



BLACKSASH
MAKING HUMAN RIGHTS REAL



**Mobilising and advocating for fulfilment of human rights commitments:
Seminar on understanding the ICESCR and the MDGs**

Seminar Report Reflecting Voices and Perspectives
From Significant South African Civil Society Organisations

Cape Town
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Executive Summary

On 15 September 2010 civil society organisations and human rights institutions participated in a seminar to discuss South Africa's 2010 Draft Report on the status of its progress towards achieving the United Nations (UN) Millennium Development Goals (MDGs). The seminar took place against the backdrop of the MDG Review Summit that will take place at the United Nations in New York from 20-22 September 2010 as well as the UN's annual treaty signing event also taking place from 21 to 23 and 27 to 28 September 2010 in New York.

The seminar provided delegates with an opportunity to voice their experiences in advocating economic, social and cultural rights through their work with local communities. It also allowed delegates from local communities to voice their lived experiences. It further allowed delegates to provide comments on South Africa's 2010 MDG Draft Report that presents quantitative data on the progress towards achieving the MDGs in South Africa. Watson Hamunakwadi, Coordinator for the Global Call to Action Against Poverty in South Africa, provided an overview of the MDGs including the targets used to measure progress towards each goal. He explained the challenges and progress within South Africa's efforts to achieve the MDGs and set the scene for the discussions to follow.

In addition, the seminar aimed to provide an overview of the International Covenant on Economic Social and Cultural Rights (ICESCR) and its Optional Protocol (OP-ICESCR), and its link to the achievement of the MDGs. A presentation from Dr. Lilian Chenwi, senior researcher at the Community Law Centre at the University of the Western Cape (UWC), provided delegates with a comprehensive introduction to the provisions of the ICESCR ; the mechanisms under the OP-ICESCR and the role of the ICESCR in the international human rights architecture. The presentation also expressed the ICESCR and the MDGs as being mutually reinforcing while the ICESCR and the South African Constitution, in the main, presented common provisions towards human rights. Within this context it was emphasised that South Africa remains one of the few countries yet to ratify the ICESCR. At the conclusion of the seminar delegates adopted and signed a declaration calling for the South African government to ratify the ICESCR and the OP- ICESCR. The following points provide a summary of the key areas of concern and recommendations from the discussions following the formal presentations.

The following key points were raised during the presentations and discussions:

1. The MDGs lack the mechanisms of accountability as provided by international human rights instruments. The importance of South Africa ratifying the ICESCR and OP-ICESCR in order to strengthen achievement of MDGs and the realisation of basic human rights in general was emphasised;
2. Challenges to promoting awareness and understanding of the MDGs within local communities which affect implementation of the MDGs;
3. Concerns that the quantitative approach currently taken to measure the MDGs does not adequately reflect the realities of inequality and poverty in the South African and African context. Moreover, the multidimensional nature of poverty, with inordinately high unemployment rates and the highest Gini coefficient globally, require a unique approach;
4. Concerns over the absence of a comprehensive government social policy incorporating the implementation of the MDGs; and
5. Concerns about the quality of civil society engagement in the development of the South African report on MDGs 2010.

The following recommendations were made:

1. South Africa must ratify the ICESCR and OP-ICESCR to strengthen accountability mechanisms to effectively realise economic, social and cultural rights and achievement of MDGs;
2. South Africa must establish a streamlined and efficient MDG monitoring process, by identifying government offices to oversee the process. Improving communication consultation and engagement between civil society and government must be central to this;
3. Reporting on the implementation of the MDGs in South Africa must include qualitative assessments that reflect local conditions; and

4. Support from government, especially local government, is needed to provide localised awareness and realisation of human rights and the MDGs at district and community levels.

List of participating organisations and institutions

The 55 participants at the seminar were from the following organisations and institutions:

- Abahlali baseMjondolo (Western Cape)
- Alliances for Children's Entitlement to Social Security (ACCESS)
- Africa Unite
- Africa Monitor
- Athlone Advice Centre
- Black Sash
- Catholic Parliamentary Liaison Office (South African Catholic Bishops Conference)
- Christian Blind Mission (CBM)
- Commission on Gender Equality
- Community Law Centre , University of the Western Cape (UWC)
- Die Hawe Skuiling en Orientasie
- Harold Wolpe Memorial Trust
- Gender Advocacy Programme (GAP-SA)
- Global Call to Action against Poverty
- Good Governance Learning Network - Isandla Institute
- Gold Peer Education
- Manenberg Development Co-ordinating Structure
- Manenberg Backyarders
- National Welfare Social Service and Development Forum
- Open Society Foundation of South Africa (OSF-SA)
- Peoples' Health Movement South Africa (PHM-SA)
- Rural Women's Movement South Africa
- Scalabrini Center
- South African Council of Churches
- South African Domestic Service and Allied Workers Union
- South African Human Rights Commission
- School of Public Health (University of Cape Town)
- Treatment Action Campaign (TAC)
- World March of Women

Key Points of Discussion

- **Establishing a link between the MDGs and the ICESCR**

The Community Law Centre UWC, provided an overview of the ICESCR provisions and the OP-ICESCR mechanisms. It was explained that South Africa remained one of the few countries that had not ratified the ICESCR. The ICESCR and the MDGs were explained as mutually reinforcing as they shared common objectives, namely, to protect and uphold human dignity, freedom and equality. The ICESCR is a human rights treaty that is at the core of the link between development and human rights, securing important rights necessary for sustainable human development. It is a guiding tool for the adoption and implementation of socio-economic policies and legislation, especially those called for in the MDGs. It clarifies the duties and role of the state in achieving the MDGs. This ensures that the Goals will be pursued in an equitable, just and sustainable manner. Furthermore, ratification of the ICESCR would strengthen the MDGs because the ICESCR provides a legal obligation and an accountability framework for ensuring that development needs are fully realised. The rights in the ICESCR also provide principles and operational strategies to address problems that are at the centre of the MDGs.

- **Challenges to promoting awareness and understanding of MDGs within local communities**

Representatives from *Die Hawe Skuiling en Orientasie*, *Abahlali baseMjondolo* and the South African *Council of Churches* emphasised the lack of awareness and understanding of the MDGs within local communities. It is difficult for communities in rural areas, and especially informal settlements, to relate the concept of the MDGs to their social, economic and cultural rights and needs or the effect that the achievement of the MDGs would have on their local realities. Lack of support from local government towards NGOs makes it difficult for local communities to become aware of the relevance of the MDGs in their everyday lives. This makes it difficult to localise the MDGs in communities according to their specific situation and needs. Effective participation and support from local government is needed in order to educate and spread awareness of the MDGs in this regard.

The South African Council of Churches and *Commission for Gender Equality* suggested that a 'common language' is needed for everyone to commonly understand the MDGs and how they should be achieved. This should be presented in the local language and in a way that will make it easy to understand. This will facilitate the idea that the MDGs are not the goal, but rather a means to address issues of poverty on the ground. Similarly, *World March of Women* suggested that these efforts should also adopt a bottom-up approach - from the ground up through the work of NGOs - and should

not only rely on a top-down approach. A bottom-up people's-based approach would ensure success of the MDGs at district level according to local needs.

Black Sash and *Treatment Action Campaign* added that civil society organisations need to empower and mobilise themselves too and not wait for government to lead the way in educating local communities. They noted that those on the ground are best placed to assess the needs of the people they are working with, and how to relate to them. Therefore organisations need to think of ways to integrate awareness of the MDGs in the implementation of their various activities. *Black Sash* suggested that organisations provide an explanation of what the MDGs are on their websites, as well as the reasons of the creation and adoption of these commitments for local communities to read.

- **Concern that the quantitative approach currently pursued to measure the MDGs do not adequately reflect the realities of inequality and poverty in the South African and African context. Moreover, the multidimensional nature of poverty, with inordinately high unemployment rates and the highest Gini coefficient globally, require a unique approach**

The emphasis on quantitative measurements of the progress of the MDG targets was highlighted as a problem. This is because numerical data will not provide accurate assessment of the quality or duration of access to the services to which they apply. Representatives from the *South Africa Human Rights Commission* and *Global Call to Action against Poverty South Africa* stated their concerns on this and it was reiterated by *Black Sash*. The *Community Law Centre UWC*, in highlighting the relevance of the ICESCR to achieving the MDGs, also stated that a human rights approach to the MDGs would counter a possible tendency of MDG analysis focussing on figures and as a result overlooking the emphasis on human dignity, and the worth of every person. A number of organisations noted that many of the figures in the South Africa 2010 MDG Report were not an accurate reflection of the situation on the ground:

- **MDG 1:** In particular, *People's Health Movement South Africa* emphasised that the increase in GDP per capita did not reflect the growing inequality and income disparity found in South Africa. As the gap between the rich and the poor continues to grow, and the reliance on government social grants continues, sustainable development in the country will not be achieved. The South Africa 2010 MDG Report showed a decrease in the number of those living in poverty, yet the levels of employment had not increased and South Africa's Gini-coefficient had increased. Thus while the GDP has increased so has poverty deepened or at best, stagnated.
- **MDG 4, 5 and 6:** The *Rural Women's Movement* and *Peoples Health Movement South Africa* stated that access to basic services at the local level, especially in the rural areas

remained a challenge. *Peoples Health Movement South Africa* explained that women's health in South Africa has not improved and maternal deaths are increasing while children continue to die from preventable disease (see Annex I). Failure to achieve the health targets within the MDGs were also seen as a failure to achieve the other MDG targets as each of the Goals are interconnected and interrelated.

The South Africa 2010 MDG Report shows that more people now have access to anti-retroviral medication. However, the *Global Call to Action against Poverty South Africa* emphasised that this did not take into account the quality of medical treatment and health services rendered to these patients. In addition, the *Rural Women's Movement* explained an example in one area in KwaZulu-Natal where the prevalence of HIV was shown to have dropped from 89% last year to 76% this year. However, this was only due to the high level of mortality and not because of improvements in access to healthcare and medical assistance.

The *People's Health Movement South Africa* explained that the under-5 mortality rate is growing as the latest report from the World Health Organization indicates a credible figure of 67 out of every 1000 live births. This is an increase from 60 in 1990 and further from the MDG target of 20. The progress for MDG 5 is equally disheartening. With a target of 38 maternal deaths for every 100000 live births by 2015, recent estimates indicate a figure of between 147 and 575, with no sign of improvement (see Annex I). The source of the data released in the South Africa 2010 MDG Report regarding the under-5 mortality rate of 104 per 1000 was also questioned.

Representatives from *Gold Peer Education* and *People's Health Movement South Africa* also stated that setting up a formalised training programme nationwide for community health workers could also assist with increasing the quality of health services rendered to communities. In addition, unemployed youth with school leaving certificates South African school leavers could be integrated into this area as a source of employment.

- **MDG 2 and 3:** The *Alliance for Children's Entitlement to Social Security* and *Global Call to Action against Poverty South Africa* questioned the quality and type of education received when looking at the data in the South Africa 2010 MDG Report. Similarly one could question what level of literacy is being measured with the data presented, as a basic and rudimentary level of literacy would not necessarily allow an individual to become a self-sufficient and economically productive member of society. It also does not indicate whether the levels of literacy would improve once basic literacy was achieved. *Black Sash* and *The Rural Women's Movement* also stated that the employment, education and empowerment of women should be emphasized as it represents more than half of the population of South Africa.

- **MDG 7: *Global Call to Action against Poverty South Africa*** questioned the data referring to access to water and sanitation as the target did not state the conditions of this access. For example, would access to an open toilet count or a dripping tap be seen as adequate, and what would the duration of this access be? The *South Africa Human Rights Commission* gave the example of the recent “Macassar toilets case” which brought to the fore the need for human dignity in the provision of human rights and the increasing concern about the quality of water provided in rural and poorer municipalities.
- **Concern over the absence of comprehensive government social policy incorporating the implementation of the MDGs**

Comments from the *People’s Health Movement South Africa*, *Global Call to Action against Poverty South Africa* and *Alliance for Children’s Entitlement to Social Security* alluded to the absence of a clear government plan on the provision of basic services, especially health, or even a clear definition of poverty in South Africa. Furthermore, there was no policy link between the provision of social, economic and cultural rights as enshrined in the South African Constitution, and the achievement of the MDGs. This was identified as a challenge to monitoring and assessing the MDGs in South Africa.

