

Terms of Reference

Individual/Institutional Contract

Title	A national consultant to undertake an assessment of sexual abuse cases before the Gender based Violence Courts.
Purpose	To understand the attrition rate of sexual abuse cases that come through the court and make recommendation for improving the handling of such cases.
Location/duty station	Accra with possible travel to other regions
Duration	16 weeks spread over 6 months
Expected Start Date	September 2020
Expected Fee	TBD
Reporting to	Child Protection Specialist - Justice for Children
Budget Code/WBS No	WBS/ 1620/A0/05/806/021/003
Project and activity codes	Activity 21.3
Support to	Judicial Service

1. Background

In rich and poor countries alike, violence or the threat of it constitutes a fundamental violation of the rights of women and girls. It constitutes a breach of fundamental rights to life, liberty, dignity, equality between women and men, non-discrimination and physical and mental integrity¹. After decades of sustained advocacy and legal reform, there are laws that criminalize violence against women and girls yet huge deficit in the punishment and sanctioning of crimes against women and girls still exists. The Declaration on the Elimination of Violence against Women defines violence against women as: “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.”²

It is the obligation of the state to exercise due diligence to prevent, investigate and prosecute acts of violence against women and children as established in international and national laws. Ghana like many other countries have made progress in the enactment of national laws such as the Domestic Violence Act, the Children’s Act and the Trafficking Act yet, the implementation of these laws remains far too slow for many people. Too often, the very infrastructure for justice- the Police, as well as the Courts sometimes fail to provide the requisite protection to victims of violence.

SDG 5- Achieving gender equality and empowering all women and girls is one of 17 goals for the United Nations 2030 Agenda and it is integral to all dimensions of inclusive Sustainable Development.

¹ See International Covenant on Civil and Political Rights (ICCPR), Preamble and Articles 2, 6, 7 and 9; African Charter on Human and People’s Rights, Articles 2, 4, 5, 6 and 18; Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); and the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa (the Maputo Protocol), Articles 2, 3 and 4.

² Declaration on the Elimination of Violence against Women adopted under General Assembly Resolution 48/104(1993) (DEVAW), Article 1.

Furthermore, SDG 16, which seeks to promote peace, justice and strong institutions for sustainable development, calls for an end to abuse, exploitation, trafficking and all forms of violence against children. Agenda 2030 requires urgent action to eliminate all forms of violence against women and children.

Globally, the tolerance for sexual violence results in low reporting, high attrition and individual and institutional biases against women and girls. Attrition is the term used to describe the phenomenon where cases fail to make it through the criminal justice system, and do not result in a criminal conviction. Attrition can take place at many junctures in the criminal justice process. Firstly, many incidents of violence may never be reported to the police. Although not strictly a stage of attrition, reporting to the police is a critical indicator of a victim's willingness to engage with the criminal justice system. As we may have it, domestic violence is largely underreported with rates persistently low when compared with prevalence studies on domestic violence. As a result, an increase in reporting rates is and should be seen as a performance indicator for successful domestic violence interventions.

The police and courts often perceive decisions made by victims as the main point of attrition. However, the willingness and thoroughness with which the courts are prepared to pursue a case, including the level of evidence collected, may also be crucial, as may the basis of decisions by prosecutors and the approach of courts. It is in this spirit that in 2012, the Judicial Service set up a specialized court, the Gender Based Violence Court. The objective of the court was to ensure the efficient and effective delivery of justice for cases of sexual abuse against women, defilement and rape as well as other sexual offence provisions within the Domestic Violence Act.

In December 2018, with the support of UNICEF, the Judicial Service further designated the Gender Based Violence Courts as Child Friendly Courts to address the rising number of sexual abuse of children³.

Thus far, significant efforts have been made to improve access to justice for women and girls who have suffered gender and sexual based violence. However, a lot remains to be done as there remains a historic deficit in the punishment and moral sanctioning of crime against women and children. Anecdotal evidence suggests that the percentage of women and girls reporting cases of sexual violence remains low. Even when the cases get reported, the process for attaining justice breaks down. Coupled with high attrition rate, few cases result in conviction.

The impact of violence has profound consequences for women, children, families and whole communities. The experience, and or exposure, of violence against children also violates the United Nations Convention of the Rights of the Child which requires the protection of children who are exposed to and witness family and domestic violence.

Prevalence of sexual violence is evident in the annual police report documents. Statistics from the Domestic Violence and Victim Support Unit (DOVVSU) indicate that in 2010, 986 cases of defilement

³ <https://www.unicef.org/ghana/press-releases/new-child-friendly-court-established-accra>

were reported. There was an increase in 2011, where 1,176 cases were reported. In 2014, 1,111 cases of defilement and 290 cases of rape.⁴ Only the reported cases were represented in the data.

