaints of domestic violence on the grounds that the state has no right to interfere in private or family matters. Far from providing protection from crimes of violence, police officers often advise complainants to go home and sort out the problems themselves.

The police referred a child abuse case to a social worker, a doctor told Amnesty International:

"One of the nurses in my practice...kept coming into work with bruises on her face and arms. She explained it by having fallen in the dark or being hit by a closing door. She used to come in late in the morning and didn't want to go home in the evening. After a while she started to reply to my inquiries, and explained that her husband was beating her. She also told me that he also beat up their daughter, who had become very withdrawn and had difficulties concentrating. I reported the case to the police who involved a social worker."

However, failure to react to threats and violence against women until there has been a serious injury can cost lives.

"Late "Blessing", a PhD holder and an appointee to the then newly established Anti-Corruption Commission, ICPC, reported threats to her life by her husband and his two sisters to the Enugu State Police Commissioner who, instead of acting immediately, asked her to come back in two days time. She did not live to keep that appointment as she was murdered at night in her home on the eve of her appointment."⁴⁵

⁴⁵ Reported by Project Alert on Violence Against Women, *Violence Watch*, Vol. 5, Issue 3, July-September 2003.

Complicity and corruption

Years of corruption and under-resourcing in the police force over the years has left little public faith in its integrity or capacity, despite attempts by elected governments since 1998 to strengthen police training and capacity.

One woman from Lagos, whose husband regularly beat her and had tried to run her down in his car, was fearful of going to the police because her husband said he had friends in the force and her complaint could not succeed. She fled the family home with her two children, and came to a human rights organization with her brother to report the case. She did not want a divorce, just an end to the violence, and did not return to discuss bringing charges against her husband.⁴⁶

Wealthy and powerful perpetrators of violence, or those with personal connections to police officers, are widely believed to be able to buy themselves immunity from prosecution by paying officers not to record a complaint or not to pursue an investigation. This was the suspicion of some observers in the case of one woman in Lagos:

"Maryam" died on 14 December 2000 from injuries sustained after she was allegedly beaten and thrown from the first floor of her home by her husband. Before her death, she had paid a condolence visit to a relative, despite reportedly being banned by her husband from visiting or receiving visits from members of her family or attending any social functions. After her family reported her death, her husband was detained; he was later released without charge.⁴⁷

Law enforcement officials in a recent case were suspected of being paid or otherwise improperly induced not to press charges against an alleged rapist but instead to have his accuser detained on charges of slander. The woman in the case was thus doubly victimized:

On 21 June 2004, "Folake", a domestic worker, was allegedly forced into the bedroom of her employer's husband, made to watch a violent film on videotape, and raped. Her father took items of material evidence, including her underwear, to the local police station. He was told that the alleged perpetrator had already lodged a complaint of slander against Folake for accusing him of rape. A medical examination four days after the event

⁴⁶ Interview with the Legal Defence and Assistance Project (LEDAP), Lagos, November 2004.

⁴⁷ LEDAP, *Domestic violence: zero tolerance*, Lagos, 2003, p. vii.

found evidence of penetration and bruising on her vagina, and concluded that she had been sexually assaulted. However, it was Folake who was subsequently brought before the magistrate's court in Ikeja, Lagos, where she was charged with slander. She was remanded in custody at Kirikiri medium security prison for seven days until her family could pay the bail. During her imprisonment, she had no access to medical care. Her father said the family had heard that the evidence he handed to the police has since disappeared. Lawyers with a women's human rights organization that has taken up the case strongly suspect that the alleged perpetrator has used his social and political influence in his community to exert pressure on investigating officials.⁴⁸

The prejudice and ignorance of police officers can lead to serious miscarriages of justice. In one case, police officers appeared to believe that a man was justified in throwing acid at his wife:

In another case, "Justina" died in Lagos in 1998, three weeks after acid was thrown over her, reportedly by her husband. It was several weeks before the police detained her husband for questioning, and women's and human rights organizations protested at delays in investigating and prosecuting the case outside the offices of the police Criminal Investigation Department. Police officers excused the actions of the husband to the demonstrators, saying that he had poured acid over his wife after she tried to run away with his money.⁴⁹

In another case, police officers failed to take seriously threats they had witnessed:

The police reportedly allowed a man they interrogated in front of his wife to threaten to kill her, then dismissed the wife's complaint of repeated assaults and advised the two of them to go home and sort out the problem themselves. The woman demanded that her husband leave the home, and took her case to a women's rights group, which was later involved in discussions with the police on bringing charges against him.⁵⁰

⁴⁸ Interview with lawyers at Women Advocates Research and Documentation Centre (WARDC), Lagos, November 2004 and March 2005.

⁴⁹ Project Alert, *Beyond boundaries: violence against women in Nigeria*, Lagos, 2001, pp. 123 and 124.

⁵⁰ Interview with Abiola Afolabi, Director, Women Advocates Research and Documentation Centre (WARDC), November 2004.

Mistrust of the police is so common that many women fear to take complaints of family violence to them.

"Angelina", told Amnesty International she did not trust the police because they did not believe the victims of violence in the home and made them feel guilty. Aged 27, she said that for over 10 years from the age of 15 she had been repeatedly raped by her father. When her mother found out, her father was temporarily expelled from the house, and "Angelina" was counselled by a pastor. The question of bringing criminal charges against her father was not discussed. At the time she spoke to Amnesty International, "Angelina" had found accommodation at the only shelter for women in Lagos State and which is run by an NGO.⁵¹

Project Alert's 2001 survey on violence against women found that law enforcement officials in Lagos State confirmed the view that many of them had a negative and discriminatory attitude towards victims of family violence.⁵² The survey found that, of law enforcement officials asked about their response in such cases.

- 51.9 per cent thought they were doing enough to help victims of violence in the family;
- 46.8 per cent thought they did not do enough;
- 63.3 per cent said the police did not always respond quickly enough in such cases;
- 41.8 per cent said the lack of a speedy or appropriate response was because such cases were of a private nature.

Medical evidence lost

Medical professionals interviewed by Amnesty International said that they are required to report gunshot wounds to the police, but not other injuries even if they may have resulted from criminal activity. While this may encourage women to seek medical care without having to report their abuser to the police, it also has the effect of allowing impunity to perpetrators.⁵³

Individual women and medical professionals reported that prosecutions in rape cases were

⁵¹ Interview with Amnesty International, Lagos, November 2004.

⁵² Project Alert, *Beyond boundaries: violence against women in Nigeria*, Lagos, 2001, pp. 61-65.

⁵³ LEDAP, *Domestic violence: zero tolerance*, Lagos, 2003, p. 63.

sometimes unsuccessful because of a lack of access to medical services or because medical evidence was not collected or preserved. Sometimes the victim is reluctant to come forward immediately after the event, and the medical examination may therefore be unable to establish penetration or physical injury. A practical constraint is the lack of appropriate storage systems for medical evidence in state hospitals, as a result of the general lack of resources within the health care system.

Prejudice in the courts

The attitude of blaming violence in the home on the victim rather than the perpetrator is found not only among police officers and law enforcement officials but also among some prosecutors and judges. “The dismissive attitude of some judges in relation to violence against women including violence in the family was highlighted in one rape case in which the female judge openly blamed the female victim for being raped”, one lawyer told Amnesty International.

Intimidating and patronizing questions asked by prosecutors and judges during investigation and trial deter women from reporting rape and other crimes of sexual or family violence. Women fear the public and intrusive questioning about their private lives that may be used to undermine their case.

Cases involving violence in the home are sometimes heard before customary courts. Councils of elders have jurisdiction to apply customary law in Muslim, Christian and traditional religious communities as part of the political structure of the state administration, in Lagos State under the Ministry of Internal Affairs and Chieftaincy. One traditional ruler in Lagos State, Emmanuel Oladiran Laleye, told Amnesty International that the council of elders in Olaleye, Lagos Mainland, had only heard of one possible family violence case.⁵⁴ He had visited the home of a soldier who had allegedly beaten his wife, where he saw the woman with blood on her clothes. She said there was no longer any dispute between them and declined any assistance from the council, he told Amnesty International.

Chief Oladiran said that he and his men-only council of elders applied “knowledge, wisdom and experience” when hearing disputes, including marital

⁵⁴ Interview with His Highness Emanuel Oladiran Laleye, Baale of Olaleye, Lagos Mainland, November 2004.

cases. However, it was unclear what law they applied to crimes of violence in the family or what remedy or redress abused women could claim from them.

Different communities’ customary laws in force in Lagos State are frequently discriminatory, such as the exclusive right of men to have more than one wife. Discrimination against women also occurs because many judges are not trained lawyers and do not have the capacity to ensure that customary law is applied only if consistent with the Nigerian Constitution and laws and is not “*repugnant to natural justice, equity and good conscience*”.⁵⁵ Even with training, customary court judgements are vulnerable to judges’ own social prejudices, to interference by the authorities and powerful local figures, and to pressures from the local community.

Customary courts can also be a source of violence against women. Where judges are from the majority population in an area, the Yoruba ethnic group in Lagos State for instance, they can often only access the uncodified customary laws of other ethnic groups through oral statements. Unpredictability in the law can foster arbitrariness and injustice. Judges without legal training may also be unaware of how to admit or reject evidence of the existence of particular customs in accordance with the Evidence Act.

“Appropriate protective and support services should be provided for victims. Gender-sensitive training of judicial and law enforcement officers and other public officials is essential for the effective implementation of the Convention.”

CEDAW Committee, General Recommendation 19.⁵⁶

5. International and regional law

Like all other forms of gender-based violence, violence against women in the family constitutes a violation of women’s rights and fundamental freedoms. It violates the rights of women and girls to mental and physical integrity, to liberty and security of the person, and in some cases to life. Such violence also prevents the full enjoyment of rights

⁵⁵ For more information about customary law, see chapter 6.

⁵⁶ CEDAW Committee, General Recommendation 19, Violence against women (11th session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, UN Doc. HRI/GEN/1/Rev.1 at 84 (1994), para. 24(b).

and fundamental freedoms such as the right to health, employment and freedom of expression. Although men may also be victims of violence in the family, in general they are less directly affected by this kind of violence.

States that fail to exercise due diligence to prevent, stop, investigate, punish and ensure redress for violence against women wherever it occurs, may be held accountable for violating their rights. States may be held accountable for violating their rights under international human rights laws not to suffer torture and inhuman treatment or punishment.

On violence against women

Violence against women in its many manifestations constitutes a violation of women's rights and fundamental freedoms. The 1993 **UN Declaration on the Elimination of Violence against Women** defines it as any act of gender-based violence – that is, violence directed against a woman because she is a woman or that affects women disproportionately – that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.⁵⁷ In its preamble, the Declaration describes violence against women as “a manifestation of historically unequal power relationships between men and women” and as one of the “crucial social mechanisms by which women are forced into a subordinate position compared with men”.

Violence against women as a fundamental violation of human rights was highlighted first in the African context with the **African Platform for Action and the Dakar Declaration** of 1994 (Dakar Declaration), which acknowledged that in most African countries violence against women in domestic, private and public places had reached alarming levels.⁵⁸ The Dakar Declaration acknowledges that “women are subjected to violence and to the threat of violence in their daily relationships”, violence

⁵⁷ UN Declaration on the Elimination of Violence against Women, para. 1; CEDAW, General Recommendation No. 19, 1992, UN Doc. A/47/38, para. 6.

⁵⁸ African Platform for Action, adopted by the Fifth Regional Conference on Women, Dakar, 16-23 November 2004, UN Doc. E/CN.6/1995/5/Add.2, para 67, <http://www.un.org/documents/ecosoc/cn6/1995/ecn61995-5add2.htm>.

which “deprives women of their ability to achieve full equality” and “threatens their safety, their freedom and their autonomy”. It also acknowledges that violence is often unreported as “the majority of women do not speak out or report to the court on violence but keep silent as victims because of fear, shame or a misplaced feeling that they are somehow responsible”.⁵⁹

International recognition of violence against women is reflected in the **Beijing Declaration and Platform for Action**, adopted in 1995 at the Fourth World Conference on Women in Beijing – to which Nigeria sent the third largest national delegation – and its five-year review in 2000.⁶⁰ At its 10-year review in March 2005, the Nigerian Minister of Women Affairs reaffirmed Nigeria's commitment to the full and effective implementation of the Platform for Action and acknowledged “persistent violence against women”.⁶¹ At the African preparatory meeting for the 10-year review, African governments stated:

*“Violence against women and girls, including rape and domestic violence, is rampant... Some cultural and traditional practices continue to inhibit progress in promoting women and girls' human rights. In some countries women are denied equal rights to inherit property. Furthermore, public awareness of women's and girls' human rights and the obligation to ensure the enjoyment of their rights remains low. In some countries, several sources of (modern, religious, traditional) laws continue to govern the lives of women and restrict the enjoyment of their rights.”*⁶²

The **Rome Statute of the International Criminal Court**, adopted in 1998 and ratified by

⁵⁹ Dakar Declaration, para 66.

⁶⁰ Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995, A/CONF.177/20/Rev.1, annexes I and II, endorsed by G.A. res. 50/42, 50 U.N. GAOR Supp. (No. 49) at 33, U.N. Doc A/RES/50/49 (1995). For text see <http://ods-dds-ny.un.org/doc/UNDOC/GEN/N96/273/01/PDF/N9627301.pdf?OpenElement>.

⁶¹ See Statement by Obong Rita Akpan, Minister of Women Affairs, Federal Republic of Nigeria, at www.un.org/webcast/csw2005/050301statements.html

⁶² Seventh African Regional Conference on Women (Beijing +10) Decade Review of the Implementation of the Dakar and Beijing Platforms for Action: Outcome and the Way Forward, Addis Ababa, October 2004, http://www.uneca.org/beijingplus10/outcome_and_way_forward.htm

Nigeria in 2001, recognizes a broad spectrum of sexual and gender-based violence as crimes against humanity and war crimes.⁶³ These include rape; forced prostitution, pregnancy and sterilization; and gender-based persecution.

The **Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa**, ratified by Nigeria on 18 February 2005, obliges states to take a variety of measures to address violence against women in all its manifestations. The protocol defines violence against women as:

“all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed conflict or of war.” (Article 1)⁶⁴

The Protocol states that *“Every woman shall be entitled to respect for her life and the integrity and security of her person. All forms of exploitation, cruel, inhuman or degrading punishment and treatment shall be prohibited”*, and requires states to prohibit, prevent and punish *“all forms of violence against women including unwanted or forced sex whether the violence takes place in private or public”* (Article 4). The Protocol also obliges states to *“prohibit and condemn all forms of harmful practices which negatively affect the human rights of women and which are contrary to recognized international standards”* (Article 5).

On discrimination against women

Violence against women is closely bound up and interacts with unequal power relations between men and women, and gender-based discrimination. The right not to be discriminated against on the grounds of race, sex, sexual orientation, gender expression and identity, age, birth, or religion, is the basis of human rights – the inherent and equal dignity of every woman, man and child. The **International Covenant on Civil and Political Rights** (ICCPR) provides that *“All persons shall be equal before the courts and tribunals”* (Article 14(1)).

⁶³ Rome Statute of the International Criminal Court, adopted on 17 July 1998 (A/CONF.183/9), entered into force 1 July 2002.

⁶⁴ Protocol to the African Charter on the Rights of Women in Africa, adopted by the Conference of Heads of State and Government, Maputo – Mozambique July 2003, Article 1(j).

Under the **UN Convention on the Elimination of All Forms of Discrimination against Women** (CEDAW), Nigeria is obliged to *“take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women”* (Article 2(f)). In its **General Recommendation 19** on violence against women, the CEDAW Committee, the body monitoring implementation of CEDAW, states that gender-based violence is a form of discrimination which gravely affects women’s enjoyment of their human rights.⁶⁵ Nigeria ratified CEDAW on 13 June 1985 without any reservation, and the Optional Protocol to CEDAW on 22 November 2004.

“Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of Article 1 of the Convention. These rights and freedoms include:

- (a) The right to life;
 - (b) The right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment;...
 - (d) The right to liberty and security of person;
 - (e) The right to equal protection under the law;
 - (f) The right to equality in the family;
 - (g) The right to the highest standard attainable of physical and mental health;
 - (h) The right to just and favourable conditions of work.”
- CEDAW Committee, General Recommendation 19.**⁶⁶

In the African context, the **African Charter on Human and Peoples' Rights** (the African Charter), ratified by Nigeria, provides that states parties must *“ensure the elimination of every discrimination against women and also ensure the protection of the rights of women and the child as stipulated in international declarations and conventions”* (Article 18(3)).⁶⁷ It also states that *“Every individual shall be equal before the law [and] entitled to equal protection of the law.”*(Article 3).

⁶⁵ For a fuller discussion of gender-based violence against women see Amnesty International, *It’s in our hands: Stop violence against women*, March 2004.

⁶⁶ CEDAW Committee, General Recommendation 19, Violence against women (11th session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, UN Doc. HRI/GEN/1/Rev.1 at 84 (1994), para. 7.

⁶⁷ African Charter on Human and Peoples' Rights, OAU Doc. CAB/LEG/67/3/rev. 5, adopted 27 June 1981, entered into force 21 October 1986. Nigeria ratified it on 22 June 1983.

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa defines discrimination against women as:

“any distinction, exclusion or restriction or any differential treatment based on sex and whose objectives or effects compromise or destroy the recognition, enjoyment or the exercise by women, regardless of their marital status, or human rights and fundamental freedoms in all spheres of life.” (Article 11)

States parties are obliged to take a number of appropriate legislative, institutional and other measures to combat all forms of discrimination against women and men:

“through public education, information, education and communication strategies, with a view to achieving the elimination of harmful cultural and traditional practices and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes, or on stereotyped roles for women and men.” (Article 2)

On violence in the family

“According to the myth of the family as a sanctuary of tranquillity and harmony, domestic violence is...a contradiction in terms. Violence shatters the peaceful image of the home, the safety that kinship provides. None the less, the insidious nature of domestic violence has been documented across nations and cultures worldwide.”

UN Special Rapporteur on violence against women⁶⁸

Violence against women has been recognized as one of the most pervasive forms of violence against women worldwide. The **UN Declaration on the Elimination of Violence against Women** addresses violence in the family as one manifestation of violence against women, and defines it as:

“Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation.” (Article 2(a)).⁶⁹

⁶⁸ UN Report of the Special Rapporteur on violence against women, its causes and consequences, Commission on Human Rights, 52nd session (hereafter Special Rapporteur, 52nd session), E/CN.4/1996/53, 5 February 1996, para 22.

⁶⁹ UN Doc. G.A. res. 48/104, 48 U.N. GAOR Supp. (No. 49) at 217, U.N. Doc. A/48/49 (1993).

Former UN Special Rapporteur on violence against women Radhika Coomaraswamy provided a definition that also included:

“kidnapping, threats, intimidation, coercion, stalking, humiliating verbal abuse, forcible or unlawful entry, arson, destruction of property, sexual violence..., violence related to exploitation through prostitution, violence against household workers and attempts to commit such acts”.⁷⁰

Violence in the family included:

*“violence perpetrated in the domestic sphere which targets women because of their role within that sphere... Such violence may be carried out by both private and public actors and agents.”*⁷¹

Radhika Coomaraswamy's definition of violence in the family was made on the basis of a broad definition of the “family”.⁷² She also said that its perception as a private matter obstructs recognition that “[v]iolence against women in general, and domestic violence in particular, serve as essential components in societies which oppress women, since violence against women not only derives from but also sustains the dominant gender stereotypes and is used to control women in the one space traditionally dominated by women, the home.”⁷³

“The State, through legal and moral regulation, plays an important role in family life, as well as an important role in determining the status, rights and remedies of individual family actors. Women's traditional familial roles are enshrined in secular and religious laws on...sexuality, violence..., privacy, divorce, adultery, property, succession, employment, and child custody. Such laws validate and entrench the dominant ideology of the traditional family and the woman's position within it. Familial ideology...is often the site of violence against women and social constructions of women's role in society that are disempowering...”

Special Rapporteur on violence against women⁷⁴

“State policies, manifested by both State action and inaction, may perpetuate and/or condone violence within the domestic sphere, although it is the duty of States to ensure that there exists no impunity for the perpetrators of such violence... It is, therefore, argued that the role of State

⁷⁰ Special Rapporteur, 52nd session, para 11.

⁷¹ Special Rapporteur, 52nd session, para 28.

⁷² The UN Special Rapporteur on violence against women, Commission on Human Rights, 55th session, E/CN.4/1999/68, paras 8ff.

⁷³ Special Rapporteur, 52nd session, paras 26 and 27.

⁷⁴ Special Rapporteur, 55th session, para. 7.

inaction in the perpetuation of the violence combined with the gender-specific nature of domestic violence require that domestic violence be classified and treated as a human rights concern rather than as a mere domestic criminal justice concern.”

UN Special Rapporteur on violence against women⁷⁵

Various UN agencies have addressed manifestations of violence against women in the family. The **World Health Organization** has defined partner violence as any behaviour within an intimate relationship that causes physical, psychological or sexual harm, including: acts of physical aggression, such as slapping, hitting, kicking and beating; psychological abuse, such as intimidation, constant belittling and humiliation; forced intercourse and other forms of sexual coercion; various controlling behaviours, such as isolating a person from their family and friends, monitoring their movements, and restricting their access to information or assistance.⁷⁶ The **UN Development Fund for Women** (UNIFEM) has found that cultural factors associated with higher levels of family and community violence include sexual double standards; rigid gender roles; lack of access to education; women’s isolation and lack of support; community attitudes that tolerate physical “punishment” of women and children; and acceptance of violence as an appropriate means of resolving conflict.⁷⁷

On sexual rights

Amnesty International has described how the perceived non-respect of unwritten principles and rules in the family and the community can lead to violence and discrimination against women all over the world.⁷⁸ Some of the forms of violence against women in the family described in this report constitute violations of women’s sexual rights.

⁷⁵ Special Rapporteur, 52nd session, para. 29.

⁷⁶ World Health Organization, *World Report on Violence and Health*, Geneva, 2002, http://www.who.int/violence_inquiry_prevention/violence/world_report/wrvh1/en

⁷⁷ UN Development Fund for Women, *Not a Minute More: Ending Violence against Women*, New York, 2003 (http://www.unifem.org/index.php?_page_pid=207)

⁷⁸ See Amnesty International, *It’s in our hands: Stop violence against women*, March 2004.

“Sexual rights embrace human rights that are already recognized in national laws, international human rights documents and other consensus documents. These include the right of all persons, free of coercion, discrimination and violence, to:

- the highest attainable standard of health in relation to sexuality, including access to sexual and reproductive health care services;
- seek, receive and impart information in relation to sexuality;
- sexuality education;
- respect for bodily integrity;
- choice of partner;
- decide to be sexually active or not;
- consensual sexual relations;
- consensual marriage;
- decide whether or not, and when to have children; and
- pursue a satisfying, safe and pleasurable sexual life.”

World Health Organization⁷⁹

The obligations of states

International human rights treaties and standards define the obligations of states to secure human rights for individuals subject to their jurisdiction. They provide guarantees of freedoms and entitlements that individuals may claim at national, regional and international levels. Under international human rights law, states incur obligations to “respect, protect, and fulfil” human rights. Government officials, or those acting with the authorization of the state, must respect women’s human rights by ensuring that no state agents commit acts of violence against women.

The state has a **duty to respect** the human rights of women, for example the State, via its state agents, has to refrain from directly or indirectly interfering with the rights of women. Thus, where police or armed forces commit acts of violence against women, the duty to respect is breached.

The **duty to protect** requires that the state and its agents must take effective measures against other

⁷⁹ World Health Organization definition, October 2002, which draws on international human rights documents including the outcome documents of the International Conference on Population and Development and the Fourth World Conference on Women, as well as the work of the UN human rights treaty monitoring bodies (see http://www.who.int/reproductive-health/gender/sexual_health.html).

individuals or groups (including private enterprises and corporations) who violate the integrity, freedom of action or other human rights of the individual. This duty is upheld when the state institutes laws, policies and practices that protect victims of violence, provide them with appropriate remedies, and bring the perpetrators to justice. The CEDAW Committee stresses that:

*“States parties should take appropriate and effective measures to overcome all forms of gender-based violence, whether by public or private act [and to] ensure that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women, and respect their integrity and dignity.”*⁸⁰

Appropriate measures should be taken to prevent harm to individuals known to be at specific and immediate risk as well as preventing harm in a more general way at an earlier stage for all victims. For instance, a comprehensive set of services should be provided to women to guarantee their safety before serious violence occurs, and a general judicial and administrative framework should be established, including effective human rights education for state officials.

States must also fulfil women’s human rights by ensuring the appropriate infrastructure to support these laws, policies and practices, and to render them effective. The **duty to fulfil** and promote human rights has reactive and preventive aspects. It requires the state, for example, to:

- change the criminal and civil laws to ensure protection against all forms of gender-based violence in a gender-sensitive manner;
- not allow illegal defences such as ‘correction’ under Section 55 of the Penal Code, to promote a culture of impunity;
- ensure women access to justice by implementing laws and encouraging women to turn to the justice system and supporting those who do;
- provide adequate protection for victims and witnesses taking part in investigations;

⁸⁰ CEDAW Committee, General Recommendation 19, Violence against women (11th session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, UN Doc. HRI/GEN/1/Rev.1 at 84 (1994), para. 24 (a) and (b).

- ensure effective and impartial police investigations and prosecution practices which are responsive to victims concerns and needs;
- complement criminal sentences with civil remedies;
- provide training and educational programs in schools and for state agents, including judicial and law enforcement personnel and those working in the health sector;
- provide support services for victims;
- and study patterns of gender-based violence and prepare statistics on the basis of disaggregated data.

‘Due diligence’

States are thus under an obligation to take effective steps to end violence against women, and to take a comprehensive approach to eliminating *all* forms of violence against women and adopting measures designed to eradicate all forms of violence and discrimination. States have an ongoing obligation to monitor the situation and respond accordingly, changing or supplementing tactics when progress subsides. If a state fails to act diligently to prevent violence against women – from whatever source – or fails to investigate and punish such violence after it occurs, the state can itself be held responsible for the violation. This is known as the standard of **due diligence**. It does not absolve the actual perpetrators and their accomplices from being prosecuted and punished for the initial acts of violence.

The concept of due diligence is used when assessing the accountability of governments for the acts of private individuals or other non-state actors. This principle describes the degree of effort that a state must undertake to ensure that human rights are respected by all in practice, thus making rights a reality. The state has a duty to put in place sufficient measures to prevent violation (by its officials) and abuses (by non-state actors) of human rights. Where a right has been violated or abused, the state has a duty to redress it as far as possible, and to provide appropriate remedy, including compensation where appropriate.

The UN Declaration on the Elimination of Violence against Women calls on states to:

“exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons”.

(Article 4(c))

The African Charter on Human and Peoples' Rights, ratified and domesticated by Nigeria, is unequivocal that states parties incur the duty to “recognize the rights, duties and freedoms enshrined in the Charter and...to adopt legislative or other measures to give effect to them” (Article 1).⁸¹ The enjoyment of rights under the Charter is the entitlement of every individual “without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or any status” (Article 2). States parties’ duties to ensure the elimination of discrimination against women is specifically codified in Article 18(3) in which reference is also made to “international declarations and conventions” of relevance to the protection of women’s and children’s rights. The African Charter is unique in stipulating a duty on individuals to “preserve the harmonious development of the family and to work for the cohesion and respect of the family” (Article 29(1)). This duty clearly has relevance in the context of violence in the family.

The African Charter invests individuals with the right to legal remedy (Article 7). In a seminal decision on a communication by *The Social and Economic Rights Action Center and the Center for Economic and Social Rights/Nigeria*, relating to the operations of Shell Petroleum and Development Corporation and communities of Ogoniland in the Niger Delta, the **African Commission on Human and Peoples' Rights** set out and defined the state’s responsibility to respect, protect, promote and fulfil the rights guaranteed under the African Charter, including protection of the rights of the population from damaging acts perpetrated by non-states actors.⁸²

Under the **International Covenant on Civil and Political Rights** (ICCPR), states have a positive obligation to “respect and to ensure to all individuals within its territory and subject to the jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. (Article 2(1)). The Human Rights Committee stresses that:

“the positive obligations on States Parties to ensure Covenant rights will only be fully discharged if

⁸¹ African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force Oct. 21, 1986

⁸² See Decision (155/96) of 27 May 2002, paras. 44-47.

individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights in so far as they are amenable to application between private persons or entities. There may be circumstances in which a failure to ensure Covenant rights as required by article 2 would give rise to violations by States Parties of those rights, as a result of States Parties’ permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities.”⁸³

The ICCPR also includes the obligation to ensure that any person whose rights or freedoms under the ICCPR have been violated shall have an effective remedy, and that anybody claiming the right to remedy shall have their right determined by competent judicial, administrative or legislative authorities (Article 2(3)(a,b)). The Human Rights Committee, has clarified that “All branches of government (executive, legislative and judicial), and other public or governmental authorities, at whatever level – national, regional or local – are in a position to engage the responsibility of the State Party.”⁸⁴

The definition of torture under the **UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment**, adopted in 1984, to which Nigeria has been a state party since 2001, is not limited to acts by state officials, but also includes acts performed “with the consent or acquiescence of a public official or other person acting in an official capacity” (Article 1(1)).⁸⁵ All the elements of torture, as defined by that article, can be present in domestic violence: it may cause “severe pain or suffering, whether physical or mental”, and may be “intentionally inflicted” for a purpose such as “punishment” or “for any reason based on discrimination of any kind”. An example of a situation where a state

⁸³ Human Rights Committee, General Comment No. 31, *Nature of the General Legal Obligation imposed on States Parties to the Covenant*, UN Doc. CCPR/C/21/Rev.1/Add.13, 26 May 2004, para. 8.

⁸⁴ Human Rights Committee, General Comment No. 31, *Nature of the General Legal Obligation imposed on States Parties to the Covenant*, UN Doc. CCPR/C/21/Rev.1/Add.13, 26 May 2004, para. 4.

⁸⁵ Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, UNGA res. 39/46 adopted 10 December 1984, entered into force 26 June 1987.

may be in violation of the prohibition on torture that is inflicted by individuals is marital rape, where it is not criminalized by law.⁸⁶

The UN **Convention on the Elimination of All Forms of Discrimination against Women**, (CEDAW), adopted in 1979, to which Nigeria has been a state party since 1985, sets out in detail the obligations of states parties to secure equality between women and men and to prohibit discrimination against women.⁸⁷ It expressly requires states parties to “take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise” (Article 2). If the state fails to offer protection against discriminatory practices and abuses, or to bring to justice those who commit such abuses and to ensure reparation for the victims, it is in breach of its legal obligations. Many of the states that have ratified CEDAW have entered reservations to some of its provisions, often reducing their obligation to change their domestic laws. Nigeria, however, has ratified without any reservations.

The **Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa**, to which Nigeria has been a party since 2005, requires state parties to “combat all forms of discrimination against women through appropriate legislative, institutional and other measures” by taking measures such as:

- including in their national constitutions and other legislative instruments the principle of equality between women and men and ensure its effective application;
- enacting and effectively implementing appropriate legislative or regulatory measures to prohibit and curb all forms of discrimination particularly those harmful practices which endanger the health and general well-being of women;
- integrating a gender perspective in their policy decisions, legislation, development plans, programmes and activities and in all other spheres of life;

⁸⁶ The UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979.

⁸⁷ CEDAW, adopted by General Assembly resolution 34/180 of 18 December 1979, entry into force 3 September 1981.

- taking corrective and positive action in those areas where discrimination against women in law and in fact continues to exist; and
- supporting local, national, regional and continental initiatives directed at eradicating all forms of discrimination against women.

Additionally, this protocol places an obligation on states parties “to modify the social and cultural patterns of conduct of women and men through public education, information, education and communication strategies, with a view to achieving the elimination of harmful cultural and traditional practices and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes, or on stereotyped roles for women and men” (Article 1(2)). States must give access to “appropriate remedies to any woman whose rights or freedoms... have been violated [and to] ensure that such remedies are determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by law” (Article 25).

The **UN Convention on the Rights of the Child**, adopted in 1989, to which Nigeria is a state party, defines all those under the age of 18 as children.⁸⁸ It requires states to take all effective and appropriate measures to “protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse” while in the care of parent(s), legal guardian(s) or any other person who has the care of the child” (Article 19(1)) and to abolish traditional practices prejudicial to the health of children (Article 24). It further obliges states parties to protect children from all acts of sexual exploitation and abuse (Article 34) and from torture and other ill-treatment (Article 37(1)). The Committee on the Rights of the Child has determined that child and forced marriage is both a harmful traditional practice and a form of gender discrimination.

The **African Charter on the Rights and Welfare of the Child**, ratified by Nigeria on 23 June 2001, states that “Any custom, tradition, cultural or religious practice that is inconsistent with the rights, duties and obligations contained in the present Charter shall to the extent of such inconsistency be discouraged” (Article 1(3)).⁸⁹ It requires states to prohibit child marriage and the

⁸⁸ UN Convention on the Rights of the Child, adopted by General Assembly resolution 44/25 of 20 November 1989, entered into force 2 September 1990.

⁸⁹ African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (1990), entered into force 29 November 1999.

betrothal of girls and to “take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child”, including, in particular, customs and practices prejudicial to children’s health or lives and discriminatory on the grounds of sex or other status (Article 21). States have a duty to take protective measures against child abuse, including “effective procedures for the establishment of special monitoring units to provide necessary support for the child and for those who have the care of the child, as well as other forms of prevention and for identification, reporting referral investigation, treatment, and follow-up of instances of child abuse and neglect” (Article 16) and to protect children from all forms of sexual exploitation and sexual abuse (Article 27).

The Nigerian legal system recognizes Nigeria’s human rights obligations. In the case of *Fawehinmi vs Abacha*, the court stated that once a treaty was domesticated and enacted into Nigerian law, this constituted a commitment on the part of the state to be bound by its provisions.⁹⁰ The case of *Oshvire vs. British Caledonian Airways Ltd* confirmed the principle of the superiority of international treaties or conventions over domestic legislation.⁹¹ Despite this, Nigeria has not incorporated CEDAW into its domestic laws, although it ratified it in 1985. However, a bill of enforcement has reportedly been resubmitted to the National Assembly for consideration.

6. National and state laws

Neither the federal government nor state administrations have taken action to reform discriminatory laws or laws that condone violence against women. Some discriminatory legislation that directly condones certain forms of violence against women has been introduced at state level in the last few years. In other cases, discriminatory laws and practices are derived from customary laws that conflict with human rights guarantees of equality and non-discrimination in the Constitution. The different provisions on violence against women and women’s human rights in the different legal systems perpetuate a situation where there is no equality before the law.

⁹⁰ *Fawehinmi vs. Abacha* (1990) 9 NWLR (Part 475), p. 710.

⁹¹ *Oshvire vs. British Caledonian Airways Ltd* (1990) 7 NWLR (Part 163), p. 519.

The law is inadequate in offering protection for the victims of crime, fails to protect women from violence in the family, and contributes to discouraging women from reporting it.⁹² Currently, at federal and state level, there are no laws that specifically criminalize acts of gender-based violence or offer civil remedies in the form of protection orders against perpetrators.

Both the Nigerian and the Lagos State legal systems fail to ensure redress and adequate penal and civil remedies. This failure perpetuates a climate of impunity for perpetrators. Women who have experienced violence in the family have few opportunities to obtain justice.

By allowing the continued existence of provisions and rules that legalize discrimination, violence and rape, in contravention of the Nigerian Constitution and Nigeria’s obligations under international human rights law, the federal government and state administrations are failing to exercise due diligence to protect women from violence in the home.

Federal law

The federal government has given little attention to strengthening legal protections and redress in law for victims of violence in the family. It has therefore not fulfilled its legal obligations under international law to act with due diligence to protect the rights of potential and actual victims of violence in the family.

The Nigerian Constitution of 1999 provides for equality in law: “Every citizen shall have equality of rights, obligations and opportunities before the law” (Article 17(2)(a)). It also guarantees the right to be free from discrimination “either expressly by, or in the practical application of, any law” on grounds of “community, ethnic group, place of origin, sex, religion or political opinion” (Article 42(1)).

Despite these constitutional guarantees, some federal laws explicitly condone certain forms of violence against women in the family. The Penal Code, applicable in northern states, explicitly condones certain forms of violence in the family. Men have the right to “correct” their wives, children or domestic workers as long as such “correction” does not reach a threshold of severity amounting to

⁹² Nigerian NGO Coalition for a Shadow Report to CEDAW, *NGOs CEDAW Report for Nigeria, 1999*, p. 6.

“grievous hurt” (Section 55). Severe injuries exceeding this threshold include “emasculatation, permanent loss of sight, ability to hear or speak, facial disfigurement, deprivation of any member or joint, bone fracture, tooth dislocation or any which endangers the life or which causes the sufferer to be in severe bodily pains or unable to follow her ordinary pursuits for more than 20 days” (Section 241). Any injuries below this threshold of severity, and the acts of violence that are their cause, are therefore permitted in law.

No laws specifically criminalize violence in the family, and prosecutions for violence in the family have to rely on the law on common assault and other criminal provisions. Cases of physical and sexual abuse, including wife-battering, are subsumed under the offence of assault. The law fails to address the specific circumstances of gender-based violence in the family, when the crime takes place in the home in which both perpetrator and victim have lived and may continue to live.

There are also no legal provisions that prohibit marital rape. Thus, a husband cannot be charged with forcing his wife to have sex without her consent. If he uses force or coercion, his crime is not rape but only assault or grievous bodily harm. The absence of a law criminalizing marital rape in effect institutionalizes discrimination against women on the basis of marital status. Having consented to marriage, a wife’s subsequent consent – or lack of it – to sex with her husband is deemed immaterial in law. In this way the legal system makes the wife a commodity of the husband.

The law also does not recognize other forms of rape. According to the definitions of rape in both the Criminal Code and Penal Code, forcible penetration with the use of hands, bottles or other instruments is not considered rape. Such crimes incur the lesser charges of indecent assault or indecent treatment, which carry lower penalties.

State law

At state level, legal systems operate concurrently that reflect the multicultural composition of the state. The statutory legal system is applied in parallel with customary law and to a certain extent also religious customary law, mainly Sharia. Many of these legal systems fail to address violence against women in the family.

In Lagos State, for example, there is no federal, state or customary law applicable that explicitly makes violence in the family a criminal offence. The legal system of the state, based on common law, is likewise inadequate in ensuring justice for women who have experienced such violence.

The provisions on indecent assault in the Criminal Code applicable in Lagos State discriminate against women on the basis of sex. For example, if the victim of indecent assault is a woman the perpetrator upon conviction receives a lower sentence compared to if the victim had been male⁹³. This is a clear case of discrimination in law, which contradicts the principle of equality before the law provided in Nigeria’s Constitution and international treaties to which it is a state party.

In addition, at present there is no legislation in Lagos State providing for orders to be issued protecting victims of violence in the family. Protection orders complement criminal proceedings by restricting the actions of the perpetrator and offering protection to the victim while criminal investigations or proceedings are ongoing. Their purpose is to stop the acts of violence. By contrast, criminal prosecution of the perpetrator or an action under civil law for compensation provide the victim with forms of redress.

Lagos State is still in the process of developing a system of legal aid. The costs of litigation and legal representation act as an disincentive to reporting and seeking legal remedies in cases of violence in the family.

Moves to fill gaps in the law have been made by Lagos State. The Domestic Violence and Related Matters Bill, which by December 2004 had received its second reading in the Lagos State House of Assembly, provides civil remedies for victims of violence in the family, including specific provisions

⁹³ See Criminal Code Sections 353: “Any person who unlawfully assaults another and thereby does him harm is guilty of a felony, and is liable to imprisonment for three years.”, and 360: “Any person who unlawfully and indecently assaults a woman or girl is guilty of a misdemeanour, and is liable to imprisonment for two years.”

for protection orders.⁹⁴ One of the bill's sponsors in the House of Assembly, member Adefunmilayo Tejuoso, told Amnesty International that there had been strong opposition to the bill and it had been weakened by amendments designed to accommodate traditional cultural values and practices. She said that the bill's sponsorship by the only two women members of the Assembly allowed its opponents to dismiss it as a "women's issue".

In addition to legislative reform, effective changes to the legal system require the intervention and involvement of other authorities. Importantly, there will only be implementation of this new law if the supremacy of statutory and civil law over customary law is established.

Sharia lays down rules regarding Muslims' personal lives concerning worship, rituals and moral conduct, as well as matters that are more legal in nature such as contracts, marriage, inheritance and divorce. New Sharia penal codes introduced since 1999 in 12 northern states have specified new criminal offences and prescribed more severe punishments including amputation and stoning to death. They contain provisions on rape that legalize and legitimize marital rape by explicitly excluding it from the definition of the criminal offence of rape.⁹⁵

Customary law

Customary law has been defined as a system of law that is not common law and has not been enacted by any Nigerian legislature. It is a personal system of law, applying to members of communities who want their affairs to be regulated by this particular system. It is evolutionary and develops over time, its original sources of law unwritten. In Lagos State, there are several different systems of customary laws operating in parallel to each other, and in parallel to the common law system.

This parallel system of customary laws was historically founded on Supreme Court Ordinance No. 6 of 1914, adopted by the British colonial administration, which allowed

⁹⁴ At the first reading, members of the House of Assembly are informed of the existence of the bill. At the second reading, the bill's sponsors inform the House of its merits and it is debated before being sent to committee. It can be "killed" at this stage. If forwarded to committee, it is likely then to be the subject of consultations and public hearings.

⁹⁵ See for example the Sharia Penal Code Law 2001 of Bauchi State: "*Sexual intercourse by a man with his own wife is not rape*" (Section 131(2)).

customary laws to operate, as long as they were not "repugnant to natural justice, equity and good conscience" and were compatible with the law in force at the time. Customary law is still subject to this compatibility test, referred to as the "repugnancy test". Customary courts could operate with a restricted jurisdiction, and appeals against their decisions were made to magistrates' courts, a hierarchy that is still valid in Lagos State. Judges of customary courts are appointed in Lagos State by the state Minister of Justice in consultation with the judiciary.

The different customary legal systems in force in Lagos State are influenced by the history and practice of ethnic and religious communities in the state, in particular of Yoruba and Igbo communities but also of migrants from other parts of Nigeria and neighbouring countries such as Benin and Togo.

The customary courts in Lagos State apply customary law, not state law, and they hear cases of violence in the family. These courts, and in fact all other courts, are required to take judicial notice of the customary laws and practices of the parties before them on issues of personal law such as divorce, custody and inheritance, as long as the customary laws pass the "repugnancy test" and are compatible with the Constitution and law.⁹⁶

Under customary law, children can marry when they have attained puberty, an age which differs from one customary legal system to another although it is generally assumed to be 12 years of age for a girl and 14 for a boy. As a result, underage marriages are common throughout Nigeria, including Lagos State. Young girls are involved in premature sexual relations with men much older than them in the absence of criminal sanctions against child marriage or marital rape. The Criminal Code in force in southern states which prescribes 16 as the minimum age for marriage, exempts from any criminal offence a man who marries an underage girl under customary law, thus leaving the victim of child marriage and rape without any redress. In a situation where girls are married without full consent or at an age where they are too young to give meaningful consent to sex, the risk of sexual assault and rape is clear. Punishment for sexual abuse is usually limited to a fine of 200 Nigerian Naira (about US\$1.50) or six months' imprisonment.

Under Sharia law (to be distinguished from new state-level Sharia penal legislation), which is

⁹⁶ See *Mojekwu vs. Mojekwu* [1997] 7 NWLR p. 305.

applicable to all Muslims, a husband has the right to beat his wife, but may use only a small implement and should not make a physical mark on her body.⁹⁷

Factors such as location and cost influence the access to justice of women who have been subjected to violence in the family. In general, customary courts are more accessible to local community. Women may feel more familiar with that system, and bringing a case to a customary court is less expensive than to a state-level court. There is, however, an urgent need for women judges in the customary courts, to make them more gender-sensitive and gender-balanced, and to encourage women to take cases to them.⁹⁸

The law on physical abuse

In Lagos State and other southern states, violence within the family is not a recognized criminal offence. Acts of physical abuse or violence are prosecuted as common assault (Criminal Code, Section 355) or as indecent assault (Sections 353 and 360, for males and females respectively).

Unlawful assault is punishable by up to three years' imprisonment (Section 353). If it is committed "*with intent to maim, disfigure or disable*" or "*to do some grievous harm*", or using a weapon, corrosive fluid or explosive, life imprisonment may be imposed (Section 332).⁹⁹

The penalty for indecent assault against a man is higher than for a woman, however. Thus, if the victim is a man:

"Any person who unlawfully and indecently assaults any male person is guilty of a felony, and is liable to imprisonment for three years." (Section 353)

However, for exactly the same criminal offence, if the victim is a woman, the offence is deemed less serious and carries a lower sentence:

⁹⁷ Baobab for Women's Human Rights, Women's Access to Justice and Personal Security in Nigeria: a synthesis report, 2002, p. 13.

⁹⁸ Interview with a lawyer from the Legal Defence Assistance Project (LEDAP), March 2005.

⁹⁹ Grievous harm is defined as: "*any harm which...seriously or permanently injures health, or which is likely so to injure health, or which extends to permanent disfigurement or to any permanent or serious injury to any external or internal organ, member, or sense*". (Criminal Code, Section 1(1)(f))

"Any person who unlawfully and indecently assaults a woman or girl is guilty of a misdemeanour, and is liable to imprisonment for two years." (Section 360)

Furthermore, since the legal system does not provide additional protection to the victim by complementing a criminal offence with the civil remedy of a protection order, victims of violence in the home are even more vulnerable. Women are deterred from seeking justice if they have to live in the same house as the partner or husband charged with assault. The laws currently in force discourage women from seeking the support of the law except in extreme cases.

Laws that are of some assistance to women who have been subjected to violence in the family are very limited. The Evidence Act permits the victim of the violent act to be a witness for the prosecution or defence without the consent of the spouse charged with the acts of violence.¹⁰⁰ A court conviction for attempting to kill a spouse or commit grievous harm against them is grounds for a divorce.¹⁰¹

The state is responsible for failures to implement laws, and for gaps in the laws so that certain types of violence are not prohibited or certain categories of victims are not afforded proper protection. It must ensure protection against the full range of violent crimes.

The law on rape

In Lagos State and other southern states, the Criminal Code's provision on rape states:

"Any person who has unlawful carnal knowledge of a woman or girl, without her consent, or with her consent, if the consent is obtained by force or by means of threats

¹⁰⁰ "*A person who is charged with inflicting violence on his or her wife or husband, the other spouse concerned shall be competent as a witness for the prosecution (or defence) without the consent of the spouse so charged.*" (Section 160)

¹⁰¹ Matrimonial Causes Act Chapter 220 Laws of the Federation of Nigeria 1990, Section 16(1)(e) provides: "if the petitioner satisfies the court that...since the marriage and within a period of one year immediately preceding the date of the petition, the respondent has been convicted of (i) having attempted to murder or unlawfully to kill the petitioner, or (ii) having committed an offence involving the intentional infliction of grievous harm or grievous hurt on the petitioner or the intent to inflict grievous harm or grievous hurt on the petitioner.

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, or, in the case of a married woman, by personating her husband, is guilty of an offence which is called rape.” (Section 357)

Rape is punishable by life imprisonment. The definition of “unlawful carnal knowledge”, however, limits rape to penetration. Furthermore, the definition (“carnal connection which takes place otherwise than between husband and wife”) makes it clear that rape of a wife by her husband is not regarded as unlawful.¹⁰² The only charge that could be brought in the case of a woman raped by her husband would be assault.

The rules of evidence in relation to rape risk doubling the trauma for the woman raped. Under the Evidence Act, the burden of proof of lack of consent beyond reasonable doubt is on the prosecution (Section 138(2)).¹⁰³ A successful prosecution for rape is therefore particularly difficult, since in most cases there are no witnesses. Where the raped woman cannot provide the required corroboration or cannot provide medical evidence of penetration and physical injury, the only charge that can be brought is one of indecent assault.

The State is responsible for gaps in the laws so that certain types of violence are not prohibited, or certain categories of victims are not afforded proper protection. The State must ensure protection against the full range of violence.

Rape laws that do not address rape by husbands deny the gravity of crimes of violence against women, and indicate a failure by Lagos State to protect women’s human rights. The current legislation, which explicitly excludes marital rape from the definition of rape, legitimizes and legalizes one of the worst forms of violence, and denies women who have been raped by their husband access to justice and redress. By failing to review the law on marital rape, the federal and Lagos State authorities fail to exercise due diligence to prevent, investigate and punish acts of violence against women.

¹⁰² Criminal Code Act (1990), Section 6.

¹⁰³ Section 138 (2) of the Evidence Act states: “The burden of proving that any person has been guilty of a crime or wrongful act is, subject to the provisions of section 141 of this Act, on the person who asserts it, whether the commission of such act is or is not directly in issue in the action.”

7. Human rights defenders speak out

Nearly half of the population in Nigeria, Africa’s most populous country, is female.¹⁰⁴ Yet women in Nigeria are marginalized in their own society and accorded an inferior status to men. Equality means, among other things, taking part in public life to effect change. However, the under-representation of women in political and public life hinders women from campaigning to rid Nigerian laws and practice of gender-based discrimination and to repeal legislation that condones violence against women in the family.

This report has shown how women are discouraged from reporting violence against them when the state does not prioritize helping the victims of violence. The void left by state inaction has been filled by the activities of NGOs, operating on their own initiative and without the support of the state. Invaluable work by women’s and human rights organizations has made an immeasurable difference to the lives of those affected and those seeking justice. The contribution of NGOs and civil society groups in the overall advancement of women was acknowledged by the Nigerian Minister of Women Affairs in March 2005.¹⁰⁵

Public debates have been stimulated by initiatives such as the National Tribunal on Violence Against Women in Nigeria, organized in March 2001 by two groups, the Civil Resource Development and Documentation Centre and Baobab for Women’s Human Rights. Mrs Kwaku, the Rapporteur on Women for the National Human Rights Commission, said at the end of the event: “The law enforcement agencies and the court should accord urgency and the importance which the cases deserve to them. Victims should be given free legal aid to prosecute their cases and free medical services to treat their affliction.”

The courage of individual women who have spoken out about their experiences of violence in the home has given hope to others. Such women have helped to highlight the failings of the law and social

¹⁰⁴ According to the latest Nigerian census conducted in 1991.

¹⁰⁵ Statement by Obong Rita Akpan, Minister of Women Affairs, Federal Republic of Nigeria, at the 10-year review of the implementation of the Beijing Platform for Action, www.un.org/webcast/csw2005/050301statements.html

support systems for women at risk of violence in the family, often at considerable personal risk.

The Nigerian authorities, at federal and state level, and the international community are obliged to provide support and protection to these organizations and individuals under the UN Declaration on Human Rights Defenders.¹⁰⁶ Under the Declaration, they have the right to meet or assemble freely; to form, join and participate in NGOs, associations or groups; and to communicate with non-governmental or intergovernmental organizations for the purpose of promoting and protecting human rights and fundamental freedoms (Article 5). The corresponding responsibility and duty of the State is to:

“protect, promote and implement all human rights and fundamental freedoms...by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice” (Article 2).

Promoting awareness and legislative reform

Many awareness raising initiatives on violence in the family are run by women and men working for women’s and human rights organizations. They highlight the extent of the violence, and develop the agenda for policy and legislative changes.

“Recognizing that women and girl children often do not report the violence that is perpetrated against them because they do not understand that they are victims of, rather than participants in, the violence, states should undertake legal literacy campaigns to inform women of their legal rights and educate them specifically about domestic violence.”

UN Special Rapporteur on violence against women¹⁰⁷

The Lagos-based Legal Defence and Assistance Project (LEDAP) set up a nationwide network of Nigerian men against domestic violence after organizing a workshop in 2003 and publishing a report, *Domestic violence: zero tolerance*. The network aims to increase awareness and education, particularly among men and in local communities, so that victims

¹⁰⁶ See UN Doc General Assembly document A/RES/53/144, 8 March 1999.

¹⁰⁷ UN Special Rapporteur on violence against women, Commission on Human Rights, 52nd session, UN Doc. E/CN.4/1996/53, 5 February 1996, para. 142(g).

of violence in the family know where to turn for help. Members of the network monitor and document cases of violence in the family. They offer assistance and support, including seeking redress through peaceful, non-adversarial and non-judicial solutions, to women who suffer abuse.

LEDAP also lobby for the enactment of legislation on violence in the family. It developed a model Domestic Violence and Other Related Matters Bill which served as the basis for the bill currently before the Lagos State House of Assembly.¹⁰⁸ Inspired by a similar legislative initiative in South Africa, the bill seeks to fill gaps in the law. It defines domestic violence to include verbal, psychological, sexual and economic abuse, and authorizes police officers to arrest a person reasonably suspected of having committed an offence containing elements of violence against a complainant without an arrest warrant. The bill also enables a complainant to apply for a protection order to restrain an alleged perpetrator from committing further abuse.

Enabling access to justice

Another way of making women’s voices heard is for the victims of family violence to have access to justice. They need to be able to report cases of violence against them and to obtain justice and redress. The perpetrators of violence against them must be brought to justice.

In Lagos State there are a number of “access to justice” initiatives, which provide free legal aid to victims of violence in the family. They are mainly run by NGOs such as Women Advocates Research and Documentation Centre (WARDC), Project Alert and LEDAP. Additionally, the International Federation of Female Lawyers (FIDA) represents victims of violence against women and violence in the family by offering legal services free of charge.

The Lagos Chapter of the Nigerian Bar Association also provides free legal aid to people in need, through an extensive network of men and women lawyers. These services are funded by between 30 and 40 law firms, which allow their lawyers to work on approximately five such cases per year. However they do not have a specific gender-oriented legal aid scheme: both women and men who have been subjected to violence in the family and

¹⁰⁸ See chapter 6, National and state laws, State laws.

who fall into their category of less privileged people are eligible.

Alternative methods of resolution

The Citizen's Mediation Centre forms part of the Directorate for Citizen's Rights established in 1999 by the Lagos State Ministry of Justice, and is the first of its kind in Nigeria. It was created, in response to growing numbers of citizens' complaints to the authorities, to provide poor people with an affordable and alternative mechanism for settling disputes. Collaborating with NGOs and other interest groups, which report cases to it, the Centre hears family-related cases, mainly inheritance and custody issues but also cases of physical abuse by men of their wives and by parents of their children, as well as consumer issues. Mrs Gbadebo, Director of the Citizen's Mediation Centre told Amnesty International that it is usually the woman who reports violence in the family. The Centre invites the man to try to resolve the dispute through alternative dispute measures. She confirmed that all the lawyers working in the Centre are also trained mediators, and that they have six offices in Lagos. The Director expressed her interest in the Centre developing rural offices, provided that funding was available.

Counselling, medical care and shelter

Many human rights defenders in women's and human rights organizations, social workers, medical professionals, and religious and traditional leaders told Amnesty International that they offered informal counselling to women who had experienced family violence. A pastor of the Seventh Adventist Church in Lagos said that he regularly received phone calls from women and men who needed advice on such matters. He said that he either talked to them on the phone, or in person at the church or in their homes.

However, such informal services are inadequate. The Lagos State authorities need to uphold their responsibility to provide services to assist victims to recover from violations of their human rights. The CEDAW Committee, in its General Recommendation 19, spells out the need for:

*“protective measures, including refuges, counselling, rehabilitation and support services for women who are the victims of violence or who are at risk of violence.”*¹⁰⁹

Amnesty International delegates visited several private medical centres in Lagos State in November 2004, some of which are funded by NGOs and others by individual medical professionals. They all reported taking on cases of violence in the family, and some were sensitive to the issues and aware of the different forms of violence in the family, including economic deprivation.

Staff at the medical centres were also aware of the reluctance of some victims to report their injuries or the violence that had led to them. All the centres had treated such individuals, some of whom had not come back for follow-up care. Some of the medical professionals said that they have referred cases to the police for further investigation, mostly in cases of rape. One medical professional suggested that an awareness campaign to target the medical services should include local pharmacies, which are often the first place where people take injuries to obtain pain relief.

In Lagos State there is no government-run shelter for victims of violence in the family. The only shelter in the state is provided by the NGO, Project Alert on Violence against Women, which runs Sophia's Place, in the outskirts of Lagos.¹¹⁰ Apart from offering safe and confidential short-term communal accommodation, the shelter also offers counselling, group support, referral and advocacy to necessary community resources as well as assistance in obtaining legal counsel. When Amnesty International visited Sophia's Place in November 2004, three

¹⁰⁹ CEDAW Committee, General Recommendation 19, Violence against women (11th session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, UN Doc. HRI\GEN\1\Rev.1 at 84 (1994), para 24(t)(iii).

¹¹⁰ According to Nigeria's fourth and fifth periodic report to CEDAW, there were four safe houses for victims of violence in the family and sexual violence, one in each of Ekiti, Lagos and Ogun States as well as in Abuja in the Federal Capital Territory. See UN Doc CEDAW/C/NGA/4-5, 28 April 2003, p. 22. According to a human rights defender consulted for this report, there is also a shelter for trafficked women in Edo State on the initiative by the wife of the Edo State Governor and a shelter in Enugu State run by Women's Aid Collective (WACOL).

women were residing there, one of them with her children. Another woman, who was pregnant, was receiving assistance to enable her to obtain pre-natal care.

The Lagos State administration must fulfil responsibility to supply support services and set up shelters for people who have been subjected to violence in the home and those at risk of violence, in consultation with women and appropriate NGOs.

8. Recommendations

Amnesty International calls on the Nigerian authorities, civil society groups and the international community to initiate and support reforms of policy, law and practice in Nigeria that will protect women and girls from violence in the home and community.

To the federal government

The Stop Violence against Women campaign urges the federal government to:

- reform discriminatory legislation, in particular Sections 353 and 360 of the Criminal Code, which make the indecent assault of a woman a less serious offence, carrying a lower penalty, than the indecent assault of a man;
- incorporate into domestic law the UN Convention on the Elimination of All Forms of Discrimination against Women, ratified by Nigeria in 1985, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, ratified by Nigeria in 2005;

To the Lagos State authorities

The Stop Violence against Women campaign urges the Lagos State authorities to:

- ensure that the Lagos State administration supports and ensures the passage of the Domestic Violence and Other Related Matters Bill without weakening it, as a step towards enhanced protection of women from violence.

To the federal government and Lagos State authorities

The Stop Violence against Women campaign urges the federal government and Lagos State authorities to:

- take a clear position that violence against women is unacceptable and undertake a thorough public education campaign on this issue;
- ensure that parallel legal systems and formal legislation in force in Nigeria comply fully with Nigeria's obligations under international human rights law;
- collect comprehensive data across Nigeria to systematically measure the nature and extent of violence against women;
- take steps to prevent violence against women by funding a sufficient number of appropriate shelters, in cooperation with non-governmental organizations that have experience in protecting women from violence;
- introduce measures to ensure that forced and underage marriages cannot be conducted in future, and that women have fully and freely consented to marriage. A system of consistent registration of marriage and divorce must be established;
- provide gender-sensitive training to police officers, lawyers, judges and other officials in the criminal justice system on protecting women from violence in the family; on responding to and investigating reports of family violence; on prosecuting and sentencing in such cases; and on protecting women complainants and witnesses at risk of reprisals and intimidation during investigations and prosecutions;
- ensure that all police stations have dedicated facilities for receiving, registering and investigating reports of violence in the family and violence against women, while ensuring that all police officers are trained to deal effectively and appropriately with victims of violent offences in a gender-sensitive manner, and that brochures and posters about how women can report family violence are disseminated and posted at hospitals, primary health care centres, pharmacies, community centres, courts and on websites;
- provide training to medical students and practitioners on responding to, investigating and

preserving evidence of violence against women and violence in the family;

- ensure adequate funding for medical practices and hospitals for treatment of victims of violence in the family; ensure that all casualty departments are linked to appropriate welfare and judicial services; and enable victims of violence in the family the right to choose women doctors and other medical staff at medical practices or hospital of their choice;
- ensure that all lawyers and primary health care practitioners, whether private or public, are given training in responding to violence in the family, and that appropriate emergency mechanisms exist;
- fund and support measures to enable all women to live free from violence, such as programmes of civic education, training and systems of support and protection for women who have been subjected to violence in the family;
- ensure that all women who have been subjected to violence are provided with access to redress and reparation, including compensation;
- provide training and information to judges so that they are properly informed about family violence and reflect the gravity of these offences appropriately in their sentencing, if necessary amend sentencing guidelines provided to judges;
- address factors contributing to the prevalence of violence against women by taking measures to promote the equality of women and counter women's impoverishment by ensuring equal access to economic and social rights, including education, freedom of movement, property, employment and social entitlements and by political participation;
- join international and national efforts to stop the proliferation of weapons used to commit violence against women and men.

To members of civil society

The Stop Violence against Women campaign urges members of the community to:

- work to create an environment that supports women and addresses violence, by raising awareness about violence against women, building community structures and processes to

protect women, providing assistance to victims of violence, and ensuring that women human rights defenders are free to carry out their work;

- demands that women be treated as equal members of the community, including having equal participation in decision-making in local government, customary legal systems and community structures;
- calls on religious bodies and traditional authorities to respect women's human rights, and to denounce and desist from any action that encourages or tolerates violence against women in general and in the family specifically;
- urges every individual to combat the negative images of women and to work to challenge the reinforcement of discriminatory attitudes that foster violence against women and girls, for example in the mass media, advertisements or school curricula;
- calls on communities to work with those most affected by violence to develop and implement local strategies to confront violence against women.

To the international community

The Stop Violence against Women campaign calls on world leaders and governments, intergovernmental organizations, including the UN and the African Union, to take action at the international level to:

- publicly pledge to make the Universal Declaration of Human Rights a reality for all women;
- develop action plans to end violence against women, and set up mechanisms to monitor their implementation;
- fully and speedily implement all international and regional treaties, declarations, resolutions and recommendations aimed at condemning, prohibiting and preventing all acts of violence against women, investigating all cases of violence and bringing perpetrators to justice in accordance with international standards of fair trial, and providing reparations for victims.

The Stop Violence against Women campaign calls on world leaders and governments, intergovernmental organizations, including the UN and the African Union, to take action in Nigeria to:

- support and encourage initiatives to provide training and exchange of information for police officers, lawyers, judges and other officials in the criminal justice system, and for medical students and practitioners, on the prevention of violence against women in the family and the protection of women from violence;
- support and encourage initiatives by the Nigerian authorities and by women's and other human rights organizations in Nigeria for the prevention of violence against women in the family and the protection of women from violence.