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NIGERIA: A HARROWING JOURNEY

ACCESS TO JUSTICE FOR WOMEN AND GIRLS
SURVIVORS OF RAPE

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EXECUTIVE SUMMARY

Sexual violence is a worldwide crisis and Nigeria is not exempt from it. Over the years, there have been reports made public by individuals, civil society organisations and the media of widespread sexual violence, including rape. Following the lockdown during the COVID-19 pandemic in 2020, there was an upsurge in reports of rape across Nigeria. These reports of rape triggered huge outcry and condemnation across the country. Survivors and their families, concerned citizens, civil society organisations, religious groups and other stakeholders continue to demand justice for survivors. This report documents barriers that women and girls survivors of rape face in accessing justice.

While rape remains at an epidemic level in Nigeria, there are no accurate statistics on its prevalence. Most cases of rape go unreported, due to the fear of stigmatisation, victim-blaming and a lack of trust in the police and judiciary, amongst other factors. Data is critical for assessing the situation of women's rights violations, as well as for developing adequate laws and policies to combat sexual violence and its consequences. Although Nigeria has an obligation to strengthen the collection of disaggregated statistical data on all forms of violence against women, available data is often sketchy and grossly inadequate to reflect the prevalence of rape.

Although access to justice is essential for the realisation of women's and girls' rights, survivors of rape often face a plethora of barriers while accessing justice. In the process of reporting rape, survivors often face barriers such as stigmatisation, rape myths, gender stereotypes, unprofessional conduct by law enforcement agents and the lack of survivor-friendly police stations, etc. Furthermore, barriers such as logistical costs, lack of survivor protection and support, lengthy legal process and other militating factors often impede survivors' quest to pursue justice.

This report is based on desk and field research carried out by Amnesty International in Nigeria, between March 2020 and August 2021. Amnesty International's researchers interviewed 14 women and girls survivors of rape between the ages of 12 and 42 years. Researchers also interviewed seven parents of survivors who are children. Interviews were conducted in Abuja, Lagos, Kano, Sokoto and Bauchi states. Interviews were conducted in person, as well as by phone and video calls. Interviewees were of diverse ethnic and religious backgrounds.

Amnesty International's researchers obtained the full, informed consent of the parents and guardians of children interviewed and the informed assent of the children and adult survivors interviewed for this report. Survivors interviewed were referred to Amnesty International by civil society organisations providing legal, medical and psychosocial support for these survivors.

The names of the survivors have been changed and other identifying details withheld to protect their identity and privacy. All those cited have given their informed consent and assent to the inclusion of their stories in this report.

Amnesty International's researchers interviewed 22 representatives of civil society organisations, 10 lawyers who represent rape survivors, a law professor, three counsellors who work with rape survivors, two medical doctors and a nurse. Amnesty International's researchers also interviewed seven police officers, three staff members of the National Agency for the Prohibition of Trafficking in Persons (NAPTIP), four staff members of the National Human Rights Commission (Director, Women and Children Department and three members of his team), a staffer of the Legal Aid Council, a staffer of the Federal Ministry of Justice who is also a member of the Inter-Ministerial Gender-Based Violence Management Committee on Eradication of Sexual and Gender-Based Violence, two Directors of Public Prosecutions in state ministries of justice and a staff member of a state Ministry of Women Affairs.

Survivors that were interviewed for this report shared grave stories of the physical, emotional and psychological impact of rape undermining the enjoyment of their human rights. Survivors reported severe and long-term consequences of rape on their health and wellbeing. Some survivors suffered serious health complications such as Vesicovaginal Fistula, trauma, depression, low self-esteem, sexually transmitted infections, etc. For some survivors, rape results in unwanted pregnancy. Some girls interviewed by Amnesty International said rape-related pregnancy meant a temporary stop to their education. For others, an end to their education.

This report identifies several legislative gaps in the Nigerian law on rape. The definitions of rape in the Penal and Criminal Codes recognise vaginal penetration and do not explicitly define rape to include other forms of penetration.

The Penal and Criminal Codes are also not gender-neutral, do not recognise marital rape and are silent on the definition of consent. The Violence Against Persons Prohibition (VAPP) Act – a law that expanded the definition of rape to include all forms of penetration – has limited jurisdiction. The Act is only applicable in the Federal Capital Territory. It must be domesticated in states for it to have the force of law in those states. Since its enactment in 2015, only 27 of the 36 states have domesticated the Act. Hence, restrictive provisions of the Penal and Criminal Codes on violence against women are applicable in states that have not domesticated the VAPP Act.

Experiences shared by survivors and civil society organisations working with them reveal that some conducts of police officers do not comply with international human rights law and standards, as well as the provisions of the Nigerian Police Act. Survivors disclosed that at the point of reporting rape, they often faced victim-blaming, dismissive treatment, financial extortion, gender stereotyping and lack of empathy from the police. In some instances when survivors report rape, the police advise survivors and perpetrators to settle the case outside the criminal justice system. Civil society organisations that provide support for survivors also provided instances where they had been faced with hostility and lack of cooperation from the police.

Experiences of survivors, experts and NGOs interviewed for this research indicate that there is a gap in human rights training for law enforcement officers. Testimonies gathered from survivors and NGOs reveal that police stations are sometimes not conducive for reporting rape, in terms of their physical set-up and infrastructure. Some police officers interviewed for this report told Amnesty International that in their stations, there are no confidential interview rooms, no vehicles to convey survivors to the hospital for forensic examination and emergency care, and no funds assigned to the stations to support survivors of sexual violence.

Testimonies of survivors reveal an inadequate number of shelters and sexual assault referral centres available across the country. Survivors and organisations working with them also highlighted the lack of protection and support (particularly medical, legal and psychosocial) for survivors from the authorities.

Under international human rights law, Nigeria has an obligation to take all appropriate measures to prevent as well as to investigate, prosecute, punish and provide reparation for acts or omissions by state and non-state actors that result in gender-based violence against women.

METHODOLOGY

This report is based on desk and field research carried out by Amnesty International in Nigeria, between March 2020 and August 2021. It is focused on the barriers to access to justice for women and girls survivors of rape. The rationale for this is the increase in reports of sexual and gender-based violence in Nigeria since the beginning of the COVID-19 pandemic.¹

Amnesty International's researchers interviewed 14 women and girls survivors of rape between the ages of 12 and 42 years. Researchers also interviewed seven parents of survivors who are children. While the study is not intended to be statistically significant, the individual stories highlighted in this report reveal systemic challenges that survivors and those working with them face in accessing justice.

Amnesty International's researchers obtained the full, informed consent of the parents and guardians of children interviewed and the informed assent of the children and adult survivors interviewed for this report. Survivors interviewed were referred to Amnesty International by civil society organisations that are providing legal, medical, and psychosocial support for these survivors.

Interviews were conducted in Abuja, Lagos, Kano, Sokoto and Bauchi states. Interviews were conducted in person, as well as by phone and video calls. Interviewees are of diverse ethnic and religious backgrounds.

The names of the survivors have been changed and other identifying details withheld to protect their identity and privacy. All those cited have given their informed consent and assent to the inclusion of their stories in this report.

Amnesty International's researchers interviewed 22 representatives of civil society organisations, 10 lawyers who represent rape survivors, a law professor, three counsellors who work with rape survivors, two medical doctors and a nurse.

Amnesty International's researchers also interviewed seven police officers, three staff members of the National Agency for the Prohibition of Trafficking in Persons (NAPTIP), four staff members of the National Human Rights Commission (Director, Women and Children Department and three members of his team), a staffer of the Legal Aid Council, a staffer of the Federal Ministry of Justice who is also a member of the Inter-Ministerial Gender-Based Violence Management Committee on Eradication of Sexual and Gender-Based Violence, two Directors of Public Prosecutions in state ministries of justice and a staff member of a state Ministry of Women Affairs.

All interviews but three were conducted in English. Three interviews were conducted in Hausa.

In addition to extensive desk research, Amnesty International analysed 15 court judgements and various reports in the media.

Amnesty International shared its preliminary findings with the Nigerian authorities and sought their written response on the steps that the authorities are undertaking to address the systemic barriers to access to justice for women and girls survivors of rape.² At the time of publishing this report, responses

1 United Nations Nigeria, "Gender-based violence in Nigeria during the COVID-19 crisis", 4 May 2020, nigeria.un.org/sites/default/files/2020-05/Gender%20Based%20Violence%20in%20Nigeria%20During%20COVID%2019%20Crisis_The%20Shadow%20Pandemic.pdf, p.4.

2 Amnesty International, Letters dated 13 August 2021 and 22 September to the Minister of Women Affairs, Attorney-General of the Federation and Minister of Justice, Executive Secretary of the National Human Rights Commission, Director General of the National Agency for the Prohibition of Trafficking in Persons and the Inspector-General of Police, Nigeria, , on file with Amnesty International.

were received from the National Agency for the Prohibition of Trafficking in Persons, the Federal Ministry of Justice and the National Human Rights Commission. The Ministry of Women Affairs responded requesting for more time. However, the response did not arrive before the report was published. No response was received from the Nigeria Police.

ACKNOWLEDGEMENTS

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LIST OF ABBREVIATIONS

AIDS	Acquired Immunodeficiency Syndrome
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEDAW Committee	Committee on the Elimination of All Forms of Discrimination against Women
CRC	Convention on the Rights of the Child
CRC Committee	Committee on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CRPD Committee	Committee on the Rights of Persons with Disabilities
CSO	Civil Society Organisation
FCT	Federal Capital Territory
FEC	Federal Executive Council
FIDA	The International Federation of Women Lawyers
GBV	Gender-Based Violence
HIV	Human Immunodeficiency Virus
HRC	Human Rights Committee
NAPTIP	National Agency for the Prohibition of Trafficking in Persons
NGF	Nigerian Governors Forum
NHRC	National Human Rights Commission
NSCDC	Nigeria Security and Civil Defence Corps
NGO	Non-governmental Organisation
NOA	National Orientation Agency
ROLAC	The Rule of Law and Anti-Corruption Programme of the British Council
SGBV	Sexual and Gender-Based Violence
SARC	Sexual Assault Referral Centre
VAC	Violence Against Children
VAPP Act	Violence Against Persons (Prohibition) Act
WOLDI	Women Law and Development Initiative

GLOSSARY

	Description
GENDER STEREOTYPING	The practice of “ascribing to an individual woman or man specific attributes, characteristics or roles by reason only of her or his membership in the social group of women or men. Gender stereotyping is wrongful when it results in a violation or violations of human rights and fundamental freedoms. Example of wrongful gender stereotyping is failure to effectively investigate, prosecute and sentence sexual violence against women based on the stereotype that women should protect themselves from sexual violence by dressing and behaving modestly.”<?>
GENDER-BASED VIOLENCE	Harmful acts directed at an individual based on their gender. It is rooted in gender inequality, the abuse of power and harmful norms.<?>
RAPE	The term ‘rape’, when used to describe a victim’s experience, is used, in the sense of international human rights law, as non-consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object.<?>
RAPE MYTHS	False beliefs people hold about sexual assault that shift the blame from the perpetrator to the survivor (so-called victim blaming).<?> Rape myths include false beliefs that explain and justify rape with the appearance and behaviour of the victim. How someone dresses, how much alcohol they choose to drink, who they choose to go out with, how they behave, how they choose to live their life does not make them responsible for and cannot justify any sexual violence they experience. The victim is not to blame. No one is responsible for how another acts.<?>
VICTIM	This report uses the terms ‘victim’ and ‘survivor’ interchangeably. The term ‘victim’ is customarily used to describe people whose human rights have been violated. For example, it is the term adopted in the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power<?> and the Rome Statute of the International Criminal Court.<?> While acknowledging that “victim” is the appropriate legal term, Amnesty International recognises that the term “survivor” better reflects the strength and resilience of women and girls who have experienced sexual violence and is the preferred term for many women and girls themselves and also, many human rights activists.<?>
VIOLENCE AGAINST WOMEN AND GIRLS	Any act of gender-based violence that results in, or is likely to result in physical, sexual, or mental harm or suffering to women and girls, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. Violence against women and girls encompasses, but is not limited to, physical, sexual and psychological violence occurring in the family or within the general community and perpetrated or condoned by the State.<?>
VESICOVAGINAL FISTULA (VVF)	A medical condition characterised by a hole “between the bladder and the vagina that allows the continuous involuntary discharge of urine.”<?>

1. BACKGROUND



“But there is one universal truth, applicable to all countries, cultures and communities: violence against women is never acceptable, never excusable, never tolerable.”

United Nations Secretary-General Ban Ki-Moon (2008)³

1.1 PREVALENCE OF RAPE

Sexual violence is a worldwide crisis and Nigeria is not exempt from it. Over the years, there have been reports by civil society organisations and the media of widespread sexual and gender-based violence (SGBV), including rape.⁴ Following the lockdown during the COVID-19 pandemic in 2020, there was an upsurge in reports of rape across Nigeria. In June 2020, the Inspector-General of Police said that Nigeria recorded 717 incidents of rape between January and May 2020. According to him, a total of 799 suspects have been arrested, 631 cases conclusively investigated and charged to court, while 52 cases are still at various stages of investigation.⁵ In July 2020, the Minister of Women Affairs and Social Development, Dame Pauline Tallen, also revealed that no fewer than 3,600 cases of rape were recorded during the lockdown.⁶

As of December 2020, data from Sexual Assault Referral Centres (SARC) across Nigeria showed that

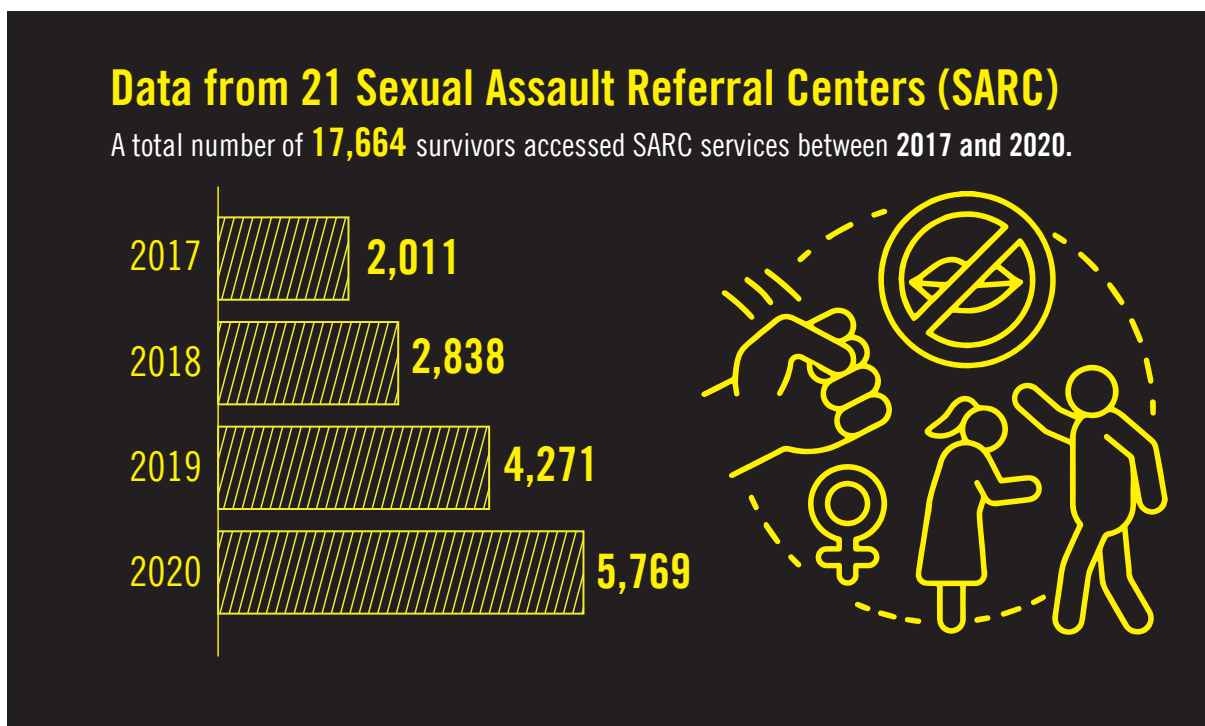
3 United Nations, “Secretary-General says violence against women never acceptable, never excusable, never tolerable, as he launches global campaign on issue”, 25 February 2008, un.org/press/en/2008/sgsm11437.doc.htm.

4 UN Human Rights Committee (HRC), Concluding observations: Nigeria, 29 August 2019, UN Doc. CCPR/C/NGA/CO/2, para. 20.

5 Global Upfront Newspapers, “Nigeria’s Inter-Ministerial panel on rape and gender based violence meets with President Buhari”, 15 June 2020, globalupfront.com/2020/06/15/nigerias-inter-ministerial-panel-on-rape-and-gender-based-violence-meets-with-president-buhari/.

6 Punch Newspapers, “Nigeria recorded 3, 600 rape cases during lockdown – Minister”, 13 July 2020, punchng.com/nigeria-record-ed-3-600-rape-cases-during-lockdown-minister/.

a total number of 17,664 clients accessed SARC services between 2017 and 2020.⁷ A breakdown of this data shows an increase in the number of survivors that accessed SARC – 2011 survivors in 2017, 2838 survivors in 2018, 4271 survivors in 2019 and 5769 survivors in 2020.⁸ According to the National Gender-Based Violence dashboard of the Federal Ministry of Women Affairs, there were 155 reported cases of rape between January 2020 and April 2021.⁹ In its 2020 annual report, the National Human Rights Commission noted having received 11,200 reported cases of rape.¹⁰ NAPTIP secured 51 convictions for rape between 2018 to 2020.¹¹



In 2020, Vera Uwaila Omosuwa, a 22-year-old microbiology student, was raped and brutally assaulted in a church near her home in Benin, Edo State. Uwa died a couple of days later from her injuries.¹² 18-year-old Barakat Bello died on 1 June 2020. Barakat was reportedly raped during a robbery in her home in Ibadan, Oyo State. Her killers butchered her with machetes.¹³ In Ejigbo, Lagos State, an 11-year-old girl, Favour Okechukwu, was gang-raped to death.¹⁴ A 70-year-old woman was raped in Ogun State.¹⁵ In May 2021, a six-year-old girl was raped to death in Kaduna State.¹⁶

These cases and other reports of rape have triggered huge outcry and condemnation of rape across the country. Survivors and their families, concerned citizens, civil society organisations, religious groups and other stakeholders continue to demand justice for survivors.¹⁷ In June 2020, protesters took to the streets in the Federal Capital Territory, in Lagos, Ondo, Osun and some other states across the country,

7 Nigeria, "Sexual Assault Referral Centre Client Data as at December 2020".

8 Nigeria, "Sexual Assault Referral Centre Client Data as at December 2020", p. 2.

9 Federal Ministry of Women Affairs, "National Gender-Based Violence dashboard", reportgbv.ng/#/ (accessed on 22 April 2021).

10 National Human Rights Commission, "2020 Annual Report", p. 53.

11 National Agency for the Prohibition of Trafficking in Persons, response to Amnesty International's right of reply letter, 6 October 2021, on file with Amnesty International.

12 Amnesty International, "Demand justice for the death of two young women in Nigeria", amnesty.org/en/get-involved/take-action/justice-for-uwa-and-barakat/ (accessed on 21 January 2021).

13 Amnesty International, "Demand justice for the death of two young women in Nigeria" (previously cited).

14 Vanguard, "Girl, 11, Gang-Raped to Death in Lagos", 4 October 2020, vanguardngr.com/2020/10/girl-11-gang-raped-to-death-in-lagos/.

15 Daily Post, "I raped 70-year-old woman under the influence of alcohol – Man confesses in Ogun", 4 June 2020, dailypost.ng/2020/06/04/i-raped-70-year-old-woman-under-the-influence-of-alcohol-man-confesses-in-ogun/.

16 Daily Trust, "6-Year-Old Raped to Death In Kaduna, 18 May 2021, 6-year-old raped to death in Kaduna | Dailytrust.

17 Aljazeera, "Nigerians go online to demand 'justice' for abuses against women", 2 June 2020, aljazeera.com/news/2020/6/2/nigerians-go-online-to-demand-justice-for-abuses-against-women.

to demand an end to rape and other forms of sexual violence.¹⁸

While rape remains at an epidemic level in Nigeria¹⁹, there are no accurate nor consolidated statistics on rape. Data is critical for assessing the situation of women's right,²⁰ as well as for developing adequate laws and policies to combat sexual violence and its consequences.²¹ The statistics cited above do not provide satisfactory representation of the prevalence of rape in Nigeria. Most cases go unreported, due to the fear of stigmatisation, victim-blaming, lack of trust in the police, lengthy legal process and other militating factors.²² Although Nigeria has an obligation to strengthen the collection of disaggregated statistical data on all forms of violence against women,²³ available data is often sketchy and grossly inadequate to reflect the prevalence of rape. There is also a paucity of information on the number of prosecutions and convictions for rape cases.

In June 2020, the Federal Executive Council (FEC), presided over by President Muhammad Buhari, pledged to take decisive actions in combating rape.²⁴ In the same month, state governors across Nigeria declared a state of emergency on sexual and gender-based violence. The Nigerian Governors Forum (NGF) called on authorities in all 36 states to domesticate the Violence Against Persons (Prohibition) Act (VAPP Act) and the Child Rights Act.²⁵ The VAPP Act – a law which criminalises discrimination and violence against persons – expanded the scope of the definition of rape. Under this Act, rape is no longer limited to vaginal penetration, it also includes penetration of the anus and mouth. In addition, penetration could be done with body parts or other objects. The definition of rape under this Act is consent-based. The Act recognises that either males or females can be victims of or culpable of rape.²⁶

In July 2020, the Federal Government inaugurated an Inter-Ministerial Gender-Based Violence Management Committee on Eradication of Sexual and Gender-Based Violence (Inter-Ministerial Committee). This multi-sectoral committee seeks to ensure effective, comprehensive, and coordinated response to sexual and gender-based violence (SGBV) within the country. The Inter-Ministerial Committee also aims to reduce SGBV in Nigeria and to ensure quality forensic, medical, psychosocial, legal and support services for all survivors.²⁷ The Committee has four sub-committees: Law and Policy, Service Provision, Awareness and Advocacy and SGBV Data.²⁸

In over a year since the government declared a state of emergency on sexual and gender-based violence, not much has changed. Rape persists, most survivors are yet to get justice and many perpetrators remain neither prosecuted nor punished. A review of the proposed activities timeline in the working document of the Inter-Ministerial Committee reflects that not much action has commenced in combating the scourge of sexual violence. A member of the Inter-Ministerial Committee interviewed for this research disclosed that discussions were ongoing, but there are bottlenecks such as funding constraints and inability of the committee to meet, due to COVID-19 restrictions on public gatherings.²⁹ The Committee informed Amnesty International that workplans with budgets have been developed, and application for funds have

18 TVC News, "Update: Nigerians protest, demand end to sexual abuse", 5 June 2020, tvcnews.tv/update-nigerians-protest-demand-end-to-sexual-abuse/.

CNN World, "Nigerian women are taking to the streets in protests against rape and sexual violence", 9 June 2020, edition.cnn.com/2020/06/09/africa/nigeria-women-rape-protests/index.html.

19 National Human Rights Commission, "NHRC and NAPTIP join forces with the police to deal with rape/ SGBV scourge", 14 June 2020, nigeriarights.gov.ng/nhrc-media/press-release/111-nhrc-and-naptip-join-forces-with-the-police-to-deal-with-rape-sgbv-scourge.html.

20 UN Committee on the Elimination of Discrimination against Women (CEDAW Committee), General Recommendation 9: Statistical Data Concerning the Situation of Women, Eighth session, 1989.

21 African Commission on Human and People's Rights, "Guidelines on Combating Sexual Violence and its Consequences", achpr.org/public/Document/file/English/achpr_eng_guidelines_on_combating_sexual_violence_and_its_consequences.pdf para. 76, p. 49.

22 UN Nigeria, "Gender-based Violence in Nigeria During the COVID-19 Crisis: The Shadow Pandemic" (previously cited), p.3.

23 UN Committee on the Elimination of Discrimination against Women (CEDAW Committee), Concluding observations: Nigeria, 24 July 2017, UN Doc. /C/NGA/CO/7-8, para. 26 (c), p. 8.

24 Premium Times, "Nigeria: Just in - As Rape Cases Increase, Nigerian Govt Vows Decisive Action", 10 June 2020, premiumtimesng.com/news/headlines/397069-just-in-as-rape-cases-increase-nigerian-govt-vows-decisive-action.html.

25 CNN Philippines, "State of emergency declared on rape and gender violence in Nigeria", 12 June 2020, cnnphilippines.com/world/2020/6/12/State-of-emergency-rape-and-gender-violence-in-Nigeria.html.

26 Nigeria, Violence Against Persons (Prohibition) Act (VAPP Act), 2015, section 1.

27 Nigeria, "Working Document: Inter-ministerial Management Committee on Sexual and Gender Based Violence", p. 1.

28 Federal Ministry of Justice, response to Amnesty International's right of reply letter, 30 September 2021, on file with Amnesty International

29 Interview by video call with Yewande Awopetu, member of the Inter-Ministerial Gender-Based Violence Management Committee on Eradication of Sexual and Gender-Based Violence and staff of the Federal Ministry of Justice, 19 March 2021.

been made to the Presidency.³⁰

Rape is a grave violation of human rights and it is an obligation of the State to take measures to prevent and address it. Hence, it should be treated as an issue of national priority. Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) to which Nigeria is a signatory, places obligation on Nigeria to “condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women”, including sexual and gender-based violence such as rape.³¹ The Committee on the Elimination of Discrimination against Women (the CEDAW Committee) has averred that State obligation to combat sexual violence is “an obligation of an immediate nature; delays cannot be justified on any grounds, including economic, cultural or religious grounds.”³²

The CEDAW Committee has averred that the right of access to justice for women and girls is essential to the realisation of all other human rights, as protected under the Convention on the Elimination of All Forms of Discrimination against Women.³³ This report seeks to highlight the various barriers that deter survivors from reporting rape and the systemic barriers faced by women and girls survivors in accessing justice for rape.

1.2 IMPACT OF RAPE ON SURVIVORS AND THEIR ABILITY TO EXERCISE THEIR HUMAN RIGHTS

“I felt useless. I felt like nobody loved me and I went into depression again. I think this time it was worse than the first.”

Lucia, 26. Survivor of rape.³⁴

Rape is a grave human rights violation with physical, emotional and psychological consequences for survivors. Whether it happens in an intimate relationship, within the family, community or during conflict, it is a deeply traumatising and painful experience with short and long-term consequences for the survivor.³⁵

The Committee on the Elimination of Discrimination against Women (CEDAW Committee) has affirmed that “women’s right to a life free from gender-based violence is indivisible from and interdependent on other human rights, including the rights to life, health, liberty and security of the person, equality and equal protection within the family, freedom from torture, cruel, inhumane or degrading treatment, and freedom of expression, movement, participation, assembly and association.”³⁶ The Committee further averred that gender-based violence against women may amount to torture or cruel, inhuman or degrading treatment in certain circumstances, including in cases of rape.³⁷

Survivors of rape often suffer severe health consequences, such as physical injuries, bleeding, infections, chronic pelvic pain, pelvic inflammatory disease, sexually transmitted infections including HIV/AIDS and urinary tract infections. Rape also puts women and girls at risk of unwanted pregnancy and unsafe abortions, due to Nigeria’s restrictive abortion laws.³⁸ Survivors interviewed for this research also reported severe and long-term consequences from the rape on their health and wellbeing.

30 Federal Ministry of Justice, response to Amnesty International’s right of reply letter, 30 September 2021, on file with Amnesty International

31 UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Article 2.

32 UN Committee on the Elimination of Discrimination against Women (CEDAW), General Recommendation 35: Gender-Based Violence against Women, 26 July 2017, UN Doc. CEDAW/C/GC/35, para. 21, p. 8.

33 UN Committee on the Elimination of Discrimination against Women, General recommendation 33: Women’s Access to Justice, 3 August 2015, CEDAW/C/GC/33, p. 3

34 Interview in person with Lucia, rape survivor, 28 January 2020, Abuja.

35 World Health Organisation, “Sexual Violence”, [who.int/reproductivehealth/topics/violence/sexual_violence/en/](https://www.who.int/reproductivehealth/topics/violence/sexual_violence/en/) (accessed on 8 March 2021).

36 CEDAW, General Recommendation 35 (previously cited), paras 15-16.

37 CEDAW, General Recommendation 35 (previously cited), paras 15-16.

38 The Advocates for Human Rights, “Health Consequences of Sexual Assault”, stopvaw.org/health_consequences_of_sexual_assault (accessed on 7 February 2021).

Hamira's Story

In April 2020, five-year-old Hamira was drugged and raped by her neighbour. Hamira's mother noticed she was crying and was not walking properly. When she complained of a stomach-ache, her mother observed that her underwear was wet and there was a discharge of blood. At some point, Hamira could no longer control her urine. She was taken to the hospital. Her mother told Amnesty International:

"At the hospital, they administered some drugs to relieve her of the pain. They had to use a catheter for her, because she was just leaking. Urine was coming out without control. So, they said they were going to operate on her. We spent 12 days in the hospital. They checked her and they realised that there had been penetration. She is now a Vesicovaginal Fistula (VVF)³⁹ patient. They have not done the operation; we don't have the money.

We cannot allow her to go to school, because of her medical condition. She has also stopped going to the Islamiyah school. She was wearing diapers, but now she is using rags, because we cannot even afford the diapers. The threat to our family has not yet stopped. In fact, our family has been isolated, because nobody wants to relate with us. When Hamira goes out, people point fingers at her, that, 'that is the girl.'"⁴⁰

In cases like Hamira's where survivors suffer serious health complications, free medical care is often not available to them and they have to pay for treatment out of pocket, because most government-owned hospitals do not provide free medical care for rape survivors. Similarly, survivors have to pay to access health services in privately-owned hospitals. For indigent survivors who are unable to afford the cost, medical care remains a challenge. In September 2021, the Akwa Ibom State House of Assembly passed a bill on free and compulsory medical care for survivors of sexual abuse.⁴¹ The bill will become law in Akwa Ibom State on the assent of the governor.

For some survivors, rape results in unwanted pregnancy. Some girls interviewed by Amnesty International said rape-related pregnancy meant a temporary stop to their education. For some others, an end to their education.

"I had to stop going to school because of what happened, but my grandmother promised that when school reopens, that I will be dropping the baby off with her, while I go to school."
Nadia, 14 years. Abducted for 46 days and raped by her friend's uncle.⁴²

"It was then the police took me to the hospital and there it was discovered that I was pregnant ...I stopped going to school, because I was afraid of how people would look at me and talk about me."
Sofia, aged 12, who was raped by her neighbour.⁴³

Abortion is a crime under Nigerian law, except in cases where it is performed to save the life of the woman.⁴⁴ The Criminal Code⁴⁵, Penal Code⁴⁶ and Sharia Law⁴⁷ criminalise abortion in most cases, including when the pregnancy was a result of rape. The CEDAW Committee has highlighted the high incidence of unsafe abortions due to Nigeria's restrictive abortion laws, which permit abortions only in order to save a pregnant woman's life.⁴⁸ Due to the criminalisation of abortion in Nigeria, women and girls, as well as survivors of

39 Vesicovaginal Fistula (VVF) is a medical condition characterised by a hole "between the bladder and the vagina that allows the continuous involuntary discharge of urine." Reichert M, Schwandner T, Hecker A, et al. Surgical Approach for Repair of Rectovaginal Fistula by Modified Martius Flap. *Geburtshilfe Frauenheilkd.* 2014;74(10):923–927. doi:10.1055/s-0034-1383149 www.ncbi.nlm.nih.gov/pmc/articles/PMC4210382.

40 Interview by video call with Hamira's mother, mother of rape survivor, 26 February 2021.

41 Daily Post, "Bill on free, compulsory treatment for victims of sexual abuse passed into law in Akwa Ibom", 24 September 2021, dailypost.ng/2021/09/24/bill-on-free-compulsory-treatment-for-victims-of-sexual-abuse-passed-into-law-in-akwa-ibom/.

42 Interview in person with Nadia, 14-year-old rape survivor, 24 December 2020, Sokoto State.

43 Interview in person with Sofia, rape survivor, 18 November 2020, Abuja.

44 Nigeria, Criminal Code Act (Criminal Code), Cap C38 LFN 2004, section 297.
Nigeria, Penal Code Act (Penal Code), Cap P3 (LFN) 2010, section 232.

45 Criminal Code (previously cited), section 228, 229 & 230.

46 Penal Code (previously cited), section 232 – 236.

47 Nigeria, Harmonised Sharia Penal Code Law, section 207 – 210.

48 CEDAW, Concluding Observations: Nigeria (previously cited), para 37(b), p.12.

rape, often resort to unsafe abortions to terminate unwanted pregnancies. Restrictive laws foster unsafe abortions, which are sometimes carried out clandestinely by unskilled people in unsanitary settings, often leading to health complications and sometimes death for women and girls.⁴⁹

Often, survivors are unable to access emergency contraception due to financial constraints, stigmatisation and lack of information on available options. Access to contraception information and services is fundamental to the health and rights of all individuals,⁵⁰ including access to emergency contraception for survivors of rape. The Federal Ministry of Health has revealed that there is a low level of contraceptive prevalence in Nigeria, due to inadequate access to family planning services, poor quality of services, cultural factors, myths and misconceptions about contraception, gender inequity and inadequate demand creation efforts.⁵¹

Rape is an extremely traumatising experience, which may have a long and even lifetime impact on the mental health of survivors. Its consequences could include post-traumatic stress disorder, fear, lack of trust, low self-esteem, shame, guilt, anxiety, sleeping disorders, depression, self-harm and high-risk behaviours, including suicidal behaviour and drug use, etc.⁵²

“I used to have some bad dreams. I was scared. I was seriously sick. I just couldn’t help myself. It seemed like I was going to die; the fear and everything.”

Bola, 21 years. Survivor.⁵³

“Even though once in a while I slip back into depression, I have nightmares, I’m still scared and most times I’m even ashamed to share my story... I still blame myself though. What happened, I blame myself for it, because I feel it’s my fault.”

Lucia, 26 years, who was raped by her aunt’s friend.⁵⁴

For some survivors, although it has been some years since the incident, life has not been the same. The experience has created an indelible impact on their lives. They have been left with horrid memories for a lifetime.

“You think you are not worthy of love, because of what happened. Meanwhile, the abuser has moved on, but the abuse is still stuck in the head of the abused. They are the ones going through hell.”

Anthonia Ojenagbon, survivor and founder of ‘Tonia Bruised but not Broken.’⁵⁵

Hauwa Shekarau, founder of Women Law and Development Initiative (WOLDI)⁵⁶ told Amnesty International that:

“At the end of the day, even when the perpetrator has been found guilty and convicted, the survivor is left with harrowing memories for the rest of her life. Some survivors could be so affected, even

49 Emaediong Ibong Akpanekpo, Ekaette David Umoessien and Edidiong Ime Frank, “Unsafe Abortion and Maternal Mortality in Nigeria: A Review”, June 2017, Pan-African Journal Of Medicine, researchgate.net/publication/320920496_Unsafe_Abortion_and_Maternal_Mortality_in_Nigeria_A_Review

50 WHO, Ensuring human rights within contraceptive programmes: *A human rights analysis of existing quantitative indicators*, 2014, p.1.

51 Nigeria, Federal Ministry of Health: Nigeria Family Planning Blueprint 2020 -2024, June 2020, p. 10 health.gov.ng/doc/Final-2020-Blue-print.pdf.

52 African Union, *Guidelines on Combating Sexual Violence and its Consequences* (previously cited), p. 17.

53 Interview in person with Bola, rape survivor, 3 March 2021, Abuja.

54 Interview in person with Lucia, rape survivor, 28 January 2020, Abuja.

55 Interview in person with Anthonia Ojenagbon, rape survivor and founder of “Tonia Bruised but not Broken”, 19 December 2020, Lagos State.

56 Women Law and Development Initiative (WOLDI) is an NGO committed to the promotion and protection of the rights of women, children and other vulnerable groups, through the provision of legal services, promoting access to justice, advocacy and awareness creation, and policy and legal framework development.

when they get married. Anytime they are about to have sexual intercourse, it becomes a harrowing experience for them. The effect of rape is not just physical, it's also emotional, it's also psychological. Some of these emotional and psychological effects can stay with the person for life. They are scars. You know when you say scars, scars that remain indelible in their lives and can change the course of their sexuality.”⁵⁷

While the VAPP Act provides that every survivor is entitled “to receive the necessary materials, comprehensive medical, psychological, social and legal assistance”,⁵⁸ this is not the reality for most survivors. There is an insufficient level of assistance for survivors, who are often unable to access medical care and psychosocial support due to physical inaccessibility, financial constraints, and the stigma.⁵⁹ In practice, medical care is often not free for survivors in both public and privately owned hospitals. In most cases, survivors pay out of pocket for psychosocial support services, as these services are mostly unavailable in government institutions. Although the UN recommended that there should be one shelter for every 10, 000 inhabitants,⁶⁰ Nigeria falls short of this. There is limited availability of Sexual Assault Referral Centres, many of which have low capacity and are underfunded.⁶¹

The CEDAW Committee made recommendation to Nigeria to ensure that adequate resources are allocated to integrate sexual and gender-based violence into health sector strategic plans and to train healthcare providers in the provision of comprehensive clinical care for victims of gender-based violence.⁶² The CEDAW Committee also highlighted the inadequacy of shelters and lack of information on their accessibility for women and girls in Nigeria.⁶³

1.3 STATE INFRASTRUCTURE TO COMBAT SEXUAL VIOLENCE

1.3.1 NATIONAL AGENCY FOR THE PROHIBITION OF TRAFFICKING IN PERSONS

According to the provision of the VAPP Act, the National Agency for the Prohibition of Trafficking in Persons (NAPTIP) is the regulatory body for the VAPP Act – a law which prohibits all forms of violence against persons, including rape.⁶⁴ NAPTIP implements the VAPP Act through the coordination of its multi-disciplinary departments – the Investigation Department, Legal and Prosecution Department, Counselling and Rehabilitation Department, and Public Enlightenment Department.

The Investigation Department conducts investigations into reported cases of sexual violence and where necessary, effects the arrest of offenders under the VAPP Act. Investigated cases are forwarded to the Legal and Prosecution Department, which proffers legal opinions and where necessary, charges are preferred against the suspect in court for prosecution. The Counselling and Rehabilitation Department is saddled with the responsibility of receiving survivors when they are rescued and to ensure that survivors are catered for in the Agency's shelter. The Public Enlightenment Department's role is to educate the populace on the VAPP Act.⁶⁵ The agency sensitizes the public, school counsellors, traditional and religious leaders on SGBV, stigma, victim-blaming, gender stereotypes and rape myths.⁶⁶

⁵⁷ Interview by video call with Hauwa Shekarau, founder of Women Law and Development Initiative (WOLDI), 11 February 2021.

⁵⁸ VAPP Act (previously cited), section 38 (1)(a).

⁵⁹ HRC, Concluding Observations: Nigeria (previously cited), para 20, p. 4.

⁶⁰ UN Economic and Social Affairs, *Handbook for Legislation on Violence against Women*, 2010, p. 29.

⁶¹ UN Nigeria, “Gender-based Violence in Nigeria During the COVID-19 Crisis: The Shadow Pandemic” (previously cited), p.3

⁶² CEDAW, Concluding Observations: Nigeria (previously cited), para 26 (d), p.8.

⁶³ CEDAW Committee, Concluding Observations: Nigeria (previously cited), para 25, p.8.

⁶⁴ VAPP Act (previously cited), section 44.

⁶⁵ National Agency for the Prohibition of Trafficking in Persons, “VAPP Act”, naptip.gov.ng/vapp-act/ (accessed on 18 August 2021).

⁶⁶ National Agency for the Prohibition of Trafficking in Persons, response to Amnesty International's right of reply letter, 6 October 2021, on file with Amnesty International

On 1 June 2021, the Agency established a VAPP department which is tasked with the responsibility of handling all cases of violence against persons.⁶⁷ The administration and enforcement of the VAPP Act are an additional mandate to the National Agency for the Prohibition of Trafficking in Persons' primary function of combatting human trafficking. This additional responsibility has, however, not been matched with adequate supplementary resources by the government, particularly financial and human resources, to ensure the effective enforcement and implementation of both mandates (trafficking and violence against persons) by NAPTIP. The Agency told Amnesty International that through its supervising Committee at the National Assembly, it has made "proposals for the inclusion of the Agency on government agencies on first line charge in respect of allocations."⁶⁸ However, this is yet to translate into improved budgetary allocation for its enforcement of VAPP.

1.3.2 MINISTRY OF WOMEN AFFAIRS

The Federal Ministry of Women Affairs and Social Development is charged with the responsibility of promoting women's advancement and coordinating the sustenance of gender equality in the plans, projects and programmes of the Federal Government. It initiates, implements and coordinates programmes on women's rights. The Ministry has the duty of the administration of shelters for women victims of gender-based violence, as well as to provide support services for survivors.⁶⁹ The Ministry is also required to review substantive and procedural laws that affect women.⁷⁰

The Federal Ministry of Women Affairs and Social Development, through its Women's Rights and Gender Development Division, has the following responsibilities:

- Initiation, implementation and coordination of programmes in the areas of women's rights, protection and participation
- Care and social support services
- Advocacy against gender-based violence, especially violence against women.⁷¹

1.3.3 MINISTRY OF JUSTICE

The Federal Ministry of Justice has the mandate of ensuring access to justice for all persons.⁷² The primary function of the Citizens Rights Department of the Ministry is the protection of the rights of citizens.⁷³

The Attorney-General of the Federation is the chairperson of the Inter-ministerial Management Committee on Sexual and Gender-Based Violence. The Committee was inaugurated following the upsurge in reports of sexual violence in Nigeria in 2020 during the COVID-19 lockdown. The priority objectives of the inter-ministerial committee include to:

- Develop, review and/or monitor the implementation of policies, guidelines and protocols for tackling gender-based violence in Nigeria
- Support the establishment of referral services and the provision of quality forensic, medical, psychosocial and legal services for survivors of gender-based violence
- Develop publicity and awareness campaigns that are aimed at reversing the enabling environment for perpetuating gender-based violence
- Improve cooperation between key sectors, including social support, health care, legal and

67 National Agency for the Prohibition of Trafficking in Persons, response to Amnesty International's right of reply letter, 6 October 2021, on file with Amnesty International.

68 National Agency for the Prohibition of Trafficking in Persons, response to Amnesty International's right of reply letter, 6 October 2021, on file with Amnesty International

69 Federal Ministry of Women Affairs, "Women and Gender Affairs: Brief on Women and Gender Affairs Department", womenaffairs.gov.ng/index.php/articles/ncc (accessed on 18 August 2021).

70 Federal Republic of Nigeria, "Federal Ministry of Women Affairs", nigeria.gov.ng/executive/federal-ministry-of-women-affairs/ (accessed on 18 August 2021).

71 Federal Republic of Nigeria, "Women and Gender Affairs Department," womenaffairs.gov.ng/index.php/articles/ncc (accessed on 14 September 2021).

72 Federal Ministry of Justice, "Core Functions and Activities of the Ministry", ustice.gov.ng/about-us/ (accessed on 18 August 2021).

73 Federal Ministry of Justice, "Citizens Rights", justice.gov.ng/citizens-right/ (accessed on 18 August 2021).

- law enforcement professionals, in responding to gender-based violence in Nigeria
- Support better planning and gender responsive budgeting, with focus on prevention of sexual and gender-based violence⁷⁴

1.3.4 NIGERIA POLICE

The Nigeria Police Force, through its Gender Units, is saddled with the following responsibilities: Advise the Inspector-General of Police on sexual and gender-based violence (SGBV) and violence against children (VAC) in Nigeria

- Public awareness and sensitisation on SGBV and VAC, and the need for timely reporting
- Training and capacity building for Gender Desk Officers across the various police commands, zonal offices and formations, on how to respond to SGBV and VAC
- Investigation and prosecution of SGBV cases
- Prevention and response to incidents of SGBV and VAC in Nigeria
- Maintenance of database of perpetrators of SGBV and VAC cases
- Effective partnership with stakeholders/NGOs working on SGBV and VAC cases
- Enforcement and implementation of government policies and laws relating to the Violence Against Persons Prohibition (VAPP) Act and the Child Rights Act⁷⁵

1.3.5 NATIONAL HUMAN RIGHTS COMMISSION

The National Human Rights Commission (NHRC) has a Women, Children and Vulnerable Groups Department. The department is one of the investigative arms of the NHRC, which manages complaints of human rights violations regarding women, children and other groups. Part of the mandate of this department on sexual violence are the following:

- Receive and document all related complaints directed to the department
- Invite the complainant to verify the claims in her complaint
- Liaise and collaborate with MDAs
- Refer complaints to relevant agencies, if necessary
- Prepare reports on complaints for the approval of the Governing Council
- Contribute to policy formation related to its mandate⁷⁶

In 2019, the National Human Rights Commission inaugurated a Special Investigative Panel on Sexual and Gender-Based Violence (SGBV) in Nigeria. The panel seeks to investigate cases of SGBV, assist survivors and victims in accessing remedies and make appropriate recommendations to the government. Since its inauguration, the panel has had two rounds of sitting and considered over 230 cases in different states across.⁷⁷

The NHRC has a complaints registry that has the responsibility of managing complaints. It also has an automated 24 hours call centre with toll-free phone number (+2348006472428) where survivors can lay their complaints. The Commission has a web-based application called UNSUB which is for reporting cases and to access resources on SGBV.⁷⁸

1.3.6 NATIONAL ORIENTATION AGENCY

The mission of the National Orientation Agency (NOA) is to “consistently raise awareness, provide timely and credible feedback; positively change attitudes, values and behaviours; accurately and adequately inform; and sufficiently mobilize citizens to act in ways that promote peace, harmony

74 Nigeria, “Working Document: Inter-ministerial Management Committee on Sexual and Gender Based Violence”, p. 2.

75 Nigeria Police Force, “Gender Unit of the Nigeria Police Force,” npf.gov.ng/xn/index.php/force-gender-unit (accessed on 18 August 2021).

76 Nigeria, National Human Rights Commission, “2019 Annual Report”, p. 4.

77 National Human Rights Commission, response to Amnesty International’s right of reply letter, 6 October 2021, on file with Amnesty International.

78 National Human Rights Commission, response to Amnesty International’s right of reply letter, 6 October 2021, on file with Amnesty International.

and national development.”⁷⁹ Part of its objectives is to “awaken the consciousness of Nigerians to their responsibilities to the promotion of national unity, citizens’ commitment to their human rights to build a free, just and progressive society.”⁸⁰

The NOA has embarked on an advocacy campaign against sexual and gender-based violence in Nigeria. Part of its strategies include advocacy visits to traditional rulers,⁸¹ sensitisation in schools⁸² and partnership with civil society organisations.⁸³

79 National Orientation Agency, “Mission”, noa.gov.ng/about/ (accessed on 16 September 2021).

80 National Orientation Agency, “Objective”, noa.gov.ng/about/ (accessed on 16 September 2021).

81 National Orientation Agency, “Advocacy Campaign Against Sexual & Gender Based Violence (SGBV)”, noa.gov.ng/advocacy-campaign-against-sexual-gender-based-violence-sgbv/ (accessed on 16 September 2021).

National Orientation Agency, “Kwara State: NOA Advocacy Visit to Traditional Leaders Against Rape & Gender Based Violence”, noa.gov.ng/kwara-state-noa-advocacy-visit-to-traditional-leaders-against-rape-gender-based-violence/ (accessed on 16 September 2021).

82 National Orientation Agency, “NOA Visits School To Sensitize Students on Sexual and Gender Based Violence”, noa.gov.ng/noa-visits-school-to-sensitize-students-on-sexual-and-gender-based-violence/ (accessed on 16 September 2021).

83 National Orientation Agency, “NOA, NGO Collaborate to End Sexual, Gender Based Violence in Nigeria”, noa.gov.ng/noa-ngo-collaborate-to-end-sexual-gender-based-violence-in-nigeria/ (accessed on 16 September 2021).

2. GAPS IN NATIONAL LAWS



Human rights compliant legislations are fundamental to eliminating sexual violence and ensuring women's full enjoyment of all human rights. Having ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1985, Nigeria has an obligation to adopt appropriate legislative and other necessary measures, including sanctions prohibiting all forms of discrimination against women.⁸⁴ Discrimination against women includes gender-based violence, which is "violence which is directed against a woman because she is a woman or that affects women disproportionately."⁸⁵

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women (Maputo Protocol), to which Nigeria is a signatory, stipulates that State Parties "shall take appropriate and effective measures to enact and enforce laws to prohibit all forms of violence against women including unwanted or forced sex whether the violence takes place in private or public."⁸⁶

Notwithstanding Nigeria's international human rights obligation to enact, implement and monitor legislations addressing all forms of violence against women,⁸⁷ women and girls continue to be discriminated against in law and practice. The CEDAW Committee has raised concerns that due to Nigeria's federal structure, which establishes a three-tiered system of governance (national, state and local governments), "women and girls in Nigeria are subject to different laws and policies that afford varying levels of protection."⁸⁸

The Criminal Code, Penal Code, Violence Against Persons (Prohibition) Act (VAPP Act), Child Rights Act and Sharia Penal Code have provisions on the crime of rape. The Criminal Code is applicable in the

⁸⁴ CEDAW, Article 2.

⁸⁵ CEDAW, General Recommendation 35 (previously cited), para. 1.

⁸⁶ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), Article 4 (2)(a).

⁸⁷ UN Economic and Social Affairs, Handbook for Legislation on Violence against Women, 2010, p.1

⁸⁸ CEDAW, Concluding Observations: Nigeria (previously cited), p.3.

southern states of Nigeria,⁸⁹ while the Penal Code is applicable in the northern states of the country.⁹⁰ The Child Rights Act – a law on the rights of children – is automatically in force in the Federal Capital Territory, but must be domesticated in other states for it to have the force of law. Similarly, the VAPP Act – a law that prohibits all forms of violence against persons – is applicable in the Federal Capital Territory,⁹¹ but must be domesticated in other states across Nigeria for it to have the force of law in those states. The Sharia Penal Code is applicable to “every person who is a Muslim and/or every other person who voluntarily consents to the exercise of the jurisdiction of any of the Sharia Courts established under the Sharia Courts Law.”⁹² For states that have domesticated the VAPP Act, the provisions of the Act supersede any provisions on rape or similar offences in the Criminal Code, Penal Code and Criminal Procedure Code.⁹³

2.1 DEFINITIONS OF RAPE UNDER NIGERIAN LAW

The Criminal Code provides that:

“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 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.”⁹⁴ It prescribes life imprisonment (with or without caning) for anyone liable for the offence of rape.⁹⁵

Under the Penal Code:

“A man is said to commit rape who, except in the case referred to in subsection (2) of this section, has sexual intercourse with a woman in any of the following circumstances:

- (a) against her will;
 - (b) without her consent;
 - (c) with her consent, when her consent has been obtained by putting her in fear of death or of hurt;
 - (d) with her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married;
 - (e) with or without her consent, when she is under fourteen years of age or of unsound mind.
- (2) Sexual intercourse by a man with his own wife is not rape, if she has attained to puberty.”⁹⁶

Whoever commits rape shall be punished with imprisonment for life or for any less term and shall also be liable to fine.⁹⁷

According to the Violence Against Persons Prohibition (VAPP) Act:

“S. (1) A person commits the offence of rape if -

- (a) he or she intentionally penetrates the vagina, anus or mouth of another person with any other part of his or her body or anything else;
 - (b) the other person does not consent to the penetration; or
 - (c) the consent is obtained by force or means of threat or intimidation of any kind or by fear of harm or by means of false and fraudulent representation as to the nature of the act or the use of any substance or additive capable of taking away the will of such person or in the case of a married person by impersonating his or her spouse.
- (2) A person convicted of an offence under subsection (1) of this section is liable to imprisonment for life except -

⁸⁹ Criminal Code (previously cited), section 1(a).

⁹⁰ Penal Code (previously cited), section 1.

⁹¹ VAPP Act (previously cited), s. 47.

⁹² Sharia Penal Code (previously cited), section 3

⁹³ VAPP Act (previously cited), section 45(2).

⁹⁴ Criminal Code (previously cited), section 357.

⁹⁵ Criminal Code (previously cited), section 358.

⁹⁶ Penal Code (previously cited), section 282.

⁹⁷ Penal Code (previously cited), section 283.

- (a) where the offender is less than 14 years of age, the offender is liable to a maximum of 14 years imprisonment.
- (b) in all other cases, to a minimum of 12 years imprisonment without an option of fine; or
- (c) in the case of rape by a group of persons, the offenders are liable jointly to a minimum of 20 years imprisonment without an option of fine.”⁹⁸

The definitions of rape in the Criminal Code and Penal Code are restricted and deficient. The Criminal Code uses the term “unlawful carnal knowledge” to define the crime of rape. In defining “carnal knowledge”, it states that “when the term “carnal knowledge” or the term “carnal connection” is used in defining an offence, it is implied that the offence, so far as regards that element of it, is complete upon penetration.”⁹⁹ Comparably, the Penal Code used the term “sexual intercourse” in defining rape. This definition as used in this law is ambiguous and open to various interpretations.

In a plethora of cases, Nigerian courts, in interpreting the crime of rape under the Criminal and Penal Codes, often limit the scope of penetration to vaginal penetration.¹⁰⁰ In *NSEUDOH V. STATE*, Muhammed Lawal Shuaibu, J. C. A, in his lead judgement defined penetration as: “passing into or through, often by overcoming resistance. In the context of a criminal offence of rape, it is to insert the penis into the vagina of the prosecutrix.”¹⁰¹ This definition of penetration is limited to vaginal form of penetration and hence, is restrictive. As per international law and standards, penetration should encompass “non-consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object.”¹⁰²

The VAPP Act expanded the scope of the definition of rape. Under this Act, rape is no longer limited to vaginal penetration with a penis without consent. It includes penetration of the anus and mouth. Also, penetration could be done with body parts or other objects. The VAPP Act is progressive in making provision for the award of compensation to survivors.¹⁰³ Despite these laudable provisions, the VAPP Act has limited jurisdiction. Since its enactment in 2015, over 23 States have passed the Act.¹⁰⁴ The practical effect of this is that defective laws on rape, as contained in the Penal and Criminal Codes, are still operational in some states across Nigeria. For states that have domesticated the VAPP Act, the provisions of the Act supersede any provision in the Criminal Code, Penal Code and Criminal Procedure Code.¹⁰⁵ The CEDAW Committee has recommended that Nigeria must ensure that the VAPP Act is applicable in all states and that states must expedite the drafting and adoption of its enforcement and implementation framework.¹⁰⁶

The Child Rights Act provides that:

- “(1) No person shall have sexual intercourse with a child.
- (2) A person who contravenes the provision of Subsection (1) of this section commits an offence of rape and is liable on conviction to imprisonment for life.”

Since the enactment of the Child Rights Act in 2003, about 26 States have passed the Act.¹⁰⁷ The Child Rights Act is, therefore, inapplicable in states that have not domesticated the Act.

The Penal Code provides that “sexual intercourse by a man with his own wife is not rape, if she has

⁹⁸ VAPP Act (previously cited), section 1.

⁹⁹ Criminal Code (previously cited), section 6.

¹⁰⁰ *Ogunbayo v. State* (2007) LPELR-2323(SC) p. 26.
State v. Masiga (2017) LPELR-43474(SC) pp. 37-38.
Aliyu v. State (2019) LPELR-47421(SC) p. 25
Posu & Anor v. State (2010) LPELR-4863(CA) p. 24
ADONIKE v. STATE (2013) LPELR-20295(CA) p. 61
Musa v. State (2014) LPELR-24026(CA).

¹⁰¹ *Nseudoh v. State* (2020) LPELR-49633(CA), p. 9.

¹⁰² UN Women, “Rape”, interactive.unwomen.org/multimedia/infographic/violenceagainstwomen/en/index.html#sexual-3 (accessed on 12 March 2021)

¹⁰³ VAPP Act (previously cited), section 1(3).

¹⁰⁴ Her Story, The Violence Against Persons Prohibition Act Map of Compliance, 2021, July 2021, herstoryourstory.ng/resources/ (accessed on 29 September 2021).

¹⁰⁵ VAPP Act (previously cited), section 45(2).

¹⁰⁶ CEDAW, Concluding Observations: Nigeria (previously cited), para. 26(a), p. 8.

¹⁰⁷ Her Story, The Child Rights Act Map of Compliance, July 2021, herstoryourstory.ng/resources/ (accessed on 29 September 2021).

attained to puberty.”¹⁰⁸ Similarly, the Criminal Code defines “unlawful carnal knowledge” as “carnal connection which takes place otherwise than between husband and wife”.¹⁰⁹ Hence, marital rape is not criminalised under either law. This contrasts with the human rights obligation of states to prohibit all forms of violence against women including all non-consensual sexual acts, regardless of whether they take place in the private or public sphere.¹¹⁰ The UN Handbook for Legislation on Violence against Women has recommended that legislations should criminalise marital rape.¹¹¹ The UN Special Rapporteur on Violence Against Women recommends that: “States should criminalize rape using a definition of rape that covers all persons, includes marital rape and all acts of penetration of a sexual nature, and explicitly includes lack of consent at its centre.”¹¹²

Although women and girls are disproportionately affected by rape, men and boys can be victims of rape too. The legal definitions of rape in the Criminal Code and Penal Code are not gender-neutral, as they only mention women and girls, without recognising that men and boys can be victims of rape. Differently, the definition of rape in the VAPP Act is gender-neutral and recognises that either male or female can be victims of or culpable for rape.¹¹³

The Criminal Code, Penal Code, Violence Against Persons (Prohibition) Act (VAPP Act) and the Child Rights Act are all silent on the definition of sexual consent.

Consent is...

Given freely: Sexual consent must be a voluntary and free choice for all parties involved. Being silent or not saying no is not the same as giving consent. Unconscious people and people incapacitated by alcohol or drugs cannot consent. Sex is not consensual when under coercion or intimidation. There might be other situations in which a person is not capable of genuinely consenting – for example, if they don't have the mental capacity to consent or are underage.
Informed: Lying or deliberately hiding certain intentions, such as unprotected sex, is not consensual sex. Forcing someone who is too drunk to refuse sex to agree to certain practices is not getting consent.
Specific: Consenting to one thing (e.g., kissing) does not mean consenting to everything else.
Reversible: Consenting once does not mean consenting forever. Even within an ongoing sexual act, one should be free to pause or stop at any time and to revoke consent.
Enthusiastic: The question is not whether a person says “no”, but whether they say “yes” or otherwise actively express consent in a variety of verbal and non-verbal ways.<?>

2.2 SHARIA LAW

Sharia Law provides that:

“(1)A man is said to commit rape who, save in the case referred in subsection (2), has sexual intercourse with a woman in any of the following circumstances:

- (a) against her will;
 - (b) without her consent;
 - (c) with her consent, when her consent has been obtained by putting her in fear of death or of hurt;
 - (d) with her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married;
 - (e) with or without her consent, when she is under fifteen years of age or of unsound mind.
- (2) Sexual intercourse by a man with his own wife is not rape.”¹¹⁴

According to Sharia Law, whoever commits rape, shall be punished:

- “(a) with caning of one hundred lashes if unmarried, and shall also be liable to imprisonment for a term of one year; or

¹⁰⁸ Penal Code (previously cited), section 282 (2).

¹⁰⁹ Criminal Code (previously cited), section 6.

¹¹⁰ Maputo Protocol (previously cited), Article 4(2)(a).

¹¹¹ UN Economic and Social Affairs, Handbook for Legislation on Violence against Women, 2010, p. 26.

¹¹² UN Special Rapporteur on Violence Against Women, Report: Rape as a grave, systematic and widespread human rights violation, a crime and a manifestation of gender-based violence against women and girls, and its prevention, 19 April 2021, A/HRC/47/26, para. 112.

¹¹³ VAPP Act (previously cited), section 1.

¹¹⁴ Sharia Penal Code (previously cited), section 127.

- (b) if married, with stoning to death (rajm); and
- (c) in addition to either (a) or (b) above shall also pay the dower of her equals (sadaq al-mithli) and other damages to be determined by the court.”¹¹⁵

The Quran is a primary source of Sharia Law. According to the Quran, “those who accuse chaste women and then do not produce four witnesses – lash them with eighty lashes and do not accept from them testimony ever after.”¹¹⁶ This provision of the Quran also applies to cases of rape. Hence, to prove rape, the survivor must provide four unimpeachable witnesses. This requirement is a barrier to justice, as rape is most times committed in private.

Sharia penal code stipulates that: “sexual intercourse by a man with his own wife is not rape.” Thus, marital rape is not recognised under this law. The definition of rape under the Sharia Law is also not gender-neutral.

By the provision of the VAPP Act, only the High Court has jurisdiction on cases of rape.¹¹⁷ However, in most northern states, the Sharia Law and Penal Code are used in prosecuting rape cases to the advantage of the perpetrator.

A staff of Save the Child Initiative Nigeria in Sokoto State pointed out that:

“Perpetrators use Sharia court as a cover up. At the Sharia court you can’t just come and say this person raped me. They (the court) will ask you to provide evidence - who was there when he raped you? Of course, somebody wouldn’t have raped you in the presence of another. And then maybe she’s pregnant and you are saying this is the person who got me pregnant. What is the evidence? So immediately they will say you have assassinated his character and they will say ‘send her to prison for accusing him falsely.’ So, it’s a way of intimidating the survivor so that she and her family will keep silent.”

*Staff, Save the Child Initiative Nigeria.*¹¹⁸

Article 8 of the Maputo Protocol requires State Parties to “take all appropriate measures to ensure reform of existing discriminatory laws and practices in order to promote and protect the rights of women.”¹¹⁹ Similarly, the Declaration on the Elimination of Violence against Women provides that “states should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination.”¹²⁰

The CEDAW Committee has raised concerns that the “presence of plural justice systems can, in itself, limit women’s access to justice by perpetuating and reinforcing discriminatory social norms.”¹²¹ In its Concluding Observation on Nigeria, the Committee raised concerns that certain aspects of statutory, customary and Islamic personal laws are incompatible with one another and with international human rights law. The Committee is particularly concerned that, notwithstanding the comprehensive audit of discriminatory laws conducted by the Law Reform Commission and the ratification of the Convention on the Elimination of Discrimination against Women in 1985, various discriminatory provisions remain in effect in Nigeria.¹²²

¹¹⁵ Sharia Penal Code (previously cited), section 128.

¹¹⁶ Quran 24:4.

¹¹⁷ VAPP Act (previously cited), section 27.

¹¹⁸ Interview in person with a staff of Save the Child Initiative Nigeria, 22 December 2020, Sokoto State.

¹¹⁹ Maputo Protocol (previously cited), Article 8(f).

¹²⁰ Declaration on the Elimination of Violence against Women (DEVAW), Article 4.

¹²¹ CEDAW, General Recommendation 33 (previously cited), paras 62 & 63, p. 23.

¹²² CEDAW, Concluding Observations: Nigeria (previously cited), para 11, p. 4.

An Islamic lawyer, Bashir Sabiu Ahmad, pointed out that modern technologies like DNA that are progressive in the investigation of rape, are not easily admissible under Sharia Law. He told Amnesty International that: “They are subject of contention by Islamic modern jurists. Islamic law is particular about witnesses and not technology. That can be a barrier if there are no witnesses and circumstantial evidence.”¹²³

¹²³ Interview in person with Bashir Sabiu Ahmad, Islamic Lawyer, 19 May 2021, Abuja.

3. BARRIERS TO REPORTING



Rape cases are grossly under-reported in Nigeria.¹²⁴ Survivors interviewed for this research cited some reasons for not reporting, including the stigma involved, lack of trust in the justice system, economic factors, and rape myths and stereotypes, amongst other factors. The UN Human Rights Committee (HRC) has expressed concern over the low level of reporting of gender-based violence in Nigeria. The Committee highlighted factors such as “culture of silence perpetuated by persistent societal stereotypes; the lack of prompt and effective investigations of such cases; the low level of prosecution and conviction of perpetrators; and the insufficient level of assistance for victims.”¹²⁵

In cases of rape, a survivor can decide to report the crime to the police, Nigeria Security and Civil Defence Corps (NSCDC), National Agency for Prohibition of Trafficking in Persons (NAPTIP)¹²⁶ or the SGBV Response Unit of the Federal Ministry of Justice.¹²⁷ Survivors, families of survivors or concerned individuals or organisations can also report rape. In some cases, survivors report to Sexual Assault Referral Centres, civil society organisations, National Human Rights Commission, or government ministries like the Ministry of Women Affairs and the Ministry of Justice, who then refer the case to the police for investigation, as well as prosecution.

When the case is reported to the police station at the divisional level, an investigation police officer is assigned to investigate the case. The police officers are expected to take the survivor to the hospital for medical examination and appropriate health care. The survivor has the right to decide whether forensic evidence may be collected or not, in order to pursue legal redress.¹²⁸ Subsequently, the statement of the

¹²⁴ HRC, Concluding Observations: Nigeria (previously cited), para. 20.

¹²⁵ HRC, Concluding Observations: Nigeria (previously cited), para 20.

¹²⁶ National Agency for Prohibition of Trafficking in Persons (NAPTIP), “Frequently Asked Questions”, nsod.naptip.gov.ng/faq.php (accessed 11 August 2021).

¹²⁷ Federal Ministry of Justice, response to Amnesty International’s right of reply letter, 30 September 2021, on file with Amnesty International

¹²⁸ Standard Operating Procedures for GBV Prevention and Response – Nigeria, Developed by the GBV Sub Sector in Collaboration with United Nations Population Fund (UNFPA), International Medical Corps (IMC) and Plan International: Validated & Endorsed by the GBV SS partners on 10th October 2019, p. 23.



survivor or their parent/guardian (in the case where the survivor is a child) is then recorded. The police then proceed to arrest the perpetrator and to visit the scene of the crime. At the scene of the crime, the police gather evidence that is crucial to investigation. At the police station, the perpetrator's statement would be taken under caution and the perpetrator might be detained. The case is then transferred from the division to the Criminal Investigation Department of the Nigeria Police Force, where the case is charged to court for prosecution.

3.1 STIGMATISATION AND VICTIM-BLAMING

Survivors and NGOs that were interviewed for this research emphasised that stigmatisation and victim-blaming are key factors that hinder the reporting of rape. Survivors shared distressing experiences of stigmatisation and victim-blaming by law enforcement agents and private individuals. Some survivors told Amnesty International that they did not report due to fear of being disbelieved and blamed.

“I did not report to the police. When you go there to report your case, you end up being labelled a liar or attention seeker, or that you enjoyed it... I do not trust Nigeria's justice system at all.”

Lucia, 26 years. Survivor.¹²⁹

Survivors who summon the courage to report cases of rape are often exposed to stigmatisation and victim-blaming by the police. Deji Ajare, survivors' counsel and coordinator of Sterling Centre for Law and Development, an organisation that advocates for the respect, promotion and protection of human rights, told Amnesty International that there are situations where a survivor who goes to report is questioned like a suspect. He said:

“Reports of rape are sometimes disbelieved by the police and other law enforcement agents. They launch an inquisition into the lifestyle and personality of the victim. The survivors often become overwhelmed with the approach to questioning. They are further traumatised by the police with questions like, ‘You went to his house? What did you go there to do? Did he take you out? Did he buy you food? What were you doing outside at night? Did you go to the club with him?’

¹²⁹ Interview in person with Lucia, rape survivor, 28 January 2020, Abuja.

"Deji Ajare.¹³⁰

Hauwa Shekarau, Founder of Women Law and Development Initiative (WOLDI), told Amnesty International that: "Sometimes in the course of investigation, it appears it is the moral status of the survivor that is on trial. They want to know about her and try to find some moral failure on the part of the survivor. So, it's really a very harrowing experience for some of them."¹³¹

Bola, who was raped by her neighbour, had gone to a police station to report. She told Amnesty International that some police officers at the station began to question and blame her.

"Why would you allow a man to rape you? If it was my daughter, she wouldn't have done this. It seems like you were enjoying it... Very soon you will get pregnant for the rapist."

Bola, 21-year-old survivor.¹³²

Such acts by the police contravene Section 96 of the Police Act 2020, which stipulates that a police officer shall not, in discharging his duty, discriminate against a person in Nigeria, based on the person's gender, socio-economic status, etc. Furthermore, a police officer shall not "use a language, or act in such a way that suggests a bias towards a particular group."¹³³ Principle three of the Nigeria Police Code of Conduct requires police officers to provide every person with professional, effective and efficient law enforcement services.¹³⁴

Some survivors do not report rape due to the social stigma that comes with it. They are often scared to speak up and to report, because of the way they would be perceived in the society. For some, protecting the family name is sacrosanct. Osayande Osagie, Chief Medical Doctor at Bwari General Hospital and head of Awyetu Sexual Assault Referral Centre, Bwari, told Amnesty International:

"In Nigeria, the family name seems to be tied to the vagina. Nobody wants the family name to be soiled, so, they don't want to talk about rape. That could also explain why they don't want to go to court, because they believe these are personal things that should not be said in an open court. Also, the court case drags on for long and of course, they have other daughters, and they don't want people referring to their family as that family where rape occurs."¹³⁵

Sofia, 12 years old, who was raped by her neighbour, told Amnesty International that she stopped going to school, because of how people would look at her and talk about her.¹³⁶

Another survivor told Amnesty International that:

"At the police station one of the policemen asked what took me to where I was raped. One of the police officers even said that after enjoying everything I am here making a complaint... I don't want to go to court. Everybody will be talking about me. If it gets to my family, everybody will be talking about it. Any little thing I do, they will bring it up. Personally, I want him to go to jail, I want justice."

Chloe, 26. Survivor.¹³⁷

Staff at WARAKA Sexual Assault Referral Centre in Kano, emphasised that the stigma, victim-blaming and lack of prosecution and punishment of perpetrators fuel a culture of rape and impunity. He told Amnesty International that: "The rapist knows he is the one committing the offence, but at the end of the day he will not be the one

¹³⁰ Interview in person with Deji Ajare, survivors' counsel and coordinator of Sterling Centre for Law and Development, 22 January 2021, Abuja.

¹³¹ Interview by video call with Hauwa Shekarau, founder of Women Law and Development Initiative (WOLDI), 11 February 2021.

¹³² Interview in person with Bola, rape survivor, 3 March 2021, Abuja.

¹³³ Nigeria, Nigeria Police Act, 2020, section 96 (2) & (2b).

¹³⁴ Nigeria Police Code of Conduct, Principle 3.

¹³⁵ Interview in person with Osayande Osagie, Chief Medical Doctor of Bwari General Hospital and head of Awyetu Sexual Assault Referral Centre, Bwari, 24 February, Bwari, FCT.

¹³⁶ Interview in person with Sofia, 12-year-old rape survivor, 18 November 2020, Abuja.

¹³⁷ Interview in person with Chloe, 26-year-old rape survivor, 15 December 2020, Kano State.

who the society will shame.”¹³⁸

In cases of violence, including sexual violence, children need extra support. They must be able to access child-friendly reporting mechanisms. Their right to be heard without intimidation and fear of reprisal must also be guaranteed. Some forms of violence, including rape, perpetrated against children often go unchallenged, due to the lack of child-friendly reporting mechanisms.¹³⁹ Lucia, who suffered multiple forms of sexual violence as a child, recalled how she was blamed and beaten by her father for what happened to her.

“Our landlord too was touching me in places that were not right. I was eight years old then and on one occasion, my dad saw him and then instead of my dad to caution him, he started beating me. He flogged me and gave me bruises all over my body. That was what contributed to my being quiet. So, I kept quiet, then it continued like that...”¹⁴⁰

Clifford Thomas, Executive Director of Foundation for Civic Education and Human Rights Advancement, an organisation that offers legal aid, assistance and social services to victims of human rights abuse, told Amnesty International that: “Parents also do not help matters. They flog the child, they beat the child. They further abuse the child for ‘allowing herself’ to be raped. And because of this, they are afraid to speak in the presence of their parents.”¹⁴¹

Onyinye, a 14-year-old survivor, told Amnesty International that when her mother took her to the police to report, the police blamed her. Onyinye was raped by her neighbour when he sent her to help fix his phone. She said:

“The police blamed me. The female police officer pulled my ear and slapped me two times. I was crying. My mum was there.”

Her mother corroborated her words by saying: “The police blamed her, they talked a lot. They even pulled her ear and slapped her; that why did she run the errand for the man? They were cursing me, abusing me, calling me all sort of names. They said that I am too ‘loose’, that I am not taking care of her and that I didn’t train her well.”¹⁴²

Principle 5 of the Nigeria Police Code of Conduct provides that “police officers shall treat all members of the public courteously and with respect.”¹⁴³

3.2 GENDER STEREOTYPES AND RAPE MYTHS

Gender stereotypes and rape myths impede survivors’ access to justice. A case manager at Dorothy Njemanze Foundation, an organisation that works to end SGBV through direct support for survivors and attitudinal change, told Amnesty International that they often encounter stereotypes and myths when providing support to survivors. She recalled a case where the police instructed a survivor to withdraw her case, as there was no evidence of rape, because “no pants were torn; no bra was torn.”¹⁴⁴ Although the VAPP Act is hinged on a definition based on the lack of consent, this is not reflected in the attitude of the police, as they tend to assess cases based on the idea that rape requires the application of force.

CEDAW places an obligation on Nigeria to eliminate prejudices and customs and all other practices that

138 Interview in person with staff at WARAKA Sexual Assault Referral Centre (SARC) in Kano, 14 December 2020, WARAKA SARC, Kano.

139 UN Committee on the Rights of the Child (CRC), General Comment 12: The Right of the Child to be Heard, UN Doc. CRC/C/GC/12, 20 July 2009, para. 120.

140 Interview in person with Lucia, rape survivor, 28 January 2020, Abuja.

141 Interview in person with Clifford Thomas, Executive Director of Foundation for Civic Education and Human Rights Advancement, 29 January 2021, Abuja.