A representative from *Die Hawe Skuiling en Orientasie* also stated that a formalised mechanism to hold government accountable towards achieving the MDGs was lacking. This lack of accountability, together with a lack of transparency in the monitoring and evaluation of the MDGs in South Africa as mentioned by *Black Sash*, prevented an efficient partnership between civil society and government from being formed. The *Community Law Centre UWC* suggested that ratifying the ICESCR and OP-ICESCR would provide such accountability. It stated that principles of accountability, participation, equality and non-discrimination in the ICESCR would ensure more commitment and transparency in efforts for achieving the MDGs through clarification of the duties of South Africa.

Conclusion

The key points mentioned above provide an overview of the important challenges faced by communities in the enjoyment of economic, social and cultural rights, and by civil society organisations in advocating for and working towards the realisation of these rights in South Africa. These challenges have been linked directly to the achievement of the targets set out under the MDGs. The organisations and institutions represented at the seminar committed to continue their mobilisation and advocacy for effective realisation of human rights through their work. To this end, the delegates adopted and signed a declaration calling for the South African government to realise basic human rights in the country and to ratify the ICESCR and Optional Protocol (see Annex II).

Recommendations

The following recommendations were provided during discussions:

- **South Africa must ratify the ICESCR and OP-ICESCR to strengthen accountability mechanisms to effectively realise economic, social and cultural rights and achievement of MDGs**

Ratification of the ICESCR and the OP-ICESCR would ensure and strengthen South Africa's formal commitment to the provision and protection of human rights as well as its commitment to meeting the MDGs. The ICESCR and OP-ICESCR would provide accountability and impose a legal obligation for compliance with the MDGs. The ICESCR is a guiding tool for the adoption and implementation of socio-economic policies and legislation, particularly those that are called for in the MDGs. The principles and operational strategies in the ICESCR should be the criteria when establishing tools for measuring progress towards the achievement of MDGs, because they are relevant to addressing the problems that are at the centre of the MDGs. Furthermore, ratification of the ICESCR and the OP-ICESCR will show commitment from South Africa towards the international human rights system and accountability to not just the people in South Africa but also to the international community. The OP-ICESCR would also provide people in South Africa with formal recourse in the case of human rights violations, by providing a formalised mechanism for them to hold the state accountable.

- **South Africa must establish a streamlined and efficient MDG monitoring process, by identifying government offices to oversee the process. Improving communication consultation and engagement between civil society and government must be central to this**

This includes identifying specific Government offices to oversee the process, and serve as the point of call for civil society to provide inputs. Civil society organisations should play an ongoing role in the monitoring of the MDGs in South Africa and be given regular opportunities to communicate directly with government. In this way, civil society organisations as well as communities will play a more meaningful role in the MDG process beyond consultation to validate the completed MDG report.

- **Reporting on the implementation of the MDGs must include qualitative assessments that reflect local conditions**

The current emphasis on measurement of poverty alleviation through quantitative analysis does not provide a comprehensive understanding of poverty in South Africa. Rather, the process of implementation should use both qualitative and quantitative analyses. Assessment of the quality of

service provision and empowerment of people should be examined in terms of the meaningful and sustainable difference it can make to the lives of ordinary people. Civil society organisations and human rights institutions should play a significant role in providing these qualitative assessments to Government. Government should also provide the space for such inputs.

- **Support from government, especially local government, is needed to provide localised awareness of human rights and the MDGs at district and community levels**

Local government should be trained and educated on the concept of the MDGs and its applicability to local contexts. It is acknowledged that civil society should play a proactive role in raising awareness of the MDGs and human rights at its most basic level. However, support from local governments will ensure that more available resources can be mobilised towards this end. NGOs and local government should work together to ensure that public education on the MDGs and human rights issues is provided in local languages, in terms that are understandable and easy to relate to local contexts.

Annex I



South Africa's progress in achieving its millennium development goals in health

Comment by the People's Health Movement

The advent of democracy after a long and bitter liberation struggle brought major achievements in terms of human rights in South Africa. Among the most notable are the ratification of the UN Convention on the Rights of the Child in 1995 and – even more important – the adoption of a Constitution that embodies not only civil and political rights, but also the social and economic rights of all. The critical importance of including social and economic rights in the constitution is that these rights oblige the state to improve conditions that are harmful to social justice and equity, human dignity and health, including lack of adequate nutrition, decent housing, unhealthy living conditions, and lack of access to good health care and education.

More recently, in 2001, we adopted the Millennium Development Goals (MDGs), a UN initiative to focus poor and middle-income countries on specific targets related to the living conditions of their people.

Though all eight Millennium Development Goals (MDGs) have major implications for the nation's health, MDGs 4, 5 and 6 relate directly to health outcomes. They commit us, by 2015 to:

- reduce the number of children who die before their 5th birthday by two thirds (MDG 4)
- improve maternal health so that the number of mothers who die when giving birth is reduced by three quarters (MDG 5), and to
- combat HIV, AIDS, malaria and other diseases so that there is no more spreading of HIV and there is universal access to treatment for all those who need it (MDG 6).

The fact that we, as a nation, have committed ourselves to these goals is something all South Africans should all be proud of. However, there has been very little progress – and in some cases reversal of progress – in the achievement of the MDGs.

Assessing progress toward achieving the MDG targets is made difficult because the available data sources give varying figures, but even the most optimistic data show lack of progress with respect to the targets for MDGs 4 and 5, and disappointing progress for MDG 6.

In 1990, the number of children out of every 1000 born alive (Under-5 Mortality Rate, U5MR), was 60, giving us a target for MDG 4 of 20. Current estimates for U5MR vary from the mid-60s to over 100 depending on data source. The newly-released progress report from the World Health Organisation

(WHO) ¹ gives a credible figure of 67 for the U5MR in 2008, indicating that instead of decreasing, South Africa's U5MR is increasing; we are moving away from our goal. The progress for MDG 5 is equally disheartening. With a target of 38 maternal deaths for every 100 000 live births by 2015, recent estimates indicate a figure of between 147 and 575, with no sign of improvement.

A recent analysis by respected South African and international experts in *The Lancet*, one of the world's most authoritative and development-orientated medical journals, shows that there has been no progress in achieving MDG 5, insufficient progress with respect to MDG 6, and reversal of progress with respect to MDG 4. ²

Thus, a decade and a half after the achievement of democracy, South Africa's women and children remain highly vulnerable. Women's health is showing no sign of improvement, and our children are getting sicker. Far too many die in early childhood and these deaths are due to preventable diseases, mostly related to poverty and inequality.

At the same time, the health services are inequitable and facing a crisis of their own. Public sector health care institutions are dysfunctional because of staff shortages and poor morale, while the private sector, which can only cater for a minority with a lower disease burden, is unaffordable.

This situation is not sustainable. It is simply not something we should accept as a nation.

What is to be done?

A large proportion of child deaths can be averted if interventions known to be effective in saving child lives and promoting child health could be successfully delivered to the most vulnerable at the right time. Breastfeeding is the most potent intervention to reduce infant and child mortality from diarrhoea, pneumonia and neonatal infections; improved hygiene, Vitamin A and Zinc supplements help prevent diarrhoea; clean conditions at birth reduce neonatal deaths; and Nevirapine reduces HIV transmission.

Two interventions - oral rehydration therapy and breastfeeding could each prevent over 10% of all deaths, while a further six interventions for which there is good evidence of efficacy (insecticide treated materials, improvement of complementary feeding, antibiotics for neonatal sepsis, antibiotics for pneumonia, anti-malarial treatment, and preventive zinc supplementation) could each prevent at least 5% of child deaths.

Care of mothers before and during pregnancy can be greatly enhanced through key preventive actions such as promotion of modern contraceptive methods and improving nutrition, including the provision of micronutrients. Safe delivery care by skilled personnel, access to 24 hour emergency

¹ Lawn, J., Berman, P., Daelmans, B. Laski, L., Victora, C., Mason, E., 2010. *Countdown to 2015 decade report (2000–2010): taking stock of maternal, newborn and child survival*. [PDF].

Available from: www.countdown2015mnch.org [accessed 15 September 2010]

² Chopra, M.,Lawn, J.E., Sanders, D., Barron, P., Abdool Karim, S.S., Bradshaw, D., Jewkes, R., Abdool Karim, Q., Flisher, A.J., Mayosi, B.M., Tollman, S.M., Churchyard, G.J., Coovadia, H., 2009. Achieving the health Millennium Development Goals for South Africa: challenges and priorities. *Lancet*, **374** (9694), p. 1023-1031. doi:10.1016/S0140-6736(09)61122-3.

obstetric care, and care in the vulnerable immediate post delivery period are all essential to reduce maternal illness and death. Such actions to improve maternal health outcomes have been shown to improve newborn and young child health and survival: it is important to connect care-giving across the continuum for maternal, newborn and child health. Without healthy mothers there cannot be healthy children.

While accessibility of health care, especially at family and community levels, is key in the case of child and maternal health and can be significantly enhanced through a network of community-based health workers, the experience of implementing primary health care in the 1980s and 1990s highlighted the crucial importance of functional and supportive health systems, especially at the clinic and community health centre level.

Sustaining improvements in the health and well-being of young children and their mothers will require not only ensuring access to life-saving interventions but also improving their living environments. It will require improved nutrition (which improves immunity), as well as reduced exposure to infection. Improvements in nutritional status demand early initiation of and extended breastfeeding, safe and nutritious complementary diets, and ultimately improved household food security.

Limiting exposure to infectious agents requires improved environmental services, especially access to safe sanitation and sufficient clean water, as well as reduction in smoke exposure from burning fossil fuels in poorly ventilated homes. Most of these factors operate at the household level, and involve changes in behaviour and availability of health and health-related services for the behaviour to be practised. In recent years, there has been increasing recognition of the importance of health systems in delivering the above effective interventions. However, the conception of health systems does not always include sufficient focus on the community and family level, despite the evidence that much prevention and treatment can be successfully undertaken at these levels.

The People's Health Movement in South Africa therefore supports the National Department of Health's proposal for a National Health Insurance as part of its Ten Point Plan to address the current problems in the health system. We urge the Minister of Health to take the nation and civil society into his confidence and to open the proceedings of the Ministerial Advisory Committee on the NHI to scrutiny and public participation.

We strongly call for a single integrated National Health System founded on the principles of Primary Health Care including equity, social solidarity and community participation, together with an inter-sectoral approach to address the social determinants of ill health.

Annex II



15 September 2010

Declaratory framework for organisations and individuals to support the ICESCR Ratification Campaign

We know that ratification of the ICESCR can ensure that, when government does nothing, for example to --

- protect you,
- ensure that you are provided with housing;
- prevent you being denied medical care to deliver your baby because you cannot pay the bill;
- hold a company accountable which has polluted our water supply and made it unsafe to drink;
- assist those left without food for one's children even though government has lots of surplus food and resources

We have a real opportunity to hold government accountable.

South Africa -- Sign the ICESCR and its Optional Protocol!

We as citizens and civil society representatives are ratifying the ICESCR **NOW!**

We, the undersigned organisations and individuals, now armed with a deeper understanding of the importance of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and its Optional Protocol in enhancing local and global social justice, call on Parliament and Government to ratify these important and critical treaties in international law.

President Zuma, Honourable Member Sisulu, as leaders of the Executive and Legislature of South Africa, we urge you to ratify this important Covenant and its Optional Protocol to ensure that all our human rights are protected and victims of all human rights abuses are provided with access to effective remedies.

By doing so, you will demonstrate to all who live in South Africa a clear commitment to further protecting basic human rights and ensuring that all people, particularly those living in poverty, can access justice and hold governments to account when their rights are denied. Moreover, it will also strengthen the legal recognition and implementation of economic, social and cultural rights in South Africa and around the world.

We appreciate that some work has been done by our government to ensure economic, social and cultural rights for all. However, this is not enough. For too many people, the rights to adequate housing, food, water, health, work and education are denied on a daily basis. We demand that Government demonstrates commitment to promote our right to participation by being transparent and sharing information with civil society and communities directly. Now please fulfil these obligations under international law commitments.

We are therefore gravely concerned and, along with most people in South Africa, we are now growing impatient, given that South Africa signed the ICESCR on 03 October 1994. Now, almost 16 years later, we have still not ratified it, leaving us embarrassingly as one of the few countries in the world that has not ratified the Covenant. South African Government officials have stated on several occasions at both the national and United Nations levels that it is in the process of ratifying the ICESCR; and various United Nations bodies, officials, other states and civil society groups have repeatedly called on South Africa to ratify this important treaty and its Optional Protocol.

We/I therefore, as an individual or organisation, add our voice to the growing number of concerned organisations and people by signing the ICESCR and Optional Protocol.