

Challenges Undermining Domestic Violence Victims' Access to Justice in Mampong Municipality of Ghana

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Abstract

Domestic violence is severe human rights predicament that transcends cultural, economic, social and religious ranks. It hinders human dignity, health and in the long period become a main problem to socio-economic and political growth. This study examined the challenges undermining domestic violence victims' access to justice in Mampong Municipality of Ghana. Qualitative research designed was used for this study and sample size for the study was 80 respondents. The study population comprised all individuals who were presently residing at Mampong Municipality and have been a victim of domestic violence after the coming into force of the Ghana's Domestic violence Act 732 of 2007 and the study used purposive and snowball sampling methods in selecting respondents. In-depth unstructured interview and observation were the research instruments used to collect the data. Interviewees said infidelity, polygamous relationships, and quarrels over maintenance, substance abuse including alcohol and limited economic opportunities as a result of unemployment are the major causes of domestic violence and all the respondents hold the belief that domestic violence is a private, family issue which discourages Ghanaian domestic violence victims' from reporting their abuses to the justice system and this creates huge pressure on victims to settle domestic violence matters privately and this affects the response of the criminal justice system. The study concluded that domestic violence is a multifaceted process influenced by numerous factors and domestic violence is a pervasive problem in Ghana and recommended that an efficient approach should be adopted to expose the wickedness in domestic violence to the people. Policy makers should put in place programmes targeted at individuals to inculcate in them the culture of frowning on domestic violence without compromise.

Keywords: domestic violence, justice, human rights, spousal abuse, social protection, Ghana

1.0 Introduction

Domestic violence is numerously branded as domestic abuse, spousal abuse, family abuse or spousal partner violence is a universal impediment that is more and more attracting the interest of citizens, states, and the international community. Domestic violence is assuming national and international attention (Amnesty International 1995). It is a kind of violence that is ubiquitous in many homes, and the World over. It is a type of violence that occurs in the form of defilement, assault, sexual harassment, and rape or battering, child abuse, for example denial of right, necessities and opportunities, threatening patterns of communication such as insults, harassment, neglectful lack of action.

Domestic violence is a worldwide predicament, and it harmfully affects victim further than the in need of attention harm caused by domestic violence. It also confines victim's economic, social and political capability, since their options are embarrassed indirectly or directly. Domestic violence perpetrators frequently and unswervingly hinder the victims' choices by using violent behaviour or the intimidation of violence to coerce observance of their decisions. Violence can indirectly affect victim's socio- economic and political capacity. The greater than before attention has elicited a number of responses from diverse actors seeking to decrease domestic violence.

According to the United Nations General Assembly (1993), gender based domestic violence involves men and women and more often than not results in physical, sexual, or psychological harm or suffering to the victims. It also includes threats of such acts, coercion or arbitrary deprivation of liberty. A study from World Health Organisation (1996) indicates that between 16% and 52% of women worldwide are physically assaulted by an intimate partner at least once in their lives. A study from World Health Organisation (1996) indicates that between 16% and 52% of women worldwide are physically assaulted by an intimate partner at least once in their lives. In addition, according to the Inter-American Development Bank's special report on domestic violence in 1999, gender based violence results in direct loss of money due to

health care, police, court costs and productivity. Besides financial losses, gender based violence has also been identified as a contributory factor to maternal mortality rate by 55 percent (World Bank, 1993).

Further, the World Health Organisation in 1996 documented that, among women aged 15-44 years, gender violence often leads to death and disability. In addition, studies in India, Bangladesh, the USA, Papua, New Guinea and Peru indicate a high correlation between domestic violence and suicide rates (WHO, 1997).

Ghana is no exemption to the worldwide incident of prevalent domestic violence. An in-depth all over the country study on violence against women and children in Ghana, dubbed “Nkyinkyim” Project, conducted by the Gender Studies and Human Rights Documentation Centre (GSHRDC) in 1998 exposed that, one in three Ghanaian women experience physical violence in the hands of a past or current partner, three in ten Ghanaian women admitted to having been forced to have sex by their male partners, and 27% of Ghanaian women had experienced psychological abuse, including threats, insults, and destruction of property (Cusack, Prah, Appiah, Coker & Gadzekpo, 1999).

The up to date trends and latest reported cases of death resulting from such spousal attacks are alarming, and are of great concern to the International Federation of Women Lawyers (FIDA-Ghana). Recent reported incidences of spousal killings in Ghana are all indicative of the fact that a lot more needs to be done by all stakeholders to avert this menace. It is unclear what triggers such actions from spouses but reasons have been attributed to among others, suspicion of a spouse having an affair to the threat of divorce.

In recent years, marital issues have persistently ranged as the highest of all the cases presented to the Legal Aid Services Center of the International Federation of Women Lawyers, (FIDA-Ghana). Between 2010 and 2012, the center recorded 347 cases on various issues around marriage. Out of the number 146 cases were related specifically to abuse. Statistics report from the Domestic Violence and Victims Support Unit of the Ghana Police indicated that 15,495 cases of battered women were reported in 2011 as against 2,474 reported incidents of battered men.

Nongovernmental organizations, legal experts and international organizations have advocated for governments to address this widespread issue as part of a multidimensional approach to end domestic violence. The 1945 Universal Declaration of Human Rights (UDHR), International Covenant on Social and Cultural Rights, and the International Covenant on Civil Political Rights are among the key components of the international bill of rights that promote and safeguard all persons and ensure that every person regardless of race, sex, creed or colour is treated equally. The United Nations General Assembly, in its realization of the perennial violence against women, adopted at its 85th plenary meeting on December 20, 1993, the Declaration on the Elimination of Violence against Women (DEVAW).

Attempts to address the issue in Ghana saw the establishment, in 1998, of a specialized unit called the Women and Juvenile Unit (WAJU) in the Ghana Police Service, now Domestic Violence and Victim Support Unit (DOVVSU), toward the control of domestic violence. Also a complete Ministry, known as Ministry for Women and Children’s Affairs was established in 2001 to focus on the interest of women and children. Again the Government of Ghana, in its efforts to control domestic violence, tabled a Domestic Violence Bill in Parliament in 2001 and several other pressures saw its passage in 2007. Many feminists deemed the objective of the Bill as providing a comprehensive set of provisions to govern and protect the rights of the vulnerable in the home.

The persistent actions of the Commission on Human Rights and Administrative Justice (CHRAJ), Social Welfare, as well as Non-Governmental Organisations (NGOs), such as The then International Federation of Women Lawyers (FIDA), The Ark Foundation, among others are instances of ‘governmental agencies’ and non-governmental organisations hard work to clamp down on domestic violence in Ghana. Every bit of these actions and the amplified reportage on domestic violence in the Ghanaian mass media are signs of a high level of responsiveness, consciousness and enthusiasm on the fraction of people to speak out and report domestic violence cases. In the past, as it is now in some societies, people either felt ashamed or embarrassed to mention or discuss or report cases of domestic violence.

1.1 Statement of Problem

The pervasiveness of domestic violence raises concerns on the subject of human rights protection. Domestic violence is a grave predicament that transcends racial, political, economic, social and religious ranks. More so, it affects human health, hinders human dignity and in the long term turns out to be a most important negative aspect to economic improvement. When families get involved in gender -based violence, a lot of time is spent in settling of disputes and nursing psychological and physical wounds of violence.

Numerous studies have comprehensively focused on men and their violent behaviour as a significant cause of violence against women in conjugal relationships (Deird & Connie, 2009; Nancy, 2008; Ellsberg & Hesse, 2005; Walker, 2000; Buzawa & Buzawa, 1990), but literature on domestic violence victims' access to justice is very limited. The Domestic Violence Bill passed into law by Ghana's parliament on 21st February, 2007, brought a new hope for all including women advocacy groups. In 2010, the National Coordinator of the Domestic Violence and Victims Support Unit in Ghana reported that her outfit recorded about 109,784 cases of violence against women and children (Ghanaweb, 2010).

It is an established fact that in spite of the legal provisions to combat the canker of domestic violence in Ghana and the public stand against domestic violence, still there are issues hindering domestic violence victims' access to justice to bring perpetrators to face the laws of the land to deter others and promote the freedoms of fundamental human rights. It is acknowledged that victims' access to justice will help deal with the act of domestic violence in Ghana. In light of this, it is therefore very imperative to examine the challenges undermining domestic violence victims' access to justice in Ghana.

1.2 Objectives of the Study

The general objective of the study was to examine the challenges undermining domestic violence victims' access to justice in Mampong Municipality of Ghana. The specific objectives of the study were the following:

1. To assess the causes of domestic of domestic violence in Mampong Municipality.
2. To determine the effects of domestic violence on victims.
3. To ascertain domestic violence victims' knowledge on legal remedies available to them.
4. To find out the challenges undermining domestic violence victims' access to justice.
5. To offer recommendations to help domestic violence victims' to have access to justice.

1.3 Research Questions

The general research question for the study was to examine the challenges undermining domestic violence victims' access to justice in Mampong Municipality of Ghana.

The study was guided by the following specific research questions:

1. What are the causes of domestic of domestic violence Mampong Municipality?
2. What are the effects of domestic violence on victims?
3. What is the extent of domestic violence victims' knowledge on legal remedies available to them?
4. What are the challenges undermining domestic violence victims' access to justice?

1.4 Significance of the Study

The predicament and setback of domestic violence is a national concern, and may not be restricted to the vicinity in which the study was carried out. The findings of this study are likely to make clear to individuals and the society on the challenges undermining domestic violence victims' access to justice in Ghana. Furthermore, the study is expected to update Human rights protection and promotion institutions to be acquainted with domestic violence victims' access to justice and present support services where required. Moreover, the findings of the study should draw awareness to governmental and non-governmental organizations involved in combating for human rights and particularly those against domestic violence so that they possibly will strengthen their activities and formulate policies in dealing with this unlawful violence. Finally, this study could be used as a basis for future research.

2.0 Literature Review

2.1 Meaning of Domestic Violence

The definition of domestic violence varies fairly to a large extent from different scholars and organizations. Report of the Task Force on Violence against women defined domestic violence as: "*The use of physical or emotional force or threat of physical force including sexual violence, in close adult relationships...the term 'domestic violence' goes beyond actual physical violence...and can also involve emotional abuse, the destruction of property, isolation from friends, family and other potential sources of support; threats to others including children; stalking; and control over access to money, personal items, food, transport and the telephone.*" (Task Force 1997: 27).

The United Nations General Assembly also defines domestic violence as: “A range of sexually, psychologically and physically coercive acts used against adult and adolescent women by a current or former intimate partner without her consent” (UN General Assembly, 2006). According to FIDA, domestic violence is an assault, generally involving adults in an intimate and usually cohabiting relationship. It can also involve children within the household, house help and even infants. Domestic violence represents a pattern of behaviour rather than a single isolated episode. It can involve pushing, punching, slapping, forcing sexual activity or using a threat, of violence to control another’s behaviour. It can lead to serious injury or death (FIDA Handbook, 2005).

According to Coalition on Violence against Women (COVAW, 2003) Domestic violence within the home is about power and control, where the perpetrator of the same uses violence as a way of immobilizing the other. Gender based violence is violence directed at individuals on the basis of their gender and boys and men can also be the target (Barnes, 1999). Gender based violence is acknowledged as a violation of human rights and a constraint to development throughout the world (WHO, 1999). It affects women and men, girls and boys of all ages in different ways. However, females are more often the victims than males, with children and women with disabilities facing the most challenges (Hesse, 1998)

Domestic violence has been outlined by Amnesty International as most violent attacks on an individual or group of people or women. It involves physical, sexual and psychological violence in the family including battering, sexual abuse of female children in the household, dowry related violence, marital rape, female genital mutilation and other traditional practices harmful to any member of the household. Domestic violence may be exhibited by any member of the household. Domestic Violence in countless cases occurs within the privacy of the home. It is an offence that can stay on unknown to the outside world and go overlooked to all with the exception of the victim.