Globally, reported cases of abuse is only a tip of the iceberg yet, even the numbers reported are not commensurately reflected in the number of convictions. Demands for the criminalisation of domestic violence found fertile ground over the past two decades, in the context of wider struggles for gender equality and women's rights and the rights of victims of crimes. Despite all developments in criminalizing and penalizing gender based violence, the criminal justice system's response to sexual and gender based violence has been, and continues to be, the subject of extensive and persisting criticism of the "justice gap" in processing and prosecuting those cases, in protecting victims from further harm and ultimately holding perpetrators accountable.

Currently, efforts such as the Case Tracking System are underway to improve the collection of national data on the number of cases of gender-based violence that come to the attention of the police, as there is currently no systematic process to track either referrals or judicial outcomes. For this reason, there is no existing baseline from which the effectiveness of the legal reforms penalizing violence against women and girls can be measured.

To better understand the gap between the policy and practice, and in order to design and implement programs that are informed by evidence, UNICEF will support the Judicial Service to undertake an assessment of sexual violence against women and children in order to improve the entire system for addressing outcomes for victims. This assessment will build on a previous assessment of "Children before the Courts".

The assessment is expected to identify attrition rates and factors that impact on the attrition rate. These may include but will not be limited to legislative and procedural provisions and reforms, the extent of the victim's right in the legal process and the cultural and stereotypes related to sexual offences. The assessment is expected to shed light on actors, institutions, systems and cultures that contribute to, but also hold the key to combating attrition.

The overall objective of the assessment is to contribute to ending violence against women and girls through strengthened due diligence. Specifically, the assessment will identify good practices and practices that should be improved based on the assessment. It will also seek to highlight institutional and substantive practices that cause impunity and attrition thereby undermining women and girls' access to justice while informing future legal reforms, policy making and programming.

Scope of the assessment

The assessment will focus on victims of sexual and gender-based violence with particular emphasis on those cases that are discontinued and thus fail to reach the trial stage and or result in conviction. The assessment will also look at efforts of the courts in advancing the cases, protecting victims and prosecuting and punishing perpetrators. The point is that when the justice system is responsive to

⁴ DOVVSU annual report, 2015

victim needs, and priorities and decisions resonate with the local context, the system seamlessly ensures meaningful social change and a reduction in the incidence of sexual violence can easily be achieved.

Low conviction rate of sexual violence offences may indicate a failure of one or more aspects of the criminal justice system to uphold the rights of victims to access justice. The assessment will thus examine where possible, the full range of components of reporting, investigations and the prosecution process such as Police investigations, committal proceedings and trials. Each of these steps in the process is considered as important in determining the outcome of a case and each provides important information on where and how attrition could occur and subsequently be reduced.

The assessment should further seek to explore how and why some cases are dropped from or exit the formal justice system including evidentiary challenges such as forensic examination or victim withdrawal. Such points of exit by extension can be located within the Police Service, the prosecution or the courts.

2. Purpose and objective of the Assignment

UNICEF Ghana in partnership with the Judicial Service of Ghana is seeking to engage the services of an individual Consultant with skills and technical expertise in conducting assessments. The overall objective of this assignment is to contribute to ending violence against women and girls through strengthened due diligence of the formal justice system.

The child protection team does not have the capacity to undertake the assignment. Thus, the assessment is very much result oriented and involves analyzing problems and making recommendations. Secondly, Judicial Service and UNICEF have jointly agreed on hiring a national consultant to support the assessment as it would be a bit challenging for Judicial Service to undertake this exercise.

The assessment is being undertaken to inform changes within the system that we lead to an improvement in the delivery of services to women and children. UNICEF in 2018 supported the Judicial Service to conduct a broader assessment of "children before the courts" which led to the establishment of child-friendly gender-based violence courts. It is expected that the current assessment will provide compelling findings for further advocacy and inform outcomes for women and children accessing justice.

3. Methodology

In undertaking the above assignment, a mapping of the sexual violence legislation and the legal process must be undertaken. A quantitative review of at least 100 case files must be undertaken. A qualitative interview through the use of semi-structured questionnaires should be undertaken, and focus group discussions with key informants will be imperative. The informants should include persons from the

justice actors, civil society groups that work to protect abused women and girls, including persons providing forensic or medical services.

The assessment does not aim to provide nationally representative data to measure or compare attrition rate. However, key factors that can impact on attrition for the purpose of addressing a reduction in the attrition rate should be identified. The study is limited to female victims of defilement or rape.

4. Tasks To be Completed

This assignment is expected to be for a duration of approximately 16 weeks and is anticipated to commence in July 2020.

In close collaboration with the Judicial Service and under the general guidance of the Child Protection Specialist (Justice) of the UNICEF Child Protection Programme, the Consultant will undertake the following tasks:

1. In consultation with partners and based on the review of some initial case files, determine the scope of the assessment.
2. Based on the initial assessment of case files, submit an inception report for the assignment. The report should among other things indicate your understanding of the assignment, the methodology to be employed and submit a detailed work plan for undertaking the entire process.
3. Undertake the assessment including reference to the legal processes. Where possible, the full range of components of reporting, investigations and prosecution process such as Police investigations, committal proceedings and trials should be looked at as each step is important in determining the outcome of a case and each provides important information on where and how attrition could occur and be reduced.
4. Submit draft report based on point (3) above. The report should include recommendations for improving the handling of Gender based Violence cases. As far as practicable the report should make graphical presentation to make the report easily comprehensible.
5. Organize and facilitate key stakeholder meeting to validate the report. Documenting inputs from stakeholders. Depending on the situation of COVID 19, meeting can be organized virtually.
6. Share final report with UNICEF incorporating feedback from the validation meeting.

5. Deliverables and time frame for submission

#	Activity	Deliverables	Duration
1	In consultation with partners and based on the review of some initial	Scope of assignment determined	2 weeks

	case files, determine the scope of the assessment.		
2	Based on the initial assessment of case files, submit an inception report for the assignment. The report should among other things indicate your understanding of the assignment, the methodology to be implored and submit a detailed work plan for undertaking the entire process.	Inception report submitted	2 weeks
3	Undertake the assessment including reference to the legal processes. Where possible the full range of components of reporting, investigations and prosecution process such as Police investigations, committal proceedings and trials should be looked at as each step is important in determining the outcome of a case and each provides important information on where and how attrition could occur and be reduced.	Case audit done	6 weeks
4	Submit draft report based on point (3) above. The report should include recommendations for improving the handling of Gender based Violence cases. As far as practicable the report should make graphical presentation to make the report easily comprehensible.	Draft reported submitted	2 weeks
5	Organize and facilitate key stakeholder meeting to validate the report documenting input from stakeholders. Depending on the situation, of COVID 19, meeting can be organized virtually.	Validation of draft report held and key inputs documented.	1 weeks

6	Share final report with UNICEF incorporating feedback from the validation meeting.	Final report submitted. Give specifications of your report	3 weeks
Total			16 weeks

Payment and Payment Schedule

The consultant will be paid fees based on specified deliverables and schedules of percentage instalments.

The contractual total amount is to be negotiated with successful applicant and UNICEF following established contractual processes.

Proposed payment schedule:

- 20% of fee upon completion of deliverable 1&2
- 40% of fee upon completion of deliverable 3&4.
- 40% of fee upon completion of deliverable 5&6.

Recourse: UNICEF reserves the right to withhold all or a portion of payment if performance is unsatisfactory, if work/outputs is incomplete, not delivered or for failure to meet deadlines.

6. Official Travel Involved:

Field visits are expected for this assignment to different regions where necessary. UNICEF will cover the cost for such field visits and arrange for transportation where feasible. All travels must be according to the workplan and travel plan approved by supervisor. The consultant/s will not be entitled to payment of overtime. All remuneration must be within the contract agreement.

7. Expected Qualifications, Experience, specialised knowledge/skills and competencies

The desired person/institution should have:

- Must hold a Master's degree in law or related field.
- At least five years professional experience in undertaking case audit or similar assignment
- Demonstrated experience in working with government partners and other stakeholders in public sector development programs especially in the area of capacity development.
- Demonstrate knowledge of the formal legal system
- Demonstrate excellent interpersonal and professional skills in interacting with government and development partners;
- Ability to work with minimal supervision;
- High level written and oral communications skills in English
- Must be result-oriented, a team player, exhibiting high levels of enthusiasm
- Skills in facilitation of stakeholder engagements/workshops;
- Evidence of having undertaken similar assignments;

- Experience in research, policy development, management and programming-related work

8. General Conditions: Procedures and Logistics

The consultant will work remotely but with regular meetings at UNICEF. It should be noted that the consultant is expected to arrange for his/her own transport facilities for commuting to the office. The consultant is expected to use his/her own computer, data storage devices.

9. Policy both parties should be aware of:

- Under the consultancy agreements, a month is defined as 21 working days, and fees are prorated accordingly. Consultants are not paid for weekends or public holidays.
- Consultants are not entitled to payment of overtime. All remuneration must be within the contract agreement.
- No contract may commence unless the contract is signed by both UNICEF and the consultant or Contractor.
- Unless authorized, UNICEF will buy the tickets of the consultant. In exceptional cases, the consultant may be authorized to buy travel tickets and shall be reimbursed at the “most economical and direct route” but this must be agreed upon prior to travel.
- Consultants will not have supervisory responsibilities or authority on UNICEF budget.
- Consultant will be required to sign the Health statement for consultants/Individual contractor prior to taking up the assignment, and to document that they have appropriate health insurance, including Medical Evacuation.
- The Form 'Designation, change or revocation of beneficiary' must be completed by the consultant upon arrival, at the HR Section

10. Copyright, Patents and other Proprietary Rights (if applicable)

11. Modality of Dissemination:

Advertising vacancy

Newspaper ☐ E-mail ☐ UNICEF Website ☐ Relief/External websites ☐
UN Agencies ☐

Other ☐ Please specify: (e.g. inviting experts in the field of)

Application Procedure:

Interested candidates should apply on-line to the link provided indicating their daily professional fees in Ghana Cedis