142 Interview in person with Onyinye, 14-year-old rape survivor and her mother, 19 December 2020, Lagos state.

143 Nigeria Police Code of Conduct, Principle 5.

144 Interview in person with staff of Dorothy Njemanze Foundation, 4 February 2021, Abuja.

FIVE FACTS ABOUT RAPE

1 Most rapes are committed by people known to the victim

A common assumption is that rapes are mostly committed by strangers. But in fact, the majority of rapes are committed by someone known to the victim. Perpetrators can be a friend, a colleague, a family member, partner or ex-partner. The 'stranger myth' sends the wrong message that a sexual assault committed by someone known to the victim is not rape.



2 Often, victims of rape do not physically resist

There should be no assumption, in law or in practice, that a person gives consent because they have not physically resisted. Just because a woman doesn't have visible injuries, didn't say NO or did not show resistance, doesn't mean she was not raped.



3 False rape reports are rare

There is no evidence to sustain that false reports are common. Rapes are hugely under-reported due to lack of trust in the justice system or because of fear of not being believed. The reality is that it takes a lot of courage and determination to report a rape. And when they do so, women are often blamed and humiliated, being repeatedly asked what they did to provoke it or why they put themselves in a particular situation. Survivors deserve to be believed, their reports should be thoroughly investigated, and they should get the support they are entitled to.



4 What women wear is not to blame

The assumption that what a woman wears can provoke a man to rape her stems from rooted stereotypes about male and female sexuality. However, in reality, women are being raped or assaulted while wearing any type of clothing. No type of clothing is an invitation for sex or implies consent. What a woman was wearing when she was raped is simply not relevant. Rape is never the victim's fault.

An understanding that sex without consent is rape is the first step to change social attitudes that further harm rape victims.



5 Alcohol and drugs can never be an excuse to justify rape.

Similarly, having sex with a person, who is incapable of consenting because of alcohol or drugs, is rape.



are based on the idea of the inferiority or the superiority of either of the sexes, or on stereotyped roles for men and women.¹⁴⁵ In its recommendation to Nigeria, the CEDAW Committee called on the government to expand public education programmes on the negative effect of stereotypes on women's enjoyment of their rights.¹⁴⁶

3.3 ATTITUDES OF LAW ENFORCEMENT AGENTS TOWARDS SURVIVORS

Police and other law enforcement agents are vital in ensuring justice for survivors at all stages of the legal process - from reporting to investigation and then during court trials.¹⁴⁷ Vice President Yemi Osinbajo asserts that: "As first responders, they (police) play an important role in protecting victims not just from the commission of the crimes, but in ensuring that evidence that is collected at the scene of the crime is properly handled and processed. The entire experience of the survivor depends largely on how law enforcement handles individual cases."¹⁴⁸

Experiences shared by survivors and NGOs working with them reveal that some conduct of police officers does not comply with international human rights law and standards. Such attitudes also contravene the provisions of the Nigeria Police Act, which stipulates that the Police Force is "charged with the responsibility for promoting and protecting fundamental rights of all persons as guaranteed under the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act and other international legal instruments on human rights to which Nigeria is a signatory."¹⁴⁹

At the point of reporting rape, survivors often face a lack of gender sensitivity and empathy from the police. Bola, a survivor, recalled that,

"Some policemen told me that I enjoyed it. In the morning, again another policeman came and he kept saying, "You enjoyed it. How was it? It's like you will get pregnant for this man." He was using some unkind words on me. I even reported to their DPO (Divisional Police Officer). Then he said in case I sight him anywhere, I should let him know. That he would deal with the officer."

Bola, 25-year-old survivor¹⁵⁰

Article 2 of the United Nations Code of Conduct for Law Enforcement Officials requires that in the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.¹⁵¹ As a human rights standard, police shall take rigorous official action to prevent the victimisation of women and shall ensure that re-victimisation does not occur as a result of the omissions of police or gender-insensitive enforcement practices.¹⁵²

¹⁴⁵ CEDAW (previously cited), article 5(a).

¹⁴⁶ CEDAW, Concluding Observations: Nigeria (previously cited), para. 22(b).

¹⁴⁷ The Nigeria Police Force Criminal Investigation Department (FCID) is the highest investigating arm of the Nigeria Police. Its functions include investigation and prosecution of criminal cases.

Nigeria Police Force, "Nigeria Police Force Criminal Investigation Department", npf.gov.ng/departments/investigation.php (accessed on 16 September 2021).

¹⁴⁸ Vice President Yemi Osinbajo, Statement at the National Human Rights Commission Virtual Meeting on the Scourge of Rape, Sexual and Gender-Based Violence in Nigeria, 19 June, 2020, yemiosinbajo.ng/national-human-rights-commission-virtual-meeting-on-scourge-of-rape-sexual-gender-based-violence/ (accessed on 10 June, 2021).

¹⁴⁹ Nigeria Police Act, section 5(3).

¹⁵⁰ Interview in person with Bola, rape survivor, 3 March 2021, Abuja.

¹⁵¹ UN Code of Conduct for Law Enforcement Officials, article 2.

¹⁵² UN Human Rights Standards and Practice for the Police, p. 43.

Sofia's Story

13-year-old Sofia was raped by her neighbour. Her father reported the case at the police station. Her neighbour was arrested. Five days after his arrest, he was released. The police instructed Sofia's father and neighbour to resolve the case between themselves. When all efforts to resolve it proved abortive, they returned to the police station. Four police officers took Sofia to the back of the police station without her father. She told Amnesty International:

"They forced me to kneel and raise my hands. I was scared and I knelt. They told me to mention another person's name as the person who raped me and not my neighbour's name. I told them that it was my neighbour that raped me. They said I should think of another person, if not they would beat me and torture me. So, I mentioned the name of a man in our compound called Mr. John. They told my father that I had said the truth; that our neighbour was not the one who raped me. My father insisted that it was our neighbour. The police quickly arrested Mr. John and charged him to court alongside our neighbour. But Mr. John is innocent. I only mentioned his name out of fear."

Sofia, 13-year-old survivor.¹⁵³

When survivors summon the courage to speak up, negative attitudes by police officers could discourage them and in turn impede their access to justice. A staff at Mirabel Centre,¹⁵⁴ emphasised that:

"It is important to understand that it takes a lot for a survivor of SGBV – especially rape – to come out to say 'I have been raped and I need justice'. This person just needs to be encouraged and justice should be served. If the perpetrator is left wandering the streets, he keeps going to prey on other people and you never know whether it will be your child, your wife or yourself that will be the next target."

Staff, Mirabel Centre.¹⁵⁵

Udeme Edoamaowo, journalist and Executive Director of Network against Domestic Violence Foundation,¹⁵⁶ is of the opinion that: "Most women don't speak out, because they probably have seen what happened to other women who spoke up and nobody helped them."¹⁵⁷

In some cases, organisations that provide support for survivors are faced with hostility and lack of cooperation from the police. A case manager at Dorothy Njemanze Foundation¹⁵⁸ interviewed for this research told Amnesty International that: "Sometimes the police are aggressive towards human rights defenders and CSOs working to protect and get justice for victims of rape."¹⁵⁹

¹⁵³ Interview in person with Sofia, 12-year-old rape survivor, 18 November 2020, Abuja.

¹⁵⁴ Mirabel Centre is Nigeria's first Sexual Assault Referral Centre. It is managed by Partnership for Justice with a mandate to provide holistic medical and psychosocial support for survivors of rape and other forms of sexual violence. Mirabel Centre, "About Mirabel Centre", mirabelcentre.org/who-we-are/ (accessed on 17 September 2021).

¹⁵⁵ Interview in person with a staff at Mirabel Centre, 19 December 2020, Lagos State.

¹⁵⁶ Network against Domestic Violence Foundation is an NGO that works on ending all forms of domestic violence through advocacy and interventions.

Network against Domestic Violence Foundation, "About us", nadvf.com/p/about-us-network-against-domestic.html (accessed on 15 September 2021).

¹⁵⁷ Interview in person with Udeme Edoamaowo, Amnesty International Nigeria office, 29 January 2021, Abuja.

¹⁵⁸ Dorothy Njemanze Foundation is an NGO that offers support for survivors of SGBV, equipping them with the necessary medical, legal, and psychosocial support.

Dorothy Njemanze Foundation, "Our Mission", dnf.org.ng/ (accessed on 15 September 2021).

¹⁵⁹ Interview in person with case manager at Dorothy Njemanze Foundation, 4 February 2021, Abuja.

3.4 SETTLEMENT OF RAPE CASES OUTSIDE THE CRIMINAL JUSTICE SYSTEM

Although rape is a crime in Nigeria,¹⁶⁰ settlement of rape cases outside the criminal justice system is a common practice. When survivors report rape, the police sometimes advise survivors and perpetrators to settle the case outside the criminal justice system. In some of these instances, the police tell the perpetrator to plead with the survivor or their families, so that the case can be dropped and not prosecuted. Alternatively, the police facilitate the process where the perpetrator pays some money to the survivor, so that the survivor would abort their quest for justice. Sometimes, the perpetrator might bribe the police officers with some money, in order to end the case. Similarly, religious and community leaders instruct families of survivors to settle outside the criminal justice system, to avoid the stigma associated with rape. With such settlements, perpetrators go unpunished, and a culture of impunity is fuelled. Such settlements of rape cases lead to further violations of women's rights and impunity for rape, because they are often hinged on patriarchal values, thereby having a negative impact on women's access to judicial review and remedies.¹⁶¹

Violence against women is a crime and must be treated as such, including when it occurs within the family.¹⁶² Article 4(2) of the Maputo Protocol provides that "State Parties shall take appropriate and effective measures to enact and enforce laws to prohibit all forms of violence against women including unwanted or forced sex whether the violence takes place in private or public."

Pamela's Story

16-year-old Pamela was abducted and raped by an alternative medicine practitioner in the Federal Capital Territory. Prior to her abduction, the perpetrator had treated Pamela for fire burn injuries. On the day she was abducted, upon knowing that she was alone at home, he visited her on the pretext that he wanted to deliver some drugs for her. Although Pamela is a Christian, the perpetrator, a Muslim, threatened her into wearing a hijab and abducted her to his family house. She was locked up in his house and raped for over five months. Some nights, he took her to a hotel where his friends raped her in exchange for money. When she got pregnant, he asked her to have an abortion. When she refused, he ejected her from his house. She was rescued by an unknown person and taken to the police station where, coincidentally, her parents had reported her missing. The police informed her parents. The perpetrator was arrested and later released. She told Amnesty International:

"The police said the man likes me and that Hausa people marry early. That a girl of 13 years is old enough to marry. The police asked my family and the man's family to 'go and settle'. That they (the police) considered the case to be a family matter."

Pamela told Amnesty International that the police didn't do much about the case until a lawyer from Dorothy Njemanze Foundation put pressure on the police. In order to intimidate the survivor and to wield influence over the case, the police charged the case to a Sharia court, despite Pamela's being a Christian and not falling under the jurisdiction of the Sharia court. She said:

"When we got to the court, the Justice was the man's uncle. The Justice said my father should tell him how much money he wanted; that he should allow me to convert to Islam and marry their son. During this period, I was attending antenatal care and he (the perpetrator) and his family members would secretly follow me to the hospital. His family said they wanted to have the baby and asked me not to breastfeed the child. They said it was against their culture for me to breastfeed the baby, since I had refused to convert to Islam. My parents were threatened to drop the case and asked to allow me to marry their son."

*Pamela, 16-year-old survivor.*¹⁶³

¹⁶⁰ VAPP Act (previously cited), section 1.

¹⁶¹ CEDAW, General Recommendation 33 (previously cited), para. 57, p. 22.

¹⁶² UN Human Rights Standards and Practice for the Police, p. 43.

¹⁶³ Interview in person with Pamela, 16-year-old survivor, 18 November 2020, Abuja.

According to a staff at Nana Khadijah Centre in Sokoto State, people encourage settlement, because the survivor is pregnant or just to preserve the family's "honour". In some cases, survivors are forced to marry the perpetrators. In her opinion:

"When you marry off a survivor to her rapist, I think you are doing her an injustice, because she is going to be reliving the rape on a continuous basis and that is inflicting trauma on the victim constantly. So, you are doing more of a second rape of her, rather than getting justice for her."¹⁶⁴

Ayodele Atsenuwa, a professor of Law at the University of Lagos, revealed that in some cases, the perpetrator offers a bribe to the investigating police officer to close the case. There could also be pressure from powerful players in the community to resolve the case informally or to negatively influence the investigation of the case.¹⁶⁵

Ngozi Ikenga, former chairperson of the International Federation of Women Lawyers (FIDA), Abuja branch, is of the view that some rape cases are settled out of court due to the poverty of the victim and her family, and in situations where close family members are the perpetrators. She narrated instances where family members would say to survivors, "Okay, let's take this money. After all, the child is not dead. They (perpetrators) have agreed to treat the child, let us collect this money. We can use this money to solve one or two family problems." She said that although rape is a crime against the state, lack of cooperation from the survivors or their families has an impact on the quality of evidence and ultimately, prosecution.¹⁶⁶

In some cases, survivors choose to marry the perpetrator. 22-year-old Khadijah who was raped by her fiancé, told Amnesty International that she desires to marry him. She mentioned that her fiancé's family was not happy that she reported the rape to the police, because her fiancé had the intention to marry her. Her fiancé's family coerced her into not proceeding with the case. She said that:

"I want to talk with my sisters and my brother to see if they can agree that I marry him. He called me and apologised after the incident. When I went there yesterday, they (fiancé's family) were saying it seems we are still in love, can't we just settle everything and get married?"

*Khadijah 22-year-old survivor.*¹⁶⁷

A staff at Mirabel Centre¹⁶⁸ believes that survivors are discouraged when the police tell them to 'settle'. She revealed that, "Sometimes the police officers ask survivors to forgive and settle, because somehow, money has changed hands. Some of them will even provide information about the survivor to the suspect, like the house address of the survivor. Some of them will discourage the survivors by telling them, 'Do you know how long the case will last in court? Are you ready to go through that?' All to make sure that the survivor drops the pursuit for justice. So, all these things are things we should eschew and make sure we rally round the survivor."¹⁶⁹

A staff at Save the Child Initiative Nigeria in Sokoto State, noted that in some cases, survivors and their families are not willing to follow through the prosecution of the case. He said that: "There are times they will just tell you they have to leave it to God." He told Amnesty International about an instance where a man raped a girl and then asked to marry her. He noted that in some cases, the perpetrator offers to marry the survivor so the case can be settled outside the confines of the law, thereby, avoiding prosecution. The perpetrator might then divorce the survivor a few months after. He identified the role of traditional leaders in settling rape cases,

¹⁶⁴ Interview in person with a staff at Nana Khadijah Centre, 23 December 2020, Sokoto State.

¹⁶⁵ Interview by voice call with Ayodele Atsenuwa, professor of Law at the University of Lagos, 26 January 2021.

¹⁶⁶ Interview in person with Ngozi Ikenga, former Chairperson of the International Federation of Women Lawyers (FIDA), 2 February 2021

¹⁶⁷ Interview in person with Khadijah, 22-year-old rape survivor, 15 December 2020, Kano State.

¹⁶⁸ Mirabel Centre is Nigeria's first Sexual Assault Referral Centre. It is managed by Partnership for Justice with a mandate to provide holistic medical and psychosocial support to survivors of rape and other forms of sexual violence.

Mirabel Centre, "About Mirabel Centre," mirabelcentre.org/who-we-are/ (accessed on 15 September 2021).

¹⁶⁹ Interview in person with a staff at Mirabel Centre, 19 December 2020, Lagos State.

in the bid to cover up vices and not “smear” the status of their communities.¹⁷⁰

Deji Ajare, survivors’ counsel and Coordinator of Sterling Centre for Law and Development,¹⁷¹ told Amnesty International that: “Living with the pain, especially of the fact that you cannot get justice; that is hurtful, traumatising for victims. So, it is important that we all work towards seeing a system that will ensure justice for victims... The worry, the pain, the sadness, the tears over not being able to secure justice are indeed the pain that most survivors live with for the rest of their lives.”¹⁷²

Harry Obe, Director, Women-Children Department of the National Human Rights Commission, believes that a “perpetrator must be held accountable and must be seen as a perpetrator without any justification. Rape and sexual violence involve torture and there is no justification for torture of any kind. So, don’t look for causative factors – what led to it. What matters is that violence has taken place and cannot be justified on any ground. So, let justice be done the way it is... They need to see it for what it is – it is criminal and accountability should be the focus.”¹⁷³

Osayande Osagie, Chief Medical Director of Bwari General Hospital and head of Awyetu Sexual Assault Referral Centre Bwari, raised concerns that most survivors are reluctant to report rape with a view to initiating prosecution, but are only interested in accessing health care. He told Amnesty International that, “All the clients we have seen so far, nobody is ready to go to court. I’m not happy about that, because if you don’t use someone as an example the problem will continue in the society.”¹⁷⁴

3.5 CONDITIONS IN POLICE STATIONS

Testimonies gathered from survivors and NGOs reveal that police stations are sometimes not conducive for reporting, in terms of their physical set-up and infrastructure. It is required that police stations should be in such a condition that “privacy can be maintained, that the victim/survivor is safe and secure, that there will be no interruptions, ideally in a victim/survivor-friendly room or building, and where she will not come into contact with the alleged perpetrator.”¹⁷⁵

A police officer who was interviewed by Amnesty International expressed displeasure at the conditions of the station where he works. He told Amnesty International:

“According to the UN Standard we are supposed to have interview rooms and playgrounds for children, but it’s quite unfortunate we don’t have that. As you can see, this is what we have. Also, going by UNICEF standards, we don’t have the required space for victims to report what happened to them. Our office is small, as you can see. The victim and perpetrator most times face each other while we are taking their statements. Give police the equipment they need to do the job. We use our personal money to investigate. We do charity work here, because we have the passion for that.”

*A police officer, Lagos State.*¹⁷⁶

A police officer in charge of one of the police gender units emphasised that the condition of the section is not up to the required standard. She bemoaned the lack of an interview room, which deprives survivors of

170 Interview in person with a staff at Save the Child Initiative Nigeria in Sokoto State, 22 December 2020, Sokoto State.

171 Sterling Centre for Law & Development is a non-profit organisation that works on the promotion and protection of human rights and through education and advocacy.

Sterling Centre for Law & Development, “About Us,” sterlinglawcentre.org/ (accessed 15 September 2021).

172 Interview in person with Deji Ajare, survivors’ counsel and coordinator of Sterling Centre for Law and Development, 22 January 2021, Abuja.

173 Interview in person with Harry Obe, Director, Women-Children Department of the National Human Rights Commission, 12 February 2021, Abuja.

