

DETECTING THE MAJOR BARRIERS OF FAMILY VIOLENCE VICTIMS' ACCESS TO JUSTICE IN GHANA

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Abstract: *One of the major human rights predicaments that transcend cultural, economic, social and religious ranks is family / domestic violence. It hinders human dignity, health and in the long period become the main problem to socio-economic and political growth. The intention of this study is to examine the challenges undermining domestic violence victims' access to justice in Ghana, assess the causes of domestic violence in Ghana, determine the effects of domestic violence on women, and finally, offer recommendations to help domestic violence victims to have access to justice. Using a non-quantitative approach, the study tells of women's rights in Ghana in times past, sourced from journal articles, books, reports and reviews, with emphasis on the Universal Declaration of Human Rights and the adoption of Convention on the Elimination of All Forms of Discrimination Against Women by the United Nations. Education, as well as cultural norms and inadequacy of resources by NGO's and state entities, were, however, related to family/domestic violence among Ghanaian women.*

Keywords: Culture, Family/ Domestic Violence, Ghana, Women's Rights, Legislation

Research Area: Law

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1. INTRODUCTION

The role of most Ghanaian women in the domestic setting since the precolonial and postcolonial era has not changed massively taking into consideration education, employment and health. Trokosi system^[1], domestic violence and the female genital mutilation^[2] which are all gender discriminative practices against women prevails in post-colonial Ghana which is about 60 years since Ghana's independence. The transition into the modern world has been slow for some women in Ghana, especially women in rural areas.

Disheartening it is to realize that most victims of Domestic/family violence often feel ashamed or humiliated when confronting the hardships with which they have been faced, hence do not deem it necessary to report cases of physical, sexual and emotional abuse to the primary agents of the human rights protection process, the police. On occasions, victims turn to a family member or religious leader for guidance, the later might advise them to be patient or even to curb their bad behavior.

The journey to eliminating domestic violence in Ghana has encountered loads of impairments. Integral amongst them are the attitudes, belief and cultural practices which place men high above women and overlooks certain violence actions perpetrated against women. The fear is that the youth uphold these cultural practices, though it disrupts 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 beating his partner under certain instances.

Most 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). Reports from the United States Department of State Country Reports on Human Rights Practices for 2009

states that although plans have been embarked on to sensitize some Ghanaians about the fact that domestic violence is punishable by law, 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). Again, domestic violence victims complain about the delays in the trial of cases, discouraging them from liaising with prosecutors and as well, reporting abuses (ibid.).

The problem is also compounded by the fact that women do not also have easy access to the formal justice systems, since they are expensive, bogged down with bureaucracy and are few when viewed in proportion to 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.

The women also are ignorant of their options due to lack of education. Because 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.

International human rights law has accomplished a great deal since its inception. Nevertheless, it seems that there are certain factors that may stand in the way of human rights law reaching its optimal level of efficacy about the issue of domestic violence.

Nevertheless, a resource shortage in the primary agencies responsible for addressing domestic violence also hinders the Ghanaian government's response. WAJU, the Commission on Human Rights and Administrative Justice (CHRAJ), the Department of Social Welfare, and state medical facilities are under-funded and overworked.

NGOs fill critical gaps in services for domestic violence victims but lack sufficient resources to meet the ever-growing demand.

This study, however, examined factors that influence family violence among women in Ghana, its effects on victims and the challenges undermining family violence victims' access to justice in Ghana.

Several organizations propose social and cultural factors have kept women defenceless to the violence directed to them, all of which are historical manifestations of unequal supremacy 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 effects of family violence are enormous. Most victims of domestic violence who are physically harmed find it tough to associate with families, friends and the public for the terror of them knowing their predicaments. This separation has negative impacts such as depression, anxiety, terror, low self-esteem and psychological problems.

It also hinders her from participating in public life. Domestic violence has an influence on women's incomes and their capacity to work. Women's contribution to building a state is brought to a standstill. Witnesses of domestic violent relationships, especially children are at an increased risk of anxiety, despair, low self-esteem and poor outcomes in school.

Domestic/Family Violence unpleasantly affects a nation's human, social and economic development with grave costs for employers and the public sector in terms of health and related expenditures.