Domestic violence means any abusive behavior or acts that are perpetrated by one person against another who are in a domestic relationship such as marriage, family, dating or cohabitation. The ultimate purpose of domestic violence is for one person to gain, maintain and control the life of the other person. Domestic violence is not limited to only women; almost anyone can be a victim. It can happen to anyone regardless of age, race, religion or gender. The effects of domestic abuse have always been pain and suffering. Some victims have described their situation as hellish. Under such circumstances they cannot develop to become their very best. This can undermine their ability to make meaningful contributions to the growth and development of their communities.

Domestic violence is a serious crime. Domestic violence is any use of physical or sexual force, actual or threatened, by your partner or ex-partner. Threatening, hitting, kicking, punching, pushing, stalking and harassing another person are crimes. Having sex with a person against that person's will is also a crime. Being married does not change this. A person committing these acts can be arrested, charged, convicted and jailed. Domestic violence can also include threats to harm children, other members of a family, pets and property. Domestic violence is committed primarily by men towards women. However, domestic violence can be committed by women against men and also occurs in same-sex relationships.

Domestic violence can be a one-time use of force. However, often these crimes happen in a pattern. The violence might be meant to scare, intimidate or humiliate, or to make a person feel powerless. The violence might also include a number of acts that could sound minor by themselves, but together make up a pattern of abuse. Domestic violence can also take the form of psychological/emotional abuse, verbal abuse, and economic or financial abuse. Although not always considered criminal offences, these forms of abuse are very serious.

Domestic violence takes many forms across the world. These forms of domestic violence could be classified into categories. According to Neft & Levine (1993), violence takes place throughout the life cycle and can be grouped into five major categories:

Sexual violence; for example, Sexual harassment, incest, rape, forced prostitution and sexual slavery;

Physical violence; involves, wife battering and assault, female infanticide, child assault by teachers and gay bashing;

Emotional and psychological violence; such as threats of violence, insults and name calling, humiliations in front of others black mail and the threat of abandonment;

Harmful traditional practices; include female genital mutilation (FGM), denial of certain foods and forced or early marriage.

Socio economic violence; such as discriminatory access to basic health care, low levels of literacy and educational attachment, inadequate shelter and food, economic deprivation, armed conflict and acts of terrorism.

2.2 Causes of Domestic Violence

There is no one single factor to account for domestic violence. Increasingly research has focused on the inter-relatedness of various factors that should improve our understanding of the problem within different cultural contexts (United Nations Development Fund for Women, 1997). Several complex and interconnected institutions suggest social and cultural factors have kept women particularly vulnerable to the violence directed to them, all of them being manifestation of historically unequal power relations between men and women (Schuler, 1996). These factors include: lack of economic resources, increasing levels of poverty, cultural ideologies, lack of legal protection and alcohol taking among others.

Lack of economic resources underpins women's vulnerability to violence and their difficulty in extricating themselves (World Bank, 1993). The link between violence and lack of economic resources and dependency is circular. The threat and fear of violence keeps women from seeking employment, and compels them to accept low-paid, home-based exploitative labour (Schuler, 1996). Due to economic independence, women have no power to escape from violent relationships. Macroeconomic policies such as structural adjustment programmes, globalisation and the growing inequalities have created increased levels of violence in several regions like Latin America, Africa and Asia (UNICEF, 1999).

Increasing levels of poverty, unemployment, hardship, income inequality, and alcohol abuse have led to increased violence in the society in general (WHO, 1997). These factors act indirectly to raise women's vulnerability by encouraging more risk taking behaviour, more alcohol and drug abuse, breakdown of social support networks and the economic dependence of women on their partners (UNICEF, 1999).

Cultural ideologies both in industrialized and developing countries provide legitimacy for violence against women in certain circumstances (Dutton, 1994). Religious and historical traditions in the past have sanctioned the chastising and beating of wives (Heise, 1996). Male control of family wealth inevitably places decisions making authority in male hands. Women sexuality is tied to the concept of family honour in many societies. Traditional norms in these societies allow the killing of errant daughters, sisters and wives suspected to defile the family with forbidden sex, marrying or divorcing without the consent of the family (Indira, 1995).

Lack of legal protection, particularly within the sanctity of the home is a strong factor that perpetuates violence against women (WHO, 1996). In many countries domestic violence is exacerbated by legislation, law enforcement and judicial systems that do not recognise domestic violence is a crime. Investigations by Human Rights watch, (1995) have found that in cases of domestic violence, law enforcement officials frequently reinforce the barterer's attempts to control and demean their victims. Even though several countries now have laws that condemn domestic violence, when committed against a woman in an intimate relationship, these attacks are more often tolerated as the norm than prosecuted as laws (UNICEF, 1999).

Gender based violence is supported or re-enforced by gender norms and values that put women in a subordinate position to men (Campbell, 1985). This cuts across all social classes, religion and education levels. While there are still variations by race, class, geography or region that need to be explained, unequal gender relations have been identified by feminists and other scholars as a cornerstone of domestic and sexual violence against women (Monk, 1970). The specific cultural context plays an important role in defining the mechanisms through which gender inequality and other factors affect violence.

Heise (1998), reviewed existing research and summarized some of the factors related to violence and organized them according to the levels of an ecological model. Many of the factors identified are closely related to norms and values around gender and social equity. For example, at the level of the family, male dominance and male control of wealth appear important, while at the macro social level, it is notions of male entitlement/ownership of women, masculinity linked to aggression and dominance, rigid gender roles, and acceptance of interpersonal violence as a means of resolving conflict (Heise, 1998).

The National Research Council reviewed (1996) in the U.S.A. states that several studies support the fact that men raised in patriarchal family structures in which traditional gender roles are encouraged are more likely to become violent adults, to rape women acquaintances, and to batter their intimate partners than men raised in more egalitarian homes. Exposure to domestic violence between parents when growing up has

been shown to be associated with domestic violence in studies from Nicaragua (Ellsberg et al, 1997), and in Canada (Johnson, 1996). One third of children who have been abused or exposed to parental violence become violent adults and sexual abuse in childhood has been identified as a risk factor in males for sexual offending as an adult (National Research Council, 1996).

Alcohol merits some mention since research has consistently found heavy drinking patterns related to intimate partner and sexual violence (National Research Council, 1996). It is true that many people may drink without engaging in violent behaviour and many battering incidents and sexual assaults occur in the absence of alcohol, however some evidence exists that violent men who abuse alcohol are violent more frequently and inflict more serious injuries on their partners than do men without alcohol problems (Frieze & Browne, 1989 in Heisse, 1998.) Addressing violence in alcohol dependence treatment programmes can be useful potentially to help reduce the incidences of partner abuse.

2.3 Effects of Domestic Violence

The effects of domestic violence are enormous. Domestic violence victim who is physically battered finds it difficult to come together with relatives, friends and the public at large for fear they will know about her predicament. This loneliness has its own devastating effects such as depression, stress, fear, low self-esteem and even emotional/psychological problems. It also hinders her from participating in public life. Domestic violence has an impact on victim's earnings and their ability to remain in employment. Their contributions towards building the economy of the nation are cut off. Children who witness domestic violence are at increased risk of anxiety, depression, low-self esteem and poor school performance among other problems.

Domestic violence adversely affects victims, family members, communities and states on profound emotional, physical, psychological and economic levels (UNICEF, 1999). One of the costs of domestic is denunciation of human rights to both men and women. International human rights instruments such as the Universal Declaration of Human Rights UDHR, adopted in 1948, the Convention Against Women (CEDAW), adopted in 1979, and the Convention on the Rights of the Child (CRC), adopted in 1989, affirm the principles of fundamental rights and freedoms of every human being (UNFPA, 1999). Both CEDAW and the CRC are guided by a broad concept of human rights that stretches beyond civil and political rights to the core issues of economic survival, health and education that affect the quality of daily life for most people. It is therefore legally binding under international law for governments that have ratified with these organizations to protect all People from crimes of violence and to also bring the perpetrators to Justice (Human Rights Watch, 1995).

There is a growing recognition that countries cannot reach their full potential unless both women and men's potential to participate fully in the society are denied (Heisse, 1996). Data on the social, economic and health costs of violence leave no doubt that violence against women undermines progress towards human and economic development (WHO, 1999). Women's participation has become key in all social development programmes, be they environmental, for poverty alleviation, or for good governance. By hampering the full involvement and participation of women, countries are eroding capital of half their populations (World Bank, 1993). True indicators of a country's commitment to gender equality lie in its actions to eliminate violence against both genders in all areas of life (WHO, 1996).

The consequences of gender violence are far reaching. It impacts on all aspects of family, their health and that of their children, and also on broader society (Finkler, 1997). In addition, there are many ways in which violence perpetuates itself. Violence is sustained by inequality and in turn perpetuates inequality. For example, domestic violence is associated with poverty, but it also perpetuates poverty (United Nations, 1995). For example, by reducing women's opportunities for work outside the home, their mobility and access to information and children's schooling. It impacts on women's ability to care for themselves and their children, and is associated with self-destructive behaviours such as alcohol and drug abuse. Moreover, violence determines men and women's sense of self-worth (Kalat, 1996).

Gender based violence, particularly domestic violence and sexual abuse, has been associated with many negative health consequences. These include: injuries (ranging from cuts and bruises to severe injuries leading to permanent disabilities such as loss of hearing); sexually transmitted diseases; HIV/AIDS; unwanted pregnancy; gynaecological problems; chronic pelvic pain, sometimes associated with pelvic inflammatory disease; hypertension; depression; anxiety disorders; post-traumatic stress disorder; headaches; irritable bowel syndrome and various psychosomatic manifestations (UNFPA, 1999).

Violence is increasingly recognized as a cause of injury among spouses and its impact on mental health and on sexual and reproductive health is also of great magnitude (WHO, 1997). Forced sex, whether by a partner or a stranger, can directly lead to an unwanted pregnancy or a sexually transmitted infection, including HIV/AIDS. Violence and fear of violence can also indirectly affect sexual and reproductive health, as they impact on women's ability to negotiate safer sex, including use of condoms, and their use of contraception. Gender violence can also lead to death. Deaths from female homicide are usually much lower than homicide deaths in men. For many women, chronically beaten or sexually assaulted, the emotional and physical strain can lead to suicide. Research in the United States, Nicaragua and Sweden has shown that battered women are at increased risk of attempting suicide (Abbott, 1995).

Children get hurt when they see their parents being yelled at, pushed, or hit. They may feel confusion, stress, fear, shame, or think that they caused the problem. Children grow up learning that it's okay to hurt other people or let other people hurt them. A third of all children who see their mothers beaten develop emotional problems. Boys who see their fathers beat their mothers are ten times more likely to be abusive in their adult intimate relationships.

Children may exhibit emotional problems, cry excessively, or be withdrawn or shy. Children may have difficulty making friends or have fear of adults. Children may suffer from depression and excessive absences from school. Children may use violence for solving problems at school and home. Children may be at greater risk of being a runaway, being suicidal, or committing criminal acts as juveniles and adults. Children who are experiencing stress may show it in different ways, including difficulty in sleeping, bedwetting, over-achieving, behavior problems, withdrawing, stomach aches, headaches and/or diarrhea.

Children who grow up in violent homes have much higher risks of becoming drug or alcohol abusers or being involved in abusive relationships, as a batterer or a victim. Children do not have to be abused themselves in order to be impacted by violence in the home. Studies indicate that domestic violence also impacts on children, whether they only witness the domestic violence or are themselves abused. These consequences include behavioral problems, which are often associated with child management problems, school problems, and lack of positive peer relations (Jaffe et al, 1990). Children exposed to partner abuse also have a number of school adjustment difficulties, including dropping out of school.

2.4 Legal provisions Against Domestic Violence in Ghana

The government of Ghana has passed a number of legislation and ratified various conventions and treaties that seek to promote the rights of women and children and their development in a coherent manner. Specific programmes have been designed to implement majority of these Conventions and Treaties. Some of them have been adapted into our National Development Policy Frameworks with specific strategies and time-bound measurable targets.

These Treaties and Conventions include the following:

- *Ratification of the conventions on the Elimination of All forms of Discrimination Against Women (CEDAW), 2nd January 1986.
- *Ratification of the Convention on the right of the child (CRC), 5th April 1990.
- *African Charter of the Rights and Welfare of the Child, February 1990.
- *Adoption of the Beijing Platform for Action, 1995.
- *Adoption of the African Charter on Human and People's Rights, 2003 (specifically the protocol relating to women's rights has been approved by Parliament for ratification), March 2007
- *The adoption of the Millennium Development Goals (MDGs) as part of Ghana's Medium to long-term Development Policy Framework (GPRS I & II).
- *Adoption of African Union Solemn Declaration on Gender Equality and Women's Empowerment, July 2004.

The chapter 5 of the 1992 Constitution spells out fundamental human rights and freedoms for all citizens and specifically outlines rights to equality and freedom from discrimination. Laws currently used in most cases of Domestic/Gender-based Violence and child abuse cases include the following:-

- The 1992 Constitution
- The Criminal offences Act (Act 29), 1960
- Criminal Code (Amended) Act, 1998 (Act 554)
- The Children's Act, 1998 (Act 554)

- The Juvenile Justice Act
- The Human Trafficking Act, 2005 (Act 694)
- The Domestic Violence Act, Act 732 of 2007

Ghana enacted the Domestic Violence Act, 2007, in 2007 (Ghana 2007). The Act provides protection to victims of domestic violence, defines domestic violence, prohibits domestic. Domestic Violence, as defined in section 1 of the Act, includes the following-:

- An act which under the Criminal Offences Act constitutes a threat or harm to the person under that Act.
- Specific Acts, threats to commit, or acts likely to result into harm Domestic Violence come in the following forms -:
 - Physical abuse
 - Sexual abuse
 - Economic abuse
 - Emotional abuse/psychological abuse
 - Harassment
 - Behaviour or conduct that harms another person

The Act states in Article 3:

Prohibition of domestic violence

3 (1) A person in a domestic relationship shall not engage in domestic violence.

(2) A person in a domestic relationship who engages in domestic violence commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units or to a term of imprisonment of not more than two years or to both.

(3) The Court may in addition to imposing a fine or a prison term, order the offender in a case of domestic violence to pay compensation to the victim as the Court may determine.

(4) When a cause for complaint has arisen between persons in a domestic relationship and the persons do not cohabit, none of those persons shall enter into residence of the other person without that other person's permission. (ibid.)

The *Ghana Domestic Violence Act 2007* states the following pertaining to protection orders:

Jurisdiction of Court

11. (1) A Court with original jurisdiction may hear and determine a matter of domestic violence under this Act.

(2) The Court may in the exercise of its jurisdiction issue a protection order.

Application for protection order

12. (1) A person referred to in this Act as the applicant, may apply to a Court for a protection order...

Conduct of proceedings

13. (1) Proceedings for a protection order shall be held in private in the presence of the parties, their lawyers and any other person permitted by the Court to be present.

Interim protection Order

14. (1) Where an applicant is made ex parte to the Court for a protection order, the court shall issue an interim protection order if it considers the order to be in the best interest of the applicant.

Grant of Protection order

15. (1) The court may issue a protection order to prohibit a respondent from committing or threatening to commit an act of domestic violence personally or otherwise against an applicant or a relation or a friend of the applicant.

Duration of final protection order

16. (1) A final protection order issued by a Court shall not exceed twelve months in the first instance but may for good cause shown, be extended, modified, or rescinded by the Court on a motion by a party to the original proceeding.

Occupation order

20. (1) Where the Court in issuing a protection order considers it expedient to issue an occupation order, the Court may issue the order requiring the respondent to vacate the matrimonial home or any other specified home.

Domestic Violence/ Gender-based Violence complaints can be filed by:-

- A victim of domestic violence or a person with information about domestic violence
- A social worker, probation officer or health care provider
- A member of the victims family
- A deceased person's personal representative or a member of the deceased's family or another person competent to represent the deceased.
- A child assisted by a friend

Section 7 of the Domestic Violence Act stipulates that:

A police officer, upon receipt of the Domestic Violence case, shall respond by offering the protection that the circumstances of the case, or the person who made the report requires, even when the person reporting is not the victim of the domestic violence.

The police, upon receipt of complaint, issue a free medical treatment for the victim.

- The police goes ahead to interview the parties and witnesses to the domestic violence including children
- Record the complaint in detail and provide the victim with an extract of the occurrence upon request in a language the victim understands.
- Assist the victim to obtain medical treatment where necessary (free medical treatment)
- In the case of an emergency or life threatening situation, medical treatment may be given pending the making of a formal complaint to the police
- Assist the victim to a place of safety, as the circumstances of the case, or as the victim requires, where the victim expresses concern about safety.
- Protect the victim to enable the victim retrieve personal belongings where applicable.
- Assist and advise the victim to preserve evidence
- Inform the victim of his or her rights, and any services which may be available

Arrest by Police

An arrest can be done with or without a warrant, however, the circumstances of arrest without a warrant is where a Domestic Violence is committed in the presence of the police, the police is obstructed by the person in the execution of police duties, and where the perpetrator escapes, or attempts to escape from lawful custody.

Complaints are received at a secured and private charge office

- Station officer supervised by a Senior Police Officer assigns cases to investigators, police medical form is issued, refers cases for counseling, legal aid and Department of Social Welfare among others.
- After case is investigated, the case is sent to court based on complainant's willingness to have case prosecuted except in cases of sexual offences, child related cases, and serious assault cases.
- Cases not sent to court are also referred for counseling, or legal aid depending on the needs of the complainant.

In October 1998 Ghana established the Domestic Violence and Victim Support Unit (DOVVSU), then known as the Women and Juvenile Unit (WAJU). The Domestic Violence and Victim Support Unit (DOVVSU) seeks to protect the rights of the vulnerable against all forms of abuse. In its day-to-day activities, the unit provides advice on crime prevention to members of the public, and also handles offences involving juveniles. Additionally, DOVVSU creates an effective database for detection, prevention, and prosecution of cases of domestic or gender-based violence, as well as child abuse. The unit also collaborates with non-governmental organisations (NGO's) and civil societies such as Legal Aid, DSW, FIDA and WISE among others, in providing specialised needs for victims of domestic violence.

The law enforcement agencies included the Domestic Violence and Victim Support Unit of the Ghana Police Service, Department of Social Welfare, Commission on Human Rights and Administrative Justice and the Department of Women and Children.

2.5 Factors undermining domestic violence victims' access to justice

With the passage of the Domestic Violence Law in 2007, Ghana took an enormous pace to deal with domestic violence in more orderly approach manner and particularly, violence against women. Domestic violence is a criminal offence under the laws of Ghana. The Domestic Violence Act of 2007 was promulgated to protect all, especially women, against any form of abuse and to punish offenders of this terrible crime which has brought pain and suffering to victims.

There are legislations, legal measures, mechanisms, institutions both governmental and non-governmental to address issues on domestic violence. However, despite the strides made to improve the legal and institutional environment that protect victims against violence, there are various reports of domestic violence and ill-treatment in our communities.

The state's efforts to address domestic violence effectively still remain a great challenge. Not enough attention is paid to discussing the status of implementation of the Domestic Violence Act, which is one of the key ways to deal with domestic violence owing to the fact that as a country we all seem to lack the political, social and economic will to accomplish what has been provided for by law and society.

Presently DOVVSU has 100 offices and desks nationwide with a Crisis Response Centre project that is yet to be commissioned – yet the department is facing logistical and capacity challenges. The Domestic Violence Courts require judges who understand the gendered nature of abuse, to be able to pass sentences that will deter others from perpetrating violence. Reporting of abuse has significantly increased but does not correlate with prosecutions and convictions. According to DOVVSU's Annual Report (2011) out of 12,706 cases received in 2010, 954 cases were sent to court, out of which 118 convictions were obtained. Convictions are not the only means by which to address gender-based violence but they do serve as deterrents.

Sources indicate that even though domestic violence is prohibited by law, women in Ghana continue to be victims of abuse and the prosecution of cases is very difficult (US 11 Mar 2010, Sec. 6; *Ghanaian Chronicle* 9 Dec. 2009). The United States (US) Department of State *Country Reports on Human Rights Practices for 2009* reports that although efforts have been made to make Ghanians aware that domestic violence is a crime, NGOs and government officials stated that they "did not have evidence that the new law had increased victims' willingness to report abuse" (US 11 Mar. 2010, Sec. 6). Since there are delays in bringing domestic violence cases to trial, many victims are discouraged from cooperating with prosecutors and from reporting abuses (ibid.).

The problem is also compounded by the fact that women do not also have easy access to the formal justice systems, as a result of the fact that they are expensive, bogged down with bureaucracy and are few when viewed in proportion to our population. They also are inadequately resourced and therefore lack the needed logistics and skilled personnel to specifically address the issues facing women who suffer from gender based-violence. Inadequate logistics by the law enforcement agencies, obstruction from opinion leaders and perceived corruption among public officials, are hampering the fight against domestic violence and other social challenges in the Ghana. The women also are ignorant of their options due to lack of education. As a result of these, a growing phenomenon of a culture of silence has evolved which leaves women more vulnerable to the perpetrators of the abuses who go unpunished.

In spite of legislation, the general public still sees domestic violence as a private matter and this fits well into the private family structure where patriarchy and culture violates women's dignity causing them to feel degraded and less human. It is difficult for victims' to report their abusers and receive help from appropriate state

institutions and non-governmental organisations. As is the case with domestic abuse everywhere, victims often feel shame or humiliation when confronting the hardships with which they have been faced. However, in Ghana, both the perceived normalcy of abuse and the indignity of addressing it outside the home are even more crippling. On occasions when victims might turn to a family member or religious leader for guidance, the latter might advise them to be patient or even to curb their bad behavior. Parents, in particular, can be hindrances to women seeking ways out of abusive relationships.

The road to eradicating violence against women in Ghana has been with lots of impediments. Integral amongst them is attitudes, belief and cultural practices which place men high above women and also overlooks certain violence actions perpetuated against women. The danger is that, the youth hold firm to these practices, even though it violates the Domestic Violence Act. According to the United Nations website, 28% of males and 41% of females in Ghana between the ages of 15 – 19 still think that the husband is justified in hitting or beating his wife under certain circumstances. These practices that subordinate women to men to a large extent remain unchallenged in Ghanaian societies.

3.0 Methodology

3.1 Research Design

Qualitative research designed was used for this study to reveal the target respondents' range of actions and the views that drive the domestic violence. Qualitative research uses in-depth studies of small groups of people to guide and support the construction of hypotheses. The results of qualitative research are descriptive rather than predictive. The researcher believes that qualitative research has special value for investigating complex and sensitive issues. Qualitative research aims to obtain a superior understanding through firsthand experience, truthful reporting, and quotations of actual conversations. It aims to understand how the participants derive meaning from their surroundings, and how their meaning influences their behavior.

3.2 Study Area

Mampong Municipal, which is one of the Thirty (30) Administrative Districts in the Ashanti Region of Ghana, is located on the northern part of the region, and shares boundary with Atebubu District, Sekyere East, Afigya-Sekyere, and Ejura-Sekyeredumasi to the north, east, south, and west respectively. The Municipal is located within longitudes 0.05 degrees and 1.30 degrees west and latitudes 6.55 degrees and 7.30 degrees north, covering a total land area of 2346km². It has about 220 settlements with about 70 percent being rural. The rural areas are mostly found in the Afram Plains portion of the municipality where Communities with less than fifty (50) people are scattered here and there.

3.4 Research Population

The constituent population of the study comprised all individuals who were presently residing at Mampong Municipality and have been a victim of domestic violence after the coming into force of the Ghana's Domestic violence Act 732 of 2007.

3.4 Sample Size

The sample size for the study was 80 respondents and in this study, respondents were selected based on their enthusiasm, willingness and aptitude to take part in the research after seeking respondents' consent.

3.5 Sample Procedure

This study used purposive and snowball sampling methods in selecting respondents for study. Purposive sampling was used to select domestic violence victims' who represent the study specific criteria. Snowball sampling was a useful strategy as the researcher's group of interest was likely to be difficult to find, not only because of the stigma associated with domestic violence, but also because the domestic violence victims' were relatively rare.

3.6 Research Instrument

In-depth unstructured interview and observation were the research instruments used to collect the data from the respondents. Interviews can be used to explore the views, experiences, beliefs and motivations of individual

participants and are believed to provide a 'deeper' understanding of social phenomena. Observation methods are helpful to researchers in a multiplicity of ways. They offer researchers with ways to check for nonverbal expression of feelings, determine who interacts with whom, grasp how participants communicate with each other, and check for how much time is spent on various activities

4.0 Results and Discussion

4.1.1 The Gender Distribution of Respondents

Majority of gender distribution of respondents was female. Out of the 80 respondents for the study, 70 respondents were females and 10 males. The results findings confirm that domestic violence affects people from all social, racial and financial backgrounds. It affects men and women, old and young, despite the fact that both victims and perpetrators of abuse come from all backgrounds, the shock, pain, confusion, feelings of guilt and betrayal of trust experienced as a result of being subject to domestic violence is common to all.

4.1.2 Age Distribution of the Respondents

Majority of the respondents ages ranges from 18-39 years. Fifty respondents ages range from 18-39 years and respondents above 39 years were 18 while respondents below the age of 18 years were 12.

4.1.3 Educational Background of Respondents

The educational background of respondents ranges from 'no school' to those with secondary education. Majority of the respondents had no formal education and they were 40 in number and those with primary education were 30 whereas respondents who had secondary education were 10. The presence of educational disparities between men and women in an cherished affair could led to domestic violence.

4.1.4 Marital Status of respondents

Findings from the study show that greater part of the respondents was married. Respondents who were married were 42, respondents who were cohabitating were 24 and respondents single were 14.

4.1.5 Occupational Background of Respondents

More than half of the respondents were peasant farmers according to the research findings. Forty three respondents were peasant farmers, 15 respondents were apprentices and apprentesses, 12 respondents were petty traders and 10 respondents were unemployed. The existence of economic and employment disparities between men and women in an intimate relationship is a major cause of domestic violence

4.1.5 Causes of Domestic of Domestic Violence in Mampong Municipality

Interviewees said that unfaithfulness, infidelity and interconnected marriage practices were their major causes of domestic violence. Unfaithfulness contributes to domestic violence either a man suspects his wife and girl lover of being unfaithful and uses her believed infidelity as an justification to abuse the spouse or the lover or owing to the fact that a woman objects to her husband or lover for having an extramarital affair.

Again, some interviews cited that because they are in polygamous relationships led to their abuse as victims' uneven distribution of power between husbands and wives with exacerbating rivalry and acrimony between the wives. One interviewee said her husband used violence against her as a tool to punish her and to correct her when she does wrong. Most citizens hold the belief that marriage gives up a woman's right to her husband. In practices where a bride price is paid, it is common for the husband to believe that by paying the bride price, he now owns his wife. Another interviewee said her abuse was her problem of infertility. The act of marriage is seen to give the husband full ownership of the woman.

Many interviewees (66 respondents) said that quarrels over maintenance that is the money that spouses must provide for life necessities such as food and clothing led men to abuse them. They further said they are seen as "provoking" abuse by objecting to their husbands' failure to provide sufficient maintenance. The deprivation of money, food or other necessities also constitutes a form of abuse. The prevalence of maintenance cases in Ghana, as described by interviewees, suggests that economic abuse is widespread. Majority of the interviewee also agreed that substance abuse including alcohol was associated with their abuse. All the respondents said that

conflict and tension with their intimate partner relationship or marriage as a result of discussing their insecure access to and control over property and land rights as well as males' total control over decision-making and assets.

The men who were part of this research studies said that their limited economic opportunities as a result of unemployment was associated with their violence done to them by their partners. The economic dependence of victims on their partners contributes to and complicates domestic violence in several ways. A multiplicity of factors at the individual, relationship, community and society (including the institutional/state) levels intersect to increase the risk of domestic violence particularly for women and girls.

4.1.6 Effects of Domestic Violence on Victims

All the respondents mentioned that domestic violence eroded their dignity and affected their self-esteem, confidence and respect in their various communities. The right to dignity is a fundamental characteristic of human rights law and is unambiguously protected by the Ghanaian Constitution and Ghana's international obligations. Majority of the respondents 55 said that after their abuse they sustained various degree of injury found it finds it hard to come together with relatives, friends and the public at large for fear they will know about her predicament. All the respondents said that they have received the overwhelming effects including depression, stress, fear, low emotional, psychological troubles, sexually transmitted diseases, unwanted pregnancy; gynaecological harms Arthritis, hypertension and heart disease when they sought medical attention.

Twenty five respondents said they were unable to respond to the needs of their children, and were regularly emotionally withdrawn and found find themselves unable to work due to their injuries and illnesses for several days.

4.1.7 Domestic Violence Victims' Knowledge on Legal Remedies Available

All the respondents said they can report their domestic violence perpetrators to the Commission on Human Rights and Administrative justice, the Social Welfare Department, Domestic Violence and Victim Support Unit of the Ghana Police Service. The respondents said they got to know these human rights institutions through the various mass media education by human rights institutions and Non-governmental Organisations. Therefore, it can be said that human rights awareness is very high among the general populace. The media partnering with the stakeholder including the government, non-governmental organisations and the civil society groups over the years has proven to be very reliable in advocating for an end to violence against women. The road to eradicating domestic violence in Ghana has been with lots of impediments. Integral amongst them is attitudes, belief and cultural practices which place men high above women and also overlooks certain violent actions perpetuated against women.

4.1.8 Challenges Undermining Domestic Violence Victims' Access to Justice

Even though there are several legal provisions that check domestic violence and law outlines parameters for prosecuting perpetrators, domestic violence and human rights abuses are very high in Ghana. Therefore, the researcher sought to find out from the respondents the challenges hindering domestic violence victims' access to justice.

All the Interviewees repeatedly stressed that domestic violence is broadly seen as a family matter in Ghana. The general belief that domestic violence is a private, family issue often discourages Ghanaian domestic violence victims' from reporting their abuses to the justice system and prevents them from obtaining effective relief from the justice system. One respondent said that "domestic violence is an intimate family affair which neither the police nor the society be supposed to engage themselves in". Therefore, this issue presents a substantial obstacle to victims' ability to obtain effective relief from abuse and it creates huge pressure on victims to settle domestic violence matters privately and this affects the response of the criminal justice system.

According to interviewees, the few victims who pursue relief in the justice system resist the pressure to settle explicitly because they want the state to punish their abusers. Due to these overwhelming pressures, most victims do not report incidents of domestic violence to the police and even when victims engage the justice system, the pressure to settle the matter privately continues. Moreover, interviewees reported those families and religious and traditional leaders regularly intervene directly in the criminal justice process and withdraw reported cases

from the police and the court. According to the respondents, Church, opinion and traditional leaders do not encourage married victims to report abuse to the police because doing so would end the marriage. As a result of such attitudes, it has traditionally been very difficult for victims to report such abuses to the state authorities. According to interviewees, only few victims pursued relief in the justice system in spite of the pressure to settle their case outside the law court because they wanted the state to punish their abusers.

Majority of the respondents (57) said a number of men still get it unconvinced to be questioned about their actions in relation to domestic violence, let alone being arrested. And for the victims, they do not report such abuse because they have been brought up in the belief that it is acceptable, even normal, for a man to beat his wife. All the Interviewees cited that the family is considered paramount in their communities, and that reporting domestic violence to the justice system often creates tensions within the extended family.

Financial dependence on their partners who abused them kept them from seeking help or leaving the partners because they are not financially independent and do not have a reliable means of support. Forty Interviewees said they feared that they would lose their partners support and this prevented them from seeking justice. Majority of the respondents (45) said they do not have money to access the required and effective relief from the state's justice system.

Despite these challenges, some victims continue to report incidents of domestic violence to the Commission on Human Rights and Administrative Justice Women, the Social Welfare and the Juvenile Unit (WAJU) of the Ghanaian police force in record numbers.

5.1 Conclusion

With the passage of the Domestic Violence Law in 2007, Ghana made a giant step to deal with domestic violence. However, despite the strides made to improve the legal and institutional setting that protect citizens against violence, there is a continuous report of domestic violence and abuse. The findings of this study show that domestic violence is a multifaceted process influenced by numerous factors and domestic violence is a pervasive problem in Ghana. The research showed that many of the victims of domestic violence sustained various injuries after beatings from the perpetrators and domestic violence has devastating effects on the general public. Despite the fact that the respondents know the appropriate state institutions to seek redress but socio- economic and cultural beliefs make domestic violence be seen as a private and family matter affect domestic violence victims' to access criminal justice system.

5.2 Recommendations

1. An efficient approach should be adopted to expose the wickedness in domestic violence to the people. Policy makers should put in place programmes targeted at individuals to inculcate in them the culture of frowning on domestic violence without compromise.
2. Private and public partnerships should be encouraged to ensure a normal flow of ideas, strategies and funds for organisations like the Ministry of Gender, Children and Social Protection and the Domestic Violence and Victims Support Unit (DOVSU) of the police service to enable them successfully perform their assigned task.
3. Government is required to continuing to prioritise domestic violence agenda. Having a bill passed into law does not resolve the issues at hand. The appropriate institutions need to be empowered and sufficiently funded to intensify investigations into cases of violence against women and culprits have to face the consequences of their actions.
4. Traditional and Religious bodies must work collectively to ensure that social and cultural patterns that promote domestic violence be progressively become a thing of the past. And the general public needs more education on the indicators, such as the warning signs which include extreme jealousy, possessiveness, bad temper, unpredictability and verbal abusiveness.

5. Government increase the needed effort to accomplish the Millennium Development Goals (MDGs) to promote universal basic education, gender equality and empowerment of all particularly women to tackle the root causes of violence .
6. Access to Justice System in the country must be strengthened in order to act in response more effectively to the legal needs of every citizen particularly women, children and the marginalised.
7. State institutions responsible for protecting and promoting human rights in the various districts, municipal and metropolitan areas are empowered to advance their practices to rapidly act in response to rights violations reported by domestic violence victims.
8. We must all realise that effectiveness of domestic violence legislation depends on appropriate training of all service providers, cross-agency coordination, public opinion support, monitoring of policies by civil society organisations, and adequate budgets at all levels.
9. Future research should investigate the responsiveness of state institutions in dealing with domestic violence cases

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