174 Interview in person with Osayande Osagie, Chief Medical Doctor of Bwari General Hospital and head of Awyetu Sexual Assault Referral Centre Bwari, 24 February, Bwari, FCT.

175 United Nations Entity for Gender Equality and the Empowerment of Women (UN Women); United Nations Office on Drugs and Crime (UNODC), *The Handbook on Gender-Responsive Police Services for Women and Girls Subject to Violence*, 2021, Chapter 4.

176 Interview in person with a police officer, 18 December 2020, Lagos State.

privacy when reporting. She also complained that there is only one vehicle in the division, which makes it difficult to visit the crime scene, convey survivors to the hospital and ensure the arrest of perpetrators. She told Amnesty International that in some cases, police officers use their personal vehicles to visit crime scenes.¹⁷⁷

Toyin Falaiye, founder of Jewels Hive Initiative,¹⁷⁸ stressed that survivors have the right to protection, particularly the right to confidentiality when reporting rape. She explained that in some police stations, the need for confidentiality is not respected:

“You will see the survivor right there telling her story and you will see everybody walking in and saying, ‘Oh is this the girl that was raped? Is she the one?’ So, for me, I feel that the protection is not enough at all. The identity of survivors should be concealed. They should be in a very secure environment so that they are able to express themselves properly. Sometimes, the survivors are put side by side with the perpetrator and you know the perpetrator is looking at the survivor... Then the survivor can’t even talk, can’t even express herself, because she is afraid.”¹⁷⁹

Two police officers in the gender unit of a police division complained that they pay for office supplies and the transportation of survivors with their personal funds. One of them stated, “We buy things ourselves. We bought chairs and everything. That is the issue with the gender office. It is supposed to be more equipped than this.” The second police officer stressed, “We face a lot. You see this file here? We bought it from our own salary.” They told Amnesty International that in some cases, they pay for the medical reports of survivors, because the police gender units do not have specific funds assigned to the units to support survivors.¹⁸⁰ In most cases, forensic examination is not free for survivors, in public and privately owned hospitals. Hence, indigent survivors who cannot pay out of pocket are unable to access emergency medical care and forensic examination.

3.6 WOMEN WITH DISABILITIES

Women with disabilities face intersectional barriers in accessing justice. Such barriers are rooted in discrimination and harmful stereotypes about persons with disabilities. They include exploitation and abuse by the police, lack of reasonable accommodation of the specific needs of women with disabilities and doubt being cast on their reports of rape.¹⁸¹

Lois Auta, founder of Cedar Seed Foundation,¹⁸² a disability rights organisation expressed concern that: “Some of these police stations are not accessible for wheelchair users. No sign language interpreter to assist women with hearing loss. Even in the hospital, women with hearing loss are not able to communicate with medical professionals, due to unavailability of sign language interpreters. Discrimination against Persons with Disabilities (Prohibition) Act should be implemented. There are provisions in the Act and other laws and policies on sexual and [reproductive] health rights of women and girls with disabilities.”¹⁸³

Bukky Williams, executive director of Education as a Vaccine, an organisation that works to improve the health and development of children, adolescents and young people, is of the opinion that women and girls with disabilities are greatly impacted by barriers to access to justice. She said, “If you are a woman with hearing loss, how do you communicate? How do you ask for help? How do you call for help, who would listen to you?”¹⁸⁴

177 Interview in person with a police officer of the gender unit of the Nigeria Police Force, 3 February 2021.

178 Jewels Hive Initiative is an advocacy and intervention-based non-governmental organisation, that seeks to provide safe spaces and psychosocial support for victims and survivors of sexual and gender-based violence.

179 Interview in person with Toyin Falaiye, Founder, Jewels Hive Initiative, 28 January 2021, Abuja.

180 Interview in person with three police officers, 25 January 2021 and 1 February 2021.

181 UN Committee on the Rights of Persons with Disabilities, General Comment 3: Women and Girls with Disabilities, UN Doc. 25 November 2016, CRPD/C/GC/3, para. 52.

182 Cedar Seed Foundation (CSF) is a youth-led non-governmental organisation, with the mission of providing services for persons with disabilities to participate in all aspects of life by mainstreaming their issues and concerns into national development agenda, based on the United Nations Convention on the Rights of Persons with Disabilities.
Cedar Seed Foundation, “About Cedar Seed Foundation,” cedarseedfoundation.ng/who-we-are/ (accessed 16 September 2021).

183 Interview in person with Lois Auta, founder of Cedar Seed Foundation, 1 February 2021, Abuja.

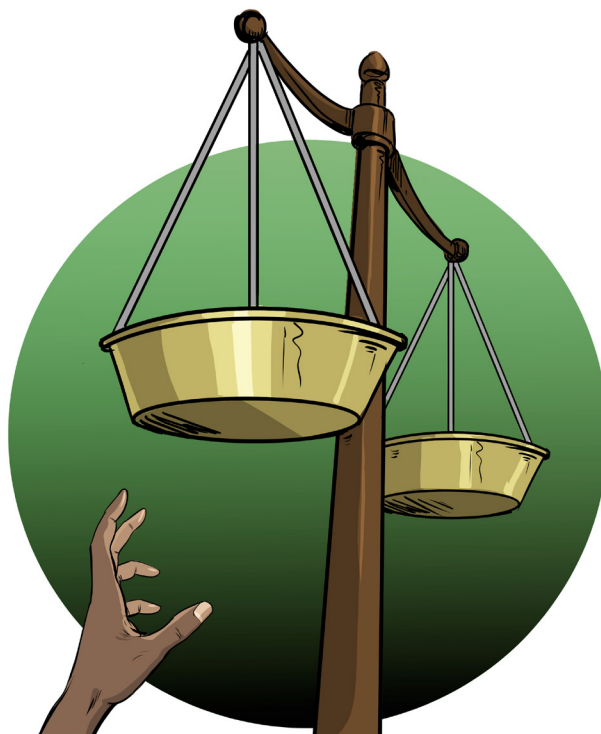
184 Interview in person with Bukky Williams, Executive Director of Education as a Vaccine, 27 January 2021, Abuja.

Section 3 of the Discrimination against Persons with Disabilities (Prohibition) Act requires that “public building shall be constructed with the necessary accessibility aids such as lifts (where necessary), ramps and any other facility that shall make them accessible to and usable by persons with disabilities.”¹⁸⁵ International human rights law places obligation on States to ensure effective access to justice for persons with disabilities, “including through the provision of procedural and age-appropriate accommodations;” and promotion of appropriate training for those working in the field of administration of justice, including police.¹⁸⁶

¹⁸⁵ Nigeria, Discrimination against Persons with Disabilities (Prohibition) Act 2018, section 3.

¹⁸⁶ UN Convention on the Rights of Persons with Disabilities, Article 13.

4. LEGAL PROCESS AND BARRIERS SURVIVORS FACE IN PURSUING JUSTICE



Access to justice is essential for the realisation of women's rights. CEDAW Committee has identified a number of key barriers that impede women's access to justice such as "gender stereotyping, discriminatory laws, intersecting or compounded discrimination, procedural and evidentiary requirements and practices, and a failure to systematically ensure that judicial mechanisms are physically, economically, socially and culturally accessible to all women."¹⁸⁷

The Maputo Protocol obliges States to ensure effective access by women to judicial and legal services, including legal aid; and that law enforcement organs at all levels are equipped to effectively interpret and enforce women's rights and gender equality.¹⁸⁸ Similarly, Nigeria has an obligation to guarantee access to justice for all survivors of sexual violence and to ensure that investigations and prosecution are carried out independently, impartially and effectively, without unjustified delays.¹⁸⁹

4.1 LOGISTICAL COSTS

According to the CEDAW Committee, a crucial element in guaranteeing that justice systems are economically accessible to women is the provision of free or low-cost legal aid, advice and representation in judicial and quasi-judicial processes in all fields of law.¹⁹⁰ This is often not the reality for many survivors in Nigeria. In some cases, while investigating rape, the police often transfer the financial burden to the survivors. Most hospitals do not provide free forensic examination and medical care for survivors. When a survivor goes to the police station to report rape, most times, police officers ask the survivors to pay for their transportation to the hospital and the cost of medical examination.

¹⁸⁷ CEDAW, General Recommendation 33: Women's Access to Justice (previously cited), para. 3.

¹⁸⁸ Maputo Protocol (previously cited), Article 8.

¹⁸⁹ African Union, Guidelines on Combating Sexual Violence and its Consequences (previously cited), p. 18.

¹⁹⁰ CEDAW, General Recommendation 33 (previously cited), para. 39, p.16.

A staff member of Dorothy Njemanze Foundation is of the opinion that justice is very expensive for rape survivors in Nigeria. She told Amnesty International that, “A victim will have to pay for the transportation of the police, pay for a file, pay for typing and all other logistics that the police need to investigate, arrest and prosecute a case.”¹⁹¹

Bola’s Story

In January 2021, Bola, who was raped by her neighbour, reported the crime to the police. She told Amnesty International that the police officers requested some money as a bribe from her. She recounted:

“The Investigative Police Officer requested for 10,000 naira (24 USD) as bribe; we gave it to her. She asked for another 10,000 naira (24 USD), that without that she could not record the case. She took some other money from us for transportation and they (the police) asked us to get them meals. So, whenever we called, she would be like, if we don’t bring that money, there was nothing she could do about the case any longer. They (police) always request for money for anything they want to do for you. You have to fuel their car, they need money for this, they need money for that... When they (police) took me to the hospital to run a medical test on me, they didn’t give me my test results, because they (police) asked for 7,000 naira (17 USD) to get the results and I didn’t give it to them. So, they didn’t show my results to me... Even when they went to pick up the man (perpetrator) at the scene of the crime, we paid. As well as when they came to my house to check what happened, we paid for their transportation.” ¹⁹²

According to the VAPP Act, police have a duty to provide transportation for survivors to a safe place and nearest hospital (where necessary), and to accompany the victim to their residence to collect personal belongings.¹⁹³

One of the police officers interviewed for this research told Amnesty International:

“We don’t have vehicles in this section; that is our challenge. Most times, we pay for a public vehicle to take survivors to the hospital... Even to go to the scene of the crime, no vehicle. What can you do without going to the scene of the crime? How do you present it to the court? I must say the office (gender unit) is not funded.”¹⁹⁴

A police officer in one of the police gender units in a state in Nigeria also told Amnesty International that the gender section was on a zero-funding allocation.¹⁹⁵

Hauwa Shekarau, founder of Women Law and Development Initiative (WOLDI), is of the opinion that “justice is only for the highest bidder. If you cannot afford it, you don’t have money to be able to take care of justice processes, you cannot get justice.”¹⁹⁶

¹⁹¹ Interview in person with a staffer of Dorothy Njemanze Foundation, 18 November 2020, Abuja.

¹⁹² Interview in person with Bola, rape survivor, 3 March 2021, Abuja.

¹⁹³ VAPP Act (previously cited), section 32(b), (c) & (f).

¹⁹⁴ Interview in person with 3 police officers, 25 January 2021 and 1 February 2021.

¹⁹⁵ Interview in person with a police officer of the gender unit of the Nigeria Police Force, 3 February 2021.

¹⁹⁶ Interview by video call with Hauwa Shekarau, founder of Women Law and Development Initiative (WOLDI), 11 February 2021.

Such act of demanding money from survivors by police officers, amounts to corruption. Hence, it is a breach of the Constitution and the Police Code of Conduct. The Constitution of the Federal Republic of Nigeria 1999 (as amended) under Schedule V on Code of Conduct for Public Officers, provides that “a public officer shall not ask for or accept property or benefits of any kind for himself or any other person on account of anything done or omitted to be done by him in the discharge of his duties.”¹⁹⁷ The Constitution further provides that any allegation that a public officer has committed a breach of or has not complied with the provisions of the Code shall be made known to the Code of Conduct Bureau.¹⁹⁸

Under Principle 6 of the Nigeria Police Code of Conduct, “police officers shall not compromise their integrity nor that of the Force, by accepting, giving or soliciting any gratuity which could be reasonably interpreted as capable of influencing their official acts or judgments, or by using their status as a police officer for personal, commercial, or political gain.”¹⁹⁹ It further provides that “effective mechanism shall be established to ensure the internal discipline and external control as well as the supervision of Police officers; and particular provisions shall be made, for the receipt and processing of complaints against police officers, made by members of the public and the result of the outcomes of such procedures will not be considered classified.”²⁰⁰

4.2 THE IMPACT OF COVID-19

Over the years, Nigeria has experienced a sexual violence crisis that is deeply rooted in harmful patriarchal, social, cultural, traditional and religious norms, and that has now been heightened by the COVID-19 pandemic.²⁰¹ Available data shows a general increase in violence against women across all six geopolitical zones in Nigeria. Preliminary information from 24 states shows that in March 2020, the total number of GBV incidents reported were 346, while in the first part of April 2020, incident reports spiked to 794, depicting a 56 per cent increase in just two weeks of lockdown in 2020.²⁰²

For women and children previously experiencing domestic violence, the COVID-19 lockdown exposed them to further dangers from their abusers. Domestic violence advocates and service providers also faced difficulties in providing support for victims of abuse, having not been granted exemption in the enforcement of the lockdown.²⁰³

The COVID-19 pandemic has had significant impact on access to justice for rape survivors. Although not recognised by law, in some cases, police officers ask survivors to pay for the COVID-19 tests of perpetrators. Alleged perpetrators would not be arrested or detained if the survivor or their families do not pay for the COVID-19 test of the perpetrator. Madam Sadia, whose 5-year-old daughter was raped, told Amnesty International that some police officers at a police division asked her to pay for the COVID-19 test of the perpetrator who raped her daughter. The police officers told her they would be unable to charge the matter to court without the COVID-19 test of the perpetrator. Madam Sadia said she could not pay, because the cost was high.²⁰⁴

The mother of 14-year-old Onyinye who was raped in Lagos, told us about her experience at a police station in Lagos State. She told Amnesty International that she was asked to pay a total of 28 000 naira (68 USD) for the COVID-19 test of the perpetrator and police report. Failure to pay would result in her daughter’s case not being prosecuted and the release of the perpetrator. She said:

“They told us that they (police officers) can’t use their money to run the case for us. So, I asked, ‘How are we going to do this now,

197 The Constitution of the Federal Republic of Nigeria 1999 (as amended), Schedule V, section 6(1), p. 169.

198 The Constitution of the Federal Republic of Nigeria 1999 (as amended), Schedule V, section 12, p. 170.

199 Nigeria Police Code of Conduct, Principle 6.

200 Nigeria Police Code of Conduct, “Implementation of the Code”.

201 UN Nigeria, “Gender-based Violence in Nigeria During the COVID-19 Crisis: The Shadow Pandemic” (previously cited), p. 4.

202 UN Nigeria, “Gender-based Violence in Nigeria During the COVID-19 Crisis: The Shadow Pandemic” (previously cited), p.4.

203 Amnesty International, “Nigeria: Authorities must uphold human rights in fight to curb COVID-19,” April 1, 2020, [amnesty.org/en/latest/news/2020/04/nigeria-covid-19/](https://www.amnesty.org/en/latest/news/2020/04/nigeria-covid-19/).

204 Interview in person with Madam Sadia, mother of rape survivor, 19 December 2020, Lagos State.

because we don't have any money?' So, it meant if we didn't bring the money, they (police) would release the man and let him go. I had no money on me. The police are really making things difficult for us. What I saw at the police station... It means a poor man cannot go to complain at the station. In that police station, you will use your money to pursue justice."

Mother of Onyinye, a survivor.²⁰⁵

4.4 GAPS IN TRAINING OF LAW ENFORCEMENT OFFICERS

Experiences of survivors, experts and NGOs interviewed for this research indicate that there are gaps in the training of law enforcement officers. The testimonies of people interviewed by Amnesty International reveal that law enforcement officers employ gender stereotypes, rape myths, victim blaming, stigmatisation, lack of gender sensitivity and further violence.

The Inspector-General of Police is obligated to ensure that all police officers undergo periodic training and re-training on human rights, gender equality, public relations and other emerging issues.²⁰⁶ The Federal Government, in its 6th Periodic Report to the African Commission on Human and People's Rights, reported that a gender policy for the Nigeria Police Force was adopted in September 2012.²⁰⁷ It was also reported that there is a gender module in the Police National Human Rights Training Curriculum.²⁰⁸ The UN Special Rapporteur on Violence Against Women has recommended that: "States must ensure the necessary training for members of the judiciary and legal and law enforcement professionals on international human rights standards and jurisprudence with respect to rape, and on the myths and stereotypes that still hinder the implementation of those standards."²⁰⁹

Some police officers who work in the gender unit that were interviewed for this research emphasised that the training they got from the police college is insufficient. They told Amnesty International that the bulk of the training they have received on sexual and gender-based violence was offered by NGOs.²¹⁰

Rommy Mom, president of Lawyers Alert,²¹¹ raised concerns about the capacity of police officers assigned to the gender unit of the police force. He said there is no deliberate capacity building in terms of training, for police officers to understand the dynamics and human rights compliant approaches to dealing with survivors.²¹²

4.5 VICTIM PROTECTION

Adequate protection for survivors, from the point of reporting to investigation and ultimately court proceedings, is an important element in access to justice for survivors of rape. It encourages survivors to report rape and gives them the courage to go through court trials without fear of reprisal from perpetrators. The African Commission on Human and People's Rights recommends that States must consider the rights of victims throughout the proceedings and guarantee the wellbeing and safety of victims and witnesses.²¹³ The VAPP Act also makes provision for application for a protection order to be made before the High Court following a complaint of violence by the complainant.²¹⁴ NAPTIP informed Amnesty International that the

²⁰⁵ Interview in person with Onyinye, 14-year-old rape survivor and her mother, 19 December 2020, Lagos State.

²⁰⁶ Nigeria Police Act, section 19 (1e).

²⁰⁷ Nigeria, 6th Periodic Country Report (2015- 2016) on the Implementation of the African Charter on Human and People's Rights in Nigeria, p. 42.

²⁰⁸ Nigeria, 6th Periodic Country Report (2015- 2016) on the Implementation of the African Charter on Human and People's Rights in Nigeria, p. 149.

²⁰⁹ UN Special Rapporteur on Violence Against Women, Report, 19 April 2021 (previously cited) p. 19, para. 116.

²¹⁰ Interview in person with three police officers, 25 January 2021 and 1 February 2021.

²¹¹ Lawyers Alert is a civil society organisation made up of lawyers and other professionals committed to the entrenchment of democracy, rule of law and socio-economic development in Nigeria, with particular emphasis on women.

Lawyers Alert, "About us", lawyersalertng.org/who-we-are?lang=en (accessed on 16 September 2021).

²¹² Interview in person with Rommy Mom, president of Lawyers Alert, 22 January 2021, Abuja

²¹³ African Union, Guidelines on Combating Sexual Violence and its Consequences (previously cited), p. 18.

²¹⁴ VAPP Act (previously cited), section 28(1).

“Agency aids victims of abuse in procuring protection orders which are issued by Courts for the purpose of restraining the abusers from further abuse.”²¹⁵

A case manager at Dorothy Njemanze Foundation raised concerns over the lack of protection for survivors. She said, “When they (police) release a suspect, they don’t even inform the victim. It is actually traumatising for you to come back and see that the person is back in the community, without having notice that this person is coming back.”²¹⁶

Harry Obe, Director, Women-Children Department of the National Human Rights Commission told Amnesty International that:

“It is always traumatic psychologically and we get some sort of frustration, because some of the tools we need to ensure we get the full protection of survivors, we don’t have them yet. For instance, we don’t have a shelter and our greatest concern when a survivor comes to us is how to remove that survivor from the abusive environment to at least a secure environment.”²¹⁷

Shelters provide protection for survivors of rape and other sexual and gender-based violence. Shelters not only provide accommodation for survivors, they, also, often have facilities that provide psychosocial support, medical care and sometimes legal assistance for survivors. In some cases, survivors do not leave abusive environments when shelters are not available. The CEDAW Committee has expressed concern over the inadequacy of shelters in Nigeria and the lack of information on their accessibility for women and girls, especially in remote areas.²¹⁸ According to NAPTIP, the Agency has a total of 10 government shelters in its Abuja Headquarters and Zonal Commands (Uyo, Benin, Sokoto, Maiduguri, Kano, Lagos, Enugu and Makurdi). The agency further informed us that although Zonal Commands do not handle VAPP cases, “they also treat cases of sexual exploitation of victims of trafficking which is analogous to rape.”²¹⁹ Although the agency stated that the 10 NAPTIP “shelters are complemented by shelters of partners and stakeholders”,²²⁰ these are inadequate going by the UN recommendation that there should be one shelter for every 10, 000 inhabitants.²²¹ 10 government-owned shelters for a population of 212,986,468²²² is grossly insufficient and a failure of the Nigerian government in its obligation to provide protection and rehabilitation for survivors. CEDAW Committee has urged Nigeria to “establish additional shelters, strengthen existing shelters run by non-governmental organizations and ensure their accessibility for women and girls who are victims of gender-based violence, especially in remote areas.”²²³

4.6 MEDICAL, LEGAL AND PSYCHOSOCIAL SUPPORT FOR SURVIVORS

Survivors of sexual violence require prompt access to medical care, psychosocial support and legal aid. The United Nations Handbook for Legislation on Violence against Women recommends that States should provide funding for, and/or contribute to establishing comprehensive and integrated support services to assist survivors of violence.²²⁴

215 National Agency for the Prohibition of Trafficking in Persons, response to Amnesty International's right of reply letter, 6 October 2021, on file with Amnesty International.

216 Interview in person with staff of Dorothy Njemanze Foundation, 4 February 2021, Abuja.

217 Interview in person with Harry Obe, Director, Women-Children Department of the National Human Rights Commission, 12 February 2021, Abuja.

218 CEDAW Committee, Concluding Observations: Nigeria (previously cited), para. 25 (c), p. 8.

219 National Agency for the Prohibition of Trafficking in Persons, response to Amnesty International's right of reply letter, 6 October 2021, on file with Amnesty International.

220 National Agency for the Prohibition of Trafficking in Persons, response to Amnesty International's right of reply letter, 6 October 2021, on file with Amnesty International.

221 UN Economic and Social Affairs, *Handbook for Legislation on Violence against Women*, 2010, p. 29.

222 World Population Review, Nigeria Population 2021, worldpopulationreview.com/countries/nigeria-population (accessed on 18 October 2021).

223 CEDAW, Concluding Observations: Nigeria (previously cited), para. 26 (b), p. 8.

224 UN Economic and Social Affairs, *Handbook for Legislation on Violence against Women*, p. 29.

Rights of Survivors

According to section 38 of the Violence Against Persons Prohibition Act, every victim of violence, is entitled to the following rights:

a  To receive the necessary materials, comprehensive, medical, psychological, social and legal assistance through governmental agencies or non-governmental agencies providing such assistance;	b  To be informed of the availability of legal, health and social services and other relevant assistance and be readily afforded access to them.	c  To rehabilitation and re-integration programme of the State to enable victims to acquire, where applicable and necessary, pre-requisite skills in any vocation of the victim's choice and also in necessary formal education or access to micro credit facilities.
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The CEDAW Committee in its Concluding Observation on Nigeria recommends that the government must “continue to allocate sufficient resources to integrate sexual and gender-based violence into health sector strategic plans and train health-care providers in the provision of comprehensive clinical care for victims of gender-based violence.”²²⁵

Bola, a 21-year-old survivor, told Amnesty International:

“I was giving up already, until other people were able to help in the case, because I had already said I’m not doing the case again... At some point, I didn’t know what was wrong with me. I just felt like taking something and just taking my life. Because I didn’t understand.”²²⁶

NAPTIP informed Amnesty International that free medical and psychosocial services including “structured counselling, motivational enhancement, case management by counsellors, care coordination, psychotherapy, relapse prevention and vocational training” are made available to survivors in the Agency’s shelters.

Despite the prevalence of sexual violence in Nigeria, interventions and support services provided by government agencies are often inadequate and largely inaccessible to many survivors. Survivors outside government-owned shelters are unable to access support services that are provided in NAPTIP shelters. Sexual Assault Referral Centres were established to address some of these gaps.²²⁷ Currently, there are 31 Sexual Assault Referral Centres in 17 states across Nigeria, including the Federal Capital Territory.²²⁸ Sexual Assault Referral Centres are one-stop centres that provide confidential, free-of-charge survivor-focused services, including: emergency medical treatment, forensic medical examination, counselling support, referrals where necessary and ongoing support throughout investigation and prosecution.²²⁹ Bukky Shonibare, founder of Invictus Africa, raised concerns about the inadequacy and inaccessibility of Sexual

²²⁵ CEDAW, Concluding Observations: Nigeria (previously cited), para. 25(d).

²²⁶ Interview in person with Bola, rape survivor 3 March 2021, Abuja.

²²⁷ European Commission, “The SGBV Challenge in Nigeria: Increasing access to justice through Sexual Assault Referral Centres”, 8 June 2021, ec.europa.eu/international-partnerships/events/sgbv-challenge-nigeria-increasing-access-justice-through-sexual-assault-referral-centres_en (accessed on 16 September 2021)

²²⁸ Her Story, Directory of Sexual Assault Referral Centres (SARCs) in Nigeria, June 2021, herstoryourstory.ng/ (accessed on 29 September 2021).

²²⁹ European Commission, “The SGBV Challenge in Nigeria: Increasing access to justice through Sexual Assault Referral Centres”, (accessed on 10 August 2021).

Assault Referral Centres (SARC). According to her, ‘We don’t have that proportionality of centres that respond to rape issues vis-a-vis the number of people that are at risk or the number of people that have even been abused.’²³⁰

Osayande Osagie, Chief Medical Director, Bwari General Hospital and head of Awyetu Sexual Assault Referral Centre (SARC), told Amnesty International that with the support of the British Council through the Rule of Law and Anti-Corruption Programme (ROLAC), all services are offered free of charge at the Awyetu SARC. He pointed out that client registration, consultations, medical examinations, provision of medicines (such as antibiotics, prophylaxis, emergency contraception, tetanus toxoid, etc.), pregnancy tests, vaginal swabs and tests for sexually transmitted infections/diseases are offered at no cost to survivors.²³¹

The Awyetu SARC is the only SARC in the Federal Capital Territory (FCT). The FCT 2021 population is estimated at 3,464,123.²³² The SARC is, therefore, insufficient to serve the entire population in the FCT. Furthermore, physical accessibility is a constraint, as the Awyetu SARC is located in Bwari, which is 42 kilometres from the city centre.²³³ Survivors in other parts of the FCT might be discouraged about accessing the Awyetu SARC, due to the long distance.

A staff at Mirabel Centre, emphasised that healthcare is an essential service that all survivors need to be able to access promptly. She said:

“It’s actually an emergency, because there are some clinical treatments or regimens that the person needs to access that have a window period. For instance, when the perpetrator is HIV positive and the survivor is negative. If the survivor accesses our centre early enough, he or she can get an emergency post-exposure prophylaxis (PEP), which can help him or her not to acquire the [HIV] virus from that person... And then the [emergency] contraception that can help to prevent unwanted pregnancy also has a window period.”²³⁴

In September 2021, the governor of Lagos State -Babajide Sanwo-Olu signed the legislation that upgraded the Lagos State Domestic and Sexual Violence Response Team (DSVRT) into an agency in the state.²³⁵ The DSVRT is an agency under the Lagos State Government that provides legal, medical, emergency assistance, counselling, psychological and psychosocial support to survivors of domestic and sexual violence.²³⁶

4.7 LENGTHY LEGAL PROCESS

Fundamental Rights (Enforcement Procedure) Rules²³⁷ require that the “court shall in a manner calculated to advance Nigerian democracy, good governance, human rights and culture, pursue the speedy and efficient enforcement and realization of human rights.”²³⁸ Delays in the conduct of trials may increase the risk of retaliation against survivors, particularly if the perpetrator is not in police custody. In addition, delays often deter the complainant from proceeding with prosecution.²³⁹ The UN Special Rapporteur on Violence Against Women has recommended that prosecutions of rape cases should be pursued without undue delay.²⁴⁰

230 Interview in person with Bukky Shonibare, founder of Invictus Africa, 3 February 2021, Abuja.

231 Interview in person with Osayande Osagie, Chief Medical Doctor of Bwari General Hospital and head of Awyetu Sexual Assault Referral Centre Bwari, 24 February, Bwari, FCT.

232 World Population Review, “Abuja Population 2021”, worldpopulationreview.com/world-cities/abuja-population (accessed on 17 September 2021)

233 Distances from, “How far is Central Business District from Bwari”, distancesfrom.com/ng/how-far-is-Central-Business-District-from-bwari/How-FarHistory/41774535.aspx (accessed on 18 September 2021).

234 Interview in person with a staff at Mirabel Centre, 19 December 2020, Lagos State.

235 Pulse NG, “Sanwo-Olu upgrades ‘Domestic, Sexual Violence Team’ to agency”, 21 September 2021, pulse.ng/news/local/sanwo-olu-up-grades-domestic-sexual-violence-team-to-agency/q53bcpn.

236 Lagos State Domestic and Sexual Violence Response Team, “Who we are”, dsvrtlago.org/who-we-are/ (accessed on 7 October 2021).

237 The Fundamental Rights (Enforcement Procedure) Rules provide for the rules of procedure to be followed in the Court in applications for the enforcement or securing the enforcement of Fundamental Rights under Chapter IV of the 1999 Constitution of the Federal Republic of Nigeria and the African Charter on Human and Peoples’ Rights (Ratification and Enforcement) Act.

238 Nigeria, Fundamental Rights (Enforcement Procedure) Rules, 2009, preamble, para. 3(f).

239 UN Economic and Social Affairs, Handbook for Legislation on Violence Against Women p. 37.

240 UN Special Rapporteur on Violence against Women, Report, 19 April 2021 (previously cited) p. 19, para. 94(b).

Sofia, a 12-year-old survivor, told Amnesty International: “Later on, the case was charged to court, but for several months the court could not hear the case. They keep telling us to come today, come tomorrow; come today, come tomorrow.”²⁴¹

Deji Ajare, survivors’ counsel and coordinator of Sterling Centre for Law and Development,²⁴² believes that the “judicial system is terribly marred by systemic problems that make it very difficult for people to get justice.” He said:

“You keep seeing adjournments upon adjournments... You find that a lot of times, courts do not sit. These are the kinds of things that discourage victims from going ahead to seek justice.”²⁴³

Ogunbayo Atinuke, project officer at Women’s Consortium of Nigeria,²⁴⁴ expressed concern that: “Our justice system is very slow. And because it’s very slow, it will drag the case. Something that happened in January and has even been forgotten, three years after they bring up the case again. By the time she gets there, she might not remember what happened. And again, it’s like digging into the wound that has already healed up.”²⁴⁵

A staff at Waraka Sexual Assault Referral Centre in Kano, believes that most survivors do not want the case to be prosecuted, because it takes a long time for justice to be served. According to her, survivors only come to the centre to get the necessary treatment, without the desire to follow through with prosecution.²⁴⁶

Bukky Shonibare, founder of Invictus Africa, believes that lengthy court processes are a major barrier, as they discourage survivors from seeking justice. She questioned, “What is justice if you don’t get it at the right time? What is justice when it is delayed? What is justice if the victim does not feel it came at the time when he or she would have been healed? ...Imagine a rape victim who was raped in 2010 and the case is still on in 2020 - 10 years after. Every time that case comes up or every time you just remember that there is a case, you will relive that experience again.” She believes that there is need for a special court for rape cases, to ensure their prompt prosecution.²⁴⁷

241 Interview in person with Sofia, 12-year-old rape survivor, 18 November 2020, Abuja.

242 Sterling Centre for Law and Development is a non-profit organisation that works on the promotion and protection of human rights and through education and advocacy.
Sterling Centre for Law & Development, “About Us,” sterlinglawcentre.org/ (accessed on 18 September 2021).

243 Interview in person with Deji Ajare, survivors’ counsel and coordinator of Sterling Centre for Law and Development, 22 January 2021, Abuja.

244 Women’s Consortium of Nigeria (WOCN) is a non-governmental, not for profit making, non-partisan and non-religious organisation, committed to the enforcement of women and children’s rights and the attainment of equality, development and peace.
Women’s Consortium of Nigeria, “About Women’s Consortium of Nigeria”, womenconsortiumofnigeria.org/?q=about-us (accessed on 18 September 2021).

245 Interview in person with Ogunbayo Atinuke, Project officer at Women’s Consortium of Nigeria, 17 December 2020.

246 Interview with a staff at Waraka Sexual Assault Referral Centre, 15 December 2020, Kano State.

247 Interview in person with Bukky Shonibare, founder of Invictus Africa, 3 February 2021, Abuja.

5. INTERNATIONAL HUMAN RIGHTS OBLIGATIONS



Nigeria ratified the Convention on the Elimination of Discrimination against Women (CEDAW) on 13 June 1985 and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) on 25 November 2005.²⁴⁸ Through its ratification of CEDAW, Nigeria undertakes to “condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women.”²⁴⁹ Similarly, the Maputo Protocol places obligation on Nigeria to “combat all forms of discrimination against women through appropriate legislative, institutional and other measures.”²⁵⁰

Violence against women has been recognised as a form of gender discrimination that results from the historically unequal power relations between women and men,²⁵¹ and “seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men.”²⁵² Gender-based violence against women includes domestic, physical and sexual violence; psychological, emotional and socio-economic harmful practices, and denial of sexual and reproductive rights of women and girls.²⁵³

The Committee on the Elimination of Discrimination against Women (CEDAW Committee) considers that gender-based violence against women is one of the fundamental social, political and economic means by which the subordinate position of women, with respect to men and their stereotyped roles, is perpetuated.²⁵⁴ According to the Committee, the term gender-based violence also strengthens the understanding of this violence as a social, rather than an individual problem, requiring comprehensive and systemic responses beyond addressing simply individual cases.²⁵⁵

²⁴⁸ United Nations Human Rights Treaty Bodies Database, “Reporting Status for Nigeria”, tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx?CountryCode=NGA&Lang=EN (accessed on 10 August 2021).

African Union, “OAU/AU Treaties, Conventions, Protocols & Charters”, au.int/en/treaties (accessed on 10 August 2021).

²⁴⁹ CEDAW (previously cited), Article 2.

²⁵⁰ Maputo Protocol (previously cited), Article 2.

²⁵¹ Maputo Protocol (previously cited), preamble.

²⁵² CEDAW, General Recommendation 19 (previously cited), para 1.

²⁵³ CEDAW, General Recommendation 35 (previously cited), para 18 and 20.

²⁵⁴ CEDAW, General Recommendation 35: (previously cited), para 10.

²⁵⁵ CEDAW, General Recommendation 35: (previously cited), para 10.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) urges States to take all appropriate measures to “eliminate discrimination against women by any person, organization or enterprise” and “modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.”²⁵⁶ The obligation to eliminate gender-based discrimination and violence against women is of an immediate nature and delays cannot be justified on any grounds, including on economic, cultural or religious grounds.²⁵⁷ States are responsible for preventing and prosecuting gender-based violence acts by state actors,²⁵⁸ and have a “due diligence” obligation “to take all appropriate measures to prevent as well as to investigate, prosecute, punish and provide reparation for acts or omissions by non-state actors which result in gender-based violence against women.”²⁵⁹ Furthermore, the United Nations Special Rapporteur on Violence Against Women argued that the obligation of states to prevent and respond to acts of violence against women with due diligence has become part of customary international law.²⁶⁰ The Special Rapporteur noted that “the State is obliged to act with due diligence to prevent, investigate, punish and provide remedies for acts of violence regardless of whether these are committed by private or state actors.”²⁶¹ The Maputo Protocol also places obligation on States to “adopt such other legislative, administrative, social and economic measures as may be necessary to ensure the prevention, punishment and eradication of all forms of violence against women.” It further requires that States should provide rehabilitation and reparation for survivors.²⁶²

The obligation of States requires the enactment and implementation of laws and design of public policies and monitoring mechanisms aimed at eliminating all forms of gender-based violence. It requires the adoption and implementation of measures to eradicate stereotypes and practices that are the root causes of gender-based violence against women.²⁶³ The overarching obligation of State Parties is to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, including gender-based violence against women.²⁶⁴

The Human Rights Committee in its concluding observation has urged Nigeria to strengthen its efforts to curb gender-based violence, in particular by:

- (a) Ensuring the Violence against Persons (Prohibition) Act applies in all federal states.
- (b) Taking measures to ensure that cases of violence against women are reported and thoroughly investigated, perpetrators are prosecuted and if convicted, sentenced with appropriate penalties, and victims provided with full reparation and granted adequate assistance, including shelters.
- (c) Raising awareness among religious and traditional leaders, police, medical staff and legal professionals, and society at large, about the negative effects of violence against women and harmful traditional practices.²⁶⁵

5.1 LEGISLATIVE MEASURES

International human rights law places obligation on Nigeria to “adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women.”²⁶⁶ The Maputo Protocol obliges State Parties to “enact and enforce laws to prohibit all forms of violence against

²⁵⁶ CEDAW, article 1(e) and (f).

²⁵⁷ CEDAW, General Recommendation 35 (previously cited), para 21.

²⁵⁸ CEDAW, General Recommendation 35 (previously cited), paras 21 and 22.

²⁵⁹ CEDAW, General Recommendation 19 (previously cited), para 9; CEDAW, General Recommendation 35 (previously cited), para 24(b).

²⁶⁰ UN Special Rapporteur on Violence against Women, Report: *Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women – The Due Diligence Standards as a Tool for The Elimination of Violence Against Women*, UN Doc. E/CN.4/2006/61.

²⁶¹ UN Special Rapporteur on Violence against Women, Report: *Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women – The Due Diligence Standards as a Tool for The Elimination of Violence Against Women*, UN Doc. E/CN.4/2006/61, para 19.

²⁶² Maputo Protocol (previously cited), article 4, para. 2.

²⁶³ CEDAW, General Recommendation 35 (previously cited), para. 26, p.10.

²⁶⁴ CEDAW, General Recommendation 35 (previously cited), para. 21.

²⁶⁵ UN Human Rights Committee (HRC), Concluding Observations: Nigeria, 29 August 2019, UN Doc. CCPR/C/NGA/CO/2, para. 21.

²⁶⁶ CEDAW, Article 2(b).

women including unwanted or forced sex whether the violence takes place in private or public.”²⁶⁷

The definition of rape in the International Criminal Court regime refers to non-consensual sexual acts, including “[invasion of] the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.”²⁶⁸ Although no international or regional human rights instruments or standards provide a definition of consent, some guidance on how to infer consent or lack thereof can be found at Rule 70 (Principles of evidence in cases of sexual violence) of the Rules of Procedure and Evidence of the International Criminal Court (whose mandate covers crimes committed during international armed conflict). It provides that:

- (a) Consent cannot be inferred by reason of any words or conduct of a victim where force, threat of force, coercion or taking advantage of a coercive environment undermined the victim's ability to give voluntary and genuine consent;
- (b) Consent cannot be inferred by reason of any words or conduct of a victim where the victim is incapable of giving genuine consent;
- (c) Consent cannot be inferred by reason of the silence of, or lack of resistance by a victim to the alleged sexual violence;
- (d) Credibility, character or predisposition to sexual availability of a victim or witness cannot be inferred by reason of the sexual nature of the prior or subsequent conduct of a victim or witness.²⁶⁹

Harry Obe, Director, Women-Children Department of the National Human Rights Commission, believes that relevant laws on sexual and gender-based violence are not adequately implemented. He said:

“In recent times, Nigeria has come up with a one-stop legislation – the Violence Against Persons Prohibitions Act, that prescribes various forms of punishment for sexual and gender-based offences. For me, we have legislations to deal with the scourge, but lack the willpower to implement them; and maybe the awareness that such laws exist is lacking.”²⁷⁰

The CEDAW Committee has recommended that Nigeria should ensure that the Violence Against Persons (Prohibition) Act is applicable in all states across Nigeria and that Nigeria should expedite the drafting and adoption of the enforcement framework for the VAPP Act. Such strategy should be focused on developing a comprehensive prevention strategy for gender-based violence against women.²⁷¹ The Committee has also urged Nigeria to “ensure that the ongoing constitutional review process addresses the applicability of statutory, customary and Islamic personal laws, which afford varying degrees of protection for women and girls, in order to guarantee all women the same rights and protection against discrimination.”²⁷² Thus, the review of some provisions in the Constitution, Penal Code, Criminal Code and other national laws is critical, to ensure that such laws on sexual and gender-based violence are in line with international human rights law and standards.

5.2 PREVENTION OF SEXUAL AND GENDER-BASED VIOLENCE

“Now, the starting point for conversations around abuse is that it can be prevented and that we can actually do something about it. While we must ensure that abusers are identified and punished, the greater part of our efforts should go into ensuring that we do all in our power to prevent these heinous acts from happening in the first place. How? By proactively identifying risk factors and intervening decisively

²⁶⁷ Maputo Protocol (previously cited), Article 4, para. 2(a).

²⁶⁸ Article 7(1)-(g)1(1): International Criminal Court, Elements of Crimes, PCNICC/2000/1/Add.2 (2000). The International Criminal Court’s Elements of Crimes further refer to such an invasion having been “committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent.” (Article 7(1)-(g)1(2)).

²⁶⁹ International Criminal Court Rules of Procedure and Evidence, Second edition 2013, The Hague, available at: www.icccpi.int/iccdocs/pids/legal-texts/rulesprocedureevidenceeng.pdf.

²⁷⁰ Interview in person with Harry Obe, Director, Women-Children Department of the National Human Rights Commission, 12 February 2021, Abuja.

²⁷¹ CEDAW, Concluding Observations: Nigeria (previously cited), Para 26(a).

²⁷² CEDAW, Concluding Observations: Nigeria (previously cited), para. 12(b), p. 4.

to deal with them before the abuse itself happens. This is why a comprehensive, multi-sectoral service is fundamental in the response to all survivors of rape and gender-based violence.”²⁷³

The CEDAW Committee has urged States to “adopt and implement effective legislative and other appropriate preventive measures to address the underlying causes of gender-based violence against women, including patriarchal attitudes and stereotypes, inequality in the family and the neglect or denial of women’s civil, political, economic, social and cultural rights, as well as to promote women’s empowerment, agency and voice.”²⁷⁴

The Maputo Protocol obliges States to “identify the causes and consequences of violence against women and take appropriate measures to prevent and eliminate such violence.”²⁷⁵ Such prevention measures should include awareness-raising activities regarding women’s human rights, gender equality and the right of women to be free from violence; use of educational curricula to modify discriminatory social and cultural patterns of behaviour, and sensitisation of the media regarding violence against women.²⁷⁶ Additionally, CEDAW requires states to “develop and implement effective measures to make public spaces safe for and accessible to all women and girls, including by promoting and supporting community-based measures adopted with the participation of women’s groups.”²⁷⁷

5.3 PROTECTION OF SURVIVORS

States must adopt legislative, regulatory and all other measures necessary to protect victims of sexual violence from any act of violence and to provide timeous, efficient, comprehensive, accessible and free service at a reasonable distance from where the victims are located, which is adapted to the needs of victims and witnesses, after the violence has taken place.²⁷⁸

International human rights law requires States to adopt and implement effective measures to protect and assist women complainants of and witnesses to gender-based violence before, during and after legal proceedings.²⁷⁹ States must adopt the necessary measures to guarantee that victims are protected from any new act of sexual violence and are protected from the consequences of sexual violence, particularly by guaranteeing that victims have access to all types of assistance that they need.²⁸⁰

5.4 PROSECUTION AND PUNISHMENT OF PERPETRATORS

International human rights law requires states to ensure effective access for victims to courts and tribunals and that the authorities adequately respond to all cases of gender-based violence against women, including by applying criminal law and as appropriate, ex-officio prosecution, to bring alleged perpetrators to trial in a fair, impartial, timely and expeditious manner and imposing adequate penalties.²⁸¹

Under regional human rights law, Nigeria has the obligation to take appropriate and effective measures to punish the perpetrators of violence against women.²⁸² States must ensure that investigations into acts of sexual violence and the prosecution of perpetrators are carried out without unjustified delays, independently, impartially and effectively in a manner that will lead to the identification and sentencing of the perpetrators. Investigations and prosecutions must consider the rights of victims throughout the proceedings and guarantee the wellbeing and safety of victims and witnesses.²⁸³ Fees or court charges should not be imposed on survivors.²⁸⁴

The CEDAW Committee has recommended that Nigeria should take measures to ensure that cases of

273 Vice President Yemi Osinbajo, Statement at the National Human Rights Commission Virtual Meeting on the Scourge of Rape, Sexual and Gender-Based Violence in Nigeria, 19 June, 2020, [yemiosinbajo.ng/national-human-rights-commission-virtual-meeting-on-scourge-of-rape-sexual-gender-based-violence/](https://www.yemiosinbajo.ng/national-human-rights-commission-virtual-meeting-on-scourge-of-rape-sexual-gender-based-violence/)

274 CEDAW, General Recommendation 35 (previously cited), para. 34.

275 Maputo Protocol, Article 4 (c).

276 UN Economic and Social Affairs, Handbook for Legislation on Violence against Women, 2010, p. 26.

277 CEDAW, General Recommendation 35 (previously cited), para. 30(c).

278 African Union, Guidelines on Combating Sexual Violence and its Consequences (previously cited), para. 36, p. 43.

279 CEDAW, General Recommendation 35 (previously cited), para. 31, p.15.

280 African Union, Guidelines on Combating Sexual Violence and its Consequences (previously cited), p.18.

281 CEDAW, ‘General recommendation 35 (previously cited), para. 32(a), p.17.

282 Maputo Protocol, Article 4(e).

283 African Union, *Guidelines on Combating Sexual Violence and its Consequences* (previously cited), p. 18.

284 CEDAW, General Recommendation 35 (previously cited), para 32(a), paras 16-17.

violence against women are reported and thoroughly investigated, perpetrators are prosecuted and if convicted, sentenced with appropriate penalties.²⁸⁵

5.5 REPARATIONS FOR SURVIVORS

States must establish mechanisms and accessible services for effective rehabilitation and reparation for victims of violence against women.²⁸⁶ This includes necessary legislative and other measures required to guarantee access to appropriate, efficient, accessible, timely and long-lasting reparation for injury and loss suffered by victims of sexual violence, as well as access to appropriate information regarding reparation mechanisms. The reparations must be proportional to the seriousness of the violation and injury suffered.²⁸⁷

Reparation measures must be designed and implemented to meet the needs of victims and must take into consideration all forms of sexual violence and all consequences, including physical, psychological, material, financial and social consequences – immediate or otherwise – suffered by the victims.²⁸⁸ Reparation must include individual and collective measures, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.²⁸⁹

The CEDAW Committee recommends that State Parties should establish specific funds for reparations or include allocations in the budgets of existing funds, including under transitional justice mechanisms, for reparations to victims of gender-based violence against women.²⁹⁰ Furthermore, the CEDAW Committee urges States to “design transformative reparation programmes that help to address the underlying discrimination or disadvantage which caused or contributed significantly to the violation, taking account of individual, institutional and structural aspects”, while giving priority to the victim/survivor’s agency, wishes and decisions, safety, dignity and integrity.²⁹¹



285 CEDAW, Concluding Observations: Nigeria (previously cited), Para 21(b).

286 Maputo Protocol, Article 4(f).

287 African Union, *Guidelines on Combating Sexual Violence and its Consequences* (previously cited), para. 53, p.41.

288 African Union, *Guidelines on Combating Sexual Violence and its Consequences* (previously cited), para. 56, p.42.

289 African Union, *Guidelines on Combating Sexual Violence and its Consequences* (previously cited), p. 19.

290 CEDAW, General recommendation 35 (previously cited), para. 33(b).

291 CEDAW, General Recommendation 35 on gender-based violence against women, updating general recommendation No. 19 (2017), UN Doc. CEDAW/C/GC/35, para. 47.

6. RECOMMENDATIONS

In-view-of the systemic barriers faced by women and girls survivors of rape in accessing justice that have been highlighted in this report, Amnesty International make the following recommendations:

To the National Assembly:

1. Repeal existing discriminatory laws, particularly the defective provisions on sexual violence in the Criminal and Penal codes.
2. Undertake comprehensive law reform and ensure that the provisions of statutory, Islamic and customary laws are in compliance with international human rights laws.
3. Repeal the provisions of the Criminal and Penal codes that decriminalise marital rape.

To the Executive:

1. Ensure the domestication and effective implementation of the Violence Against Persons (Prohibition) Act and Child Rights Act in all states across Nigeria.
2. Establish more shelters across the country and ensure their accessibility to survivors, both in rural and urban areas; at least one shelter in each of the 109 senatorial districts.
3. Ensure the collection of disaggregated statistical data on all forms of violence against women, including rape. These statistics should be disaggregated by gender, age, disability, year of report, relationship between the perpetrator and the survivor, number of prosecutions and number of convictions for rape, state where the case was reported, etc. Ensure that data is reviewed regularly and used to inform policymaking, resource allocation and other measures aimed at preventing and addressing sexual and other gender-based violence.
4. Ensure that all reported cases of rape are thoroughly, promptly and impartially investigated, perpetrators are prosecuted and if convicted, sentenced with appropriate penalties.
5. Ensure that survivors are provided with effective and holistic reparations that are proportional to the gravity of the harm suffered.
6. Design and promote human rights education and awareness campaigns that are targeted at addressing the root causes of sexual violence, the stigma surrounding it, victim-blaming, gender stereotypes and rape myths. This should be disseminated through both traditional and social media.
7. Provide appropriate continuous training for law enforcement agents, members of the judiciary and staff of relevant government ministries, departments and agencies working with survivors or perpetrators, in prevention and detection of sexual violence, comprehensive and appropriate handling of referrals and the needs and rights of victims, with the view of preventing “secondary victimisation”.
8. Provide adequate budgetary allocation to the National Agency for the Prohibition of Trafficking in Persons, National Human Rights Commission, Ministry of Women Affairs, Ministry of Justice and the Nigeria Police Force, to combat sexual violence and provide relevant support to survivors.
9. Provide necessary resources to hospitals, to ensure that they are able to provide free medical care for survivors of rape and other forms of sexual and gender-based violence.
10. Provide support to civil society organisations that are working on addressing sexual violence.
11. Ensure that the set-up of government ministries, agencies or departments where survivors report rape are such that privacy, comfort and safety of survivors are guaranteed.
12. Establish more Sexual Assault Referral Centres (SARCs) across the country. At least one SARC in each of the 744 local government areas.
13. Ensure that the Inter-Ministerial Gender-Based Violence Management Committee on Eradication of Sexual and Gender-Based Violence effectively undertakes its mandate to ensure effective, comprehensive and coordinated response to gender-based violence within the country.

To the National Orientation Agency:

1. Promote changes in the social and cultural patterns of behaviour of people of all genders, with a view to eradicating harmful gender stereotypes and myths around sexual violence through human rights education and campaigns across the country.

To the Judiciary:

1. Guarantee the right of survivors and witnesses to be protected against intimidation and reprisals, through all phases of investigation and prosecution. This includes through adequate support in court, not having to meet the defendant when appearing in court, in camera proceedings and prohibition of introducing survivors' sexual history into proceedings.
2. Guarantee access to appropriate and effective reparation for survivors of sexual violence.
3. Ensure that cases of sexual violence are fairly and promptly tried. Address any backlog of rape cases that may create unacceptable barriers for rape survivors' access to justice.
4. Continue to ensure victims' protection and safety during legal proceedings. For instance, by ensuring their access to free legal assistance from the beginning of the legal process and throughout the proceedings and in court.

To the Police:

1. Respond promptly and in a gender-sensitive manner to reports of sexual violence and adequately inform survivors of available medical, psychological and legal support
2. Ensure prompt, impartial and thorough investigation of all sexual violence cases. Such investigation must be gender-sensitive and in compliance with human rights law and standards
3. Ensure police stations are survivor-friendly and sensitive to the needs of survivors with disabilities. This includes provision of ramps, hearing aids, braille, interpreters and other necessary assistance
4. Ensure that measures to combat rape and other sexual violence crimes are prioritised, by allocating sufficient resources, both human and financial, to address these crimes.
5. Provide appropriate, systematic, mandatory, and continuous training for the relevant professionals working with survivors of sexual violence. This includes training on sensitive treatment of victims, the impact of trauma on survivors, evidence collection, interview techniques and other important skills and methods that contribute to improving the quality of rape investigations and rebut harmful myths and stereotypes around rape and rape victims.
6. Provide the necessary human and financial resources to the Police Gender Units across the country to aid their work in combating sexual violence as well as providing support to survivors. Such support should include provision of vehicles, confidential and conducive interview rooms, stationery, etc.;
7. Investigate allegations of corruption and breaches of the Police Act and the Police Code of Conduct. Police officers found liable must be subjected to disciplinary action and punished as relevant.
8. Ensure that the Police Gender Units have adequate resources and capacity to carry out their mandate.
9. Ensure that cases of sexual violence are not settled outside the criminal justice system.
10. Ensure that police officers provide all necessary support to survivors and act in line with the code of conduct for police officers. Provide accountability mechanisms for survivors to report and get redress in cases of mistreatment by police officers.
11. Ensure that survivors' privacy is consistently safeguarded when reporting rape and other sexual violence at police stations.

To the National Human Rights Commission:

1. Ensure survivors of rape and other sexual violence have access to protection, support and reparations.
2. Effectively document reports of rape and bring these to the attention of the relevant authorities.
3. Ensure prompt, impartial and thorough investigation of reports of rape.
4. Work with relevant authorities to prevent sexual violence, protect survivors, prosecute and punish perpetrators and ensure effective and adequate reparations to survivors.
5. Ensure regular, independent monitoring and evaluation of the handling of rape cases by the police and other law enforcement agents.
6. Conduct research and analysis into root causes of high rates of reported cases that do not proceed to court, with a view to systematically addressing them.

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NIGERIA: A HARROWING JOURNEY

ACCESS TO JUSTICE FOR WOMEN AND GIRLS SURVIVORS OF RAPE IN NIGERIA

Sexual violence is a worldwide crisis and Nigeria is not exempt from it. Over the years, there have been reports made public by individuals, civil society organisations and the media of widespread sexual violence, including rape. Following the lockdown during the COVID-19 pandemic in 2020, there was an upsurge in reports of rape across Nigeria.

This report documents barriers that women and girls survivors of rape face in accessing justice. Survivors interviewed for this report disclosed that they often face barriers such as stigmatisation, rape myths, gender stereotypes, lack of survivor-friendly reporting mechanisms, extortion and unprofessional conduct by some law enforcement agents. Furthermore, logistical costs, lack of survivor protection and support, lengthy legal process and other militating factors often impede survivors' quest to pursue justice.

Survivors that were interviewed for this report shared grave stories of the physical, emotional and psychological impact of rape undermining the enjoyment of their human rights. Survivors reported severe and long-term consequences of rape on their health and wellbeing. Some survivors suffered serious health complications such as Vesicovaginal Fistula, trauma, depression, low self-esteem, sexually transmitted infections, etc. For some survivors, rape results in unwanted pregnancy. Some girls interviewed by Amnesty International said rape-related pregnancy meant a temporary stop to their education. For others, an end to their education.

Amnesty International is calling on the Nigerian authorities to ensure that cases of rape are thoroughly, promptly and impartially investigated, perpetrators are prosecuted and if convicted, sentenced with appropriate penalties. Measures must also be in place to address the root causes of sexual violence, the stigma surrounding it, victim-blaming, gender stereotypes and rape myths. The authorities must ensure that survivors of rape are provided with effective and holistic reparations that are proportional to the gravity of the harm suffered.

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