Women are more likely than men to be infected with HIV during sexual intercourse not to mention, rape which also increases this danger of acquiring the HIV virus due to the limited use of condom and causing physical injuries and again, making them targets of abuse and stigma.

Domestic or family Violence immensely limits the ability of women to express their reproductive rights, with serious effects for sexual and reproductive health. Women experience physical or sexual violence even during pregnancy. This increases the likelihood of miscarriage, stillbirth and abortion, as well as premature labor and low birth weight.

Women and teenage girls a half of the available human assets to reduce poverty and attain development but domestic violence destabilizes human rights, social firmness and security, public health, women's educational and employment opportunities and aspirations for development of children and communities.

Using the current version of the Ghana Demographic and Health Survey (GDHS) as well as the original data on domestic violence and child disciplining methods from a nationally representative household survey collected in Ghana in 2015, this study employs a non-quantitative approach, it unfolds to tell antiquity of women's rights in Ghana sourced from journal articles, books, reports and reviews, with emphasis on the Universal Declaration of Human Rights and the adoption of Convention on the Elimination of All Forms of Discrimination Against Women by the United Nations.

2. CAUSES OF FAMILY VIOLENCE IN GHANA.

This study examines factors that influence family/domestic violence (physical and sexual violence) among women in Ghana, its effects and the challenges undermining domestic violence victims' access to justice in Ghana.

2.1. Education

Education is a key factor related to family violence among Ghanaian women. Most women are unaware that being physical, mentally, sexually and emotionally traumatized by their intimate partners or members of their family is not a crime but a way of disciplining them or showing that there is a superior in her home.

2.2. Increasing Levels of Poverty

Poverty they say is a disease, due to poverty women may tend to get assistance from other men bringing about violence from the part of their opposite sex. It makes men who breadwinners are responded to the slightest question of asking for money from them knowing that they do not have. This scenario can also cause violence due to of poverty. Women and girls are half of the human capital available to reduce poverty and achieve development. Domestic / Family violence discourages human rights, social constancy and safety, public well-being, women's educational and work opportunities and development prospects of children and communities.

2.3. Alcohol Abuse

Poverty is one of the factors leading to alcohol abuse. Men highly intoxicated are known to be prone to abuse without their knowledge of what they have done until the alcohol leaves their system. Or until they are alcohol-free.

2.4. Cultural Ideologies

Notwithstanding the fact that culture is a way of life and that it has been passed on from generation to generation, I have reason to believe that culture has been over used in the sense that some families believe that consulting family heads and other relatives is a problem-solving technique in curbing family violence. Divorce, on the other hand, is not seen as a way of curbing family violence hence hardly considered in problem-solving. In a report by the United States Department of State Country Reports on Human Rights Practices 2009, efforts have been established to sensitize Ghanaians on the fact that domestic violence is punishable by law, 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). Despite regulation, some individuals perceive domestic violence as a private issue which is inculcated into the family structure where patriarchy and culture violate women's dignity causing them to feel degraded and less human.

3. NEGATIVE IMPACT OF FAMILY / DOMESTIC VIOLENCE

3.1. Psychological Impact on Victims

The effects of family violence are enormous. An adult woman who is physically, sexually and emotionally traumatized finds it difficult to mingle with relatives, friends and the public at large for fear they will know about her predicament. This separation has its own distressing impact such as depression, anxiety, low self-esteem and emotional/psychological problems.

3.2. Participation in Public Life

Domestic / Family violence has a negative impact on women's incomes and their capacity to continue working. Women's contributions in structuring the economy of the nation are withheld hence affecting a nation's human, social and economic development.

3.3. Effects on Children

Parents are responsible for living an exemplary life. Children who witness domestic violence tend to be at an increased risk of being diagnosed with disorders such as anxiety, depression, low self-esteem and poor productivity in most aspects of their lives, especially education. It impacts on all aspects of family, their health and that of their children, and also on broader society (Finkler, 1997).

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 behaviors such as alcohol and drug abuse.

3.4. Sexually Transmitted Infections

Violence limits women's capacity to express their reproductive rights, with severe consequences for reproductive and sexual health, limiting their ability to defend themselves from sexually transmitted infections such as HIV/AIDS. Women are 70% more likely than men to obtain viruses during sexual intercourse not to mention, forced sex or rape which increasing this risk of limited condom use, causing physical injuries. Women living with HIV or AIDS are often the targets of abuse and stigma, leading to death.

Again, 2 of 8 women are victims of physical or sexual violence during pregnancy. This increases the likelihood of miscarriage, stillbirth and abortion, as well as premature labor and low birth weight.

4. METHODOLOGY

The intention of this study is to examine the challenges undermining domestic violence victims' access to justice in Ghana, assess the causes of domestic violence in Ghana, determine the effects of domestic violence on women, and finally, offer recommendations to help domestic violence victims to have access to justice.

Using qualitative approach, the study discloses the origin of women's rights in Ghana in times past, sourced from journal articles, books, reports and reviews, with emphasis on some international conventions such as the Universal Declaration of Human Rights and the adoption of Convention on the Elimination of All Forms of Discrimination Against Women by the United Nations.

4.1. Factors Undermining Domestic Violence Victims' Access to Justice.

4.1.1. Underfunding of Primary Agencies

Shortage of resources in the primary units accountable for attending to domestic violence also deters the Ghanaian government's response. The Domestic Violence and Victims Support Unit which works under the Social Welfare Department in Ghana, the Commission on Human Rights and Administrative Justice (CHRAJ) and state medical facilities are under-funded and overworked. Although the Domestic Violence and Victims Support Unit formally known as the Women and Juvenile Unit (WAJU), established in October 1998, seeks to protect the rights of the vulnerable against all forms of abuse, provide advice on crime prevention to members of the public, and also handle offences involving juveniles, it is not surprising to realize that the unit is underfunded and lack inadequate resources and skilled persons making the unit unable to accomplish its specified objectives.

The domestic violence and victims support unit is known to be one of the primary sources of refuge in addition to the police which must be sophisticated enough with resources to help curb human rights situations in Ghana.

The domestic violence and victims support units Annual Report (2011) shows that among the 12,706 cases received in 2010, 954 were heard in courts of which 118 convictions were obtained. There are signals that though domestic violence is forbidden by regulation, women in Ghana remain victims of abuse making prosecutions difficult. Non-governmental organizations, on the other hand, fill critical gaps in services for domestic violence victims but lack enough resources to meet the ever-growing demand.

4.1.2. Access to Justice Being Expensive

Another problem deterring domestic violence victims' access to justice is that the formal justice system is expensive hence victims cannot access justice. Again, some of these formal justice systems are inadequately resourced and lack the needed logistics and skilled personnel to specifically address the issues facing women who suffer from domestic or family violence. lastly, there perceives to be corruption among public officials obstructing the fight against domestic violence and other social challenges in Ghana.

4.2.3. Deficiencies in Criminal Code and Law Enforcement

Ghana has ratified major international and regional treaties concerning human rights, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention Against Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment (the "Convention Against Torture") and the African Charter on Human and People's Rights (the "African Charter"). Having ratified these treaties, Ghana has

an affirmative obligation to prevent, investigate and punish human rights abuses occurring in the form of domestic violence. Enshrined in the 1992 Constitution of Ghana is the duty of the Ghanaian person to respect and uphold women's rights, hence individuals must act to amend the deficits in its law and the weaknesses to law enforcement in the context of domestic violence.

Marital rape is legal under the Criminal Code. Additional Criminal Code requirements that apply to acts of domestic violence are enforced in a manner that fails to effectively sanction men for domestic violence.

Furthermore, many government officials such as the police insist that domestic violence is a private, family matter. Such beliefs lead to some law enforcement agents like the police and adjudicators to burden women towards withdrawing domestic violence complaints from the formal justice system, encouraging them to reconcile with their partners.

4.2. Legal Provisions Against Domestic Violence in Ghana

The government of Ghana has passed several legislations and ratified various conventions and treaties that seek to promote the rights of women and children and their development in a coherent manner.

Specific programs have been adapted into her National Development Policy Frameworks with specific strategies and time-bound measurable targets. A major Convention by the United Nations is the

4.2.1. Ratification of the conventions on the Elimination of All Forms of Discrimination Against Women (CEDAW), 2nd January 1986.

International human rights affirm the principles of fundamental rights and freedoms of every human being (UNFPA, 1999). CEDAW^[3] is 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. A convention of which Ghana is a party to but seems not to gain enough protection from. This is because Ghana has been maximumly dependent foreign conventions. It is therefore high time Ghana limits its dependency burden on international conventions and effectively utilize existing national programs to help her better equip herself to gain international recognition.

4.2.2. The Domestic Violence Act, Act 732 of 2007

Enshrined in the 1992 constitution of Ghana is the Domestic Violence act, an act which institutes a hazard to the person under that Act delivers defense to sufferers of domestic violence

4.2.2.1 Article 3: Prohibition of domestic violence

Persons in a domestic relationship shall not involve in domestic violence. Culprits sentenced to a fine or to be imprisoned for not more than 2 years or both, there should not be any form of living together amongst persons in domestic violent relationships (ibid).

There persists a great challenge on the part of the State's efficacious efforts to address domestic violence. She is undertaking difficult tasks through Advocacy with Cabinet, Parliament, Policymakers, Chiefs and Traditional and Religious.

4.2.3. MOWAC (Ministry of Women and Children Affairs)

MOWAC is a policy whose aim is to promote gender mainstreaming in all aspects leading to the accomplishment of gender equality and empowerment of women, survival, development and growth of children as well as safeguarding the protection of the rights of women and children. The establishment of MOWAC is an all-inclusive reply to the numerous and varying encounters of empowering women, protection of women's rights, advocating for change in traditional practices and attitudes such as the female genital mutilation, trokosi and other human rights violations which denies women's rights in accessing national opportunities to facilitate the attainment of their aspirations.

The designation of MOWAC as a Central Management Agency (CMA) with Cabinet status provides it with a comparative advantage with the role and responsibility to monitor policy implementation and programs in the sector areas, coordinate cross-sector issues and evaluate the impact of sector policies on women and children. This policy unites the Ghana National Commission on Children (GNCC) and the National Council on Women and Development (NCWD) under a national official framework to organize efforts in encouraging and progressing the rights of women and children in Ghana.

5. COMBATING DOMESTIC / FAMILY VIOLENCE IN GHANA

Non-governmental organizations are on the rise in Ghana but there still seem to be no solution to prevailing incidences of domestic violence. This shows how serious the human right situation in Ghana is hence the need for a sophisticated approach all over the country starting from those who inflict pain onto the victims mostly men to the primary agent in victims' quest for justice (the police), to the Domestic Violence and Victims Support Unit (ministry of social welfare) or Non-Governmental Organizations and finally, to the court.

In my point of view, the non-governmental organizations must be given the platform to work hand in hand with the court as well as governmental social welfare agencies. Observing the core values such as the value of confidentiality, being accountable and non-bias in tackling domestic violent relationships.

Organizing seminars and getting to know and altogether, access all protocols with ease to better curb the human right situation of domestic violence in Ghana.

In addition, there should be continuous sensitization and awareness creation; psycho-social support; financial support; alternative dispute resolution efforts; establishment of community response systems; and community participation to increase awareness and sustainability of efforts to reduce violence.

5.1. Address the Primary Cause of Family/ Domestic Violence

The need to involve men in the reproductive and general wellbeing of women is of great importance towards curbing domestic violence since women are of a higher percentage to be violated as compared to men in violent relationships hence the need to put men in a state of fit to avoid violent behaviors. Governmental and Non-governmental organizations should involve men in programs such as Family Planning, safe motherhood, HIV/AIDS in reproductive health and related programs and counselling to the benefit of women. Hence, instilling in the men the need to know gender equity, empowering men to improve upon their status, getting them, some form of on the job training and granting them capitals to start a business to address poverty.

5.2. Ensure Inexpensive Access to Family Planning Services

A Demographic Health Survey conducted in the year 1991/2 revealed that some 80 per cent of married women knew of a contraceptive method whilst over 70 per cent knew of sources of family planning services. The 1994 contraceptive frequency estimated to be 11 per cent, 7 per cent modern and 4 per cent by traditional methods. This leftover 30 per cent with unmet needs for family planning. Still, more than 50 per cent of family planning clinics lacks basic equipment. The privacy and the counselling skills of service providers are as well, inadequate.

The Government made efforts with enacting family planning policies, implementing training in standard guidelines such as supervision. Prominence was placed on service-oriented training, enhanced administration and distribution of contraceptive as well as effective monitoring, appraisal and information, education and communication.

5.3. Sensitization and Capacity building

Eradicating violence against women and girl's needs: improving their economic, social and political enablement and, increasing consciousness of their rights.

The capacity building goes a long way to improving the level of technical and vocational skills among women and involving women in decision-making positions at home and in the corporate settings.

In situations where women are included in decision making, they principally sell ideas entrenched in social justice and peace. Given the historical discriminations and downgrading's they have faced, women at negotiations seek settlements and resolutions that strive for gender equity and promote the advancement of women. It is important that women's voices are heard to boost their self-actualization.

Sensitization and capacity building are major objectives of WiLDAF Ghana whose programs involve training community members as legal literacy volunteers who in turn educate communities on domestic violence and other human rights violations, accompanying survivors to state agencies and training other community groups.

The Committee sanitizes the public about various abuses against women, especially female genital mutilation and its effects on women's health, sexual abuse and exploitation of minors.

Countless not for profit establishments have been working with societies, traditional leaders, students, children and policy-makers in the quest for eliminating violence.

6. CONCLUSION

Domestic violence against women is still persistent and greater efforts should be channeled into curtailing it by using a multi-stakeholder approach and enforcing stricter punishments to perpetrators.

With regards to funding, non-governmental organizations together with governmental organizations can bring about policies and programs geared towards raising funds thereby making it easily accessible for victims of domestic violence to patronize their services resulting in problem-solving. This, in turn, will encourage victims in domestic relationships to seek refuge in the shortest possible time.

Capacity building as explained earlier goes a long way in setting up more women camps which will sensitize and train women by building their capacities in terms of on the job training and as well, vocational and technical training.

Educating legal authorities like the police in terms of addressing issues on their desks pertaining to domestic violence is of great importance since they are the foremost primary agents of problem-solving and security.

Not to mention cultural diversity which has crippled the minds of the youth such that they do not realize the human rights they are entitled to. This when they grow to inculcate into the younger ones growing from generation to generation. The duty of the merged governmental and non-governmental organizations goes as far as educating leaders in community settings especially those in the Volta region of Ghana who practices the trokosi system and other practices like the female genital mutilation

The establishment of much more governmental institutions is needed in Ghana since she can only boast of the Domestic Violence and Victims Support Unit. This will help upcoming non-governmental organizations have different sources of governmental organizations they can partner with to achieve maximum results. This will curb the issue of these organizations being overworked and underfunded.

I believe that should all these problem-solving techniques be adhered to, women in the Ghanaian society will be free of all forms of abuse and stereotypes, improve upon their living standards and as well contributing to the economic growth of the nation.

End Note:

[1] The Trokosi System is a practice which plays roles in the rural justice system. When a misconduct is committed, the fetish priest consults the gods to determine which family has committed the crime. To atone for the crime, that family will have to provide a virgin girl to serve at the shrine.

[2] According to the WHO, its prevalence is 3.8%. Article 39 of Ghana's Constitution also provides in part that traditional practices that are injurious to a person's health and wellbeing are abolished.

[3] Parties to the Protocol allow the Committee on the Elimination of Discrimination against Women to hear complaints from individuals or inquire into "grave or systematic violations" of the Convention. The Protocol has led to a number of decisions against member states on issues such as domestic violence, parental leave and forced sterilization.

In 1979, the United Nations General Assembly adopted the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The Convention outlawed discrimination against women but did not include any mechanism by which this prohibition could be legally enforced.

The Committee's mandate is very specific: it watches over the progress for women made in those countries that are the States parties to the 1979 Convention on the Elimination of All Forms of Discrimination against Women. The Committee monitors the implementation of national measures to fulfil this obligation.

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