

**EFFICACY OF DOMESTIC VIOLENCE ACT 2010 IN DELIVERING JUSTICE
TO THE VICTIMS OF DOMESTIC VIOLENCE IN UGANDA**

BY

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**THIS DISSERTATION IS SUBMITTED TO THE FACU LTY OF LAW
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DECLARATION

I AINEBYONA MARTIN declare that the work submitted in this research is as a result of my own effort and all materials cited are relevant and fully scrutinized.

Signed  Date 17th / Nov / 2015

AINEBYONA MARTIN

DEDICATION

First and fore most I especially want to thank Jesus Christ for his full protection, wisdom that he has given me and having granted me energy, favor and joy to accomplish this beautiful work in my life.

I do dedicate this work to my precious parents who have invested in me both materially and spiritually up to this level.

I further want to dedicate this work to my heartfelt supervisor MBABAZI CYNTHIA who have been my academic mentor right from the genesis of this course up to the end of it, may the almighty reward her with the desires of her life.

APPROVAL

This dissertation has been compiled by AINEBYONA MARTIN entitled "Efficacy of domestic violence Act 2010 in delivering justice to the victims of domestic violence Uganda"

I therefore affirm and approve that his work is ready for submission.

Signature.....*MB Cynthia*..... Date.....*20/11/2015*.....

MBABAZI CYNTHIA

(SUPERVISOR)

LIST CASES

R Vs Makindi

Uganda V Moses Anor Criminal Confirmation No 46/90

Uganda V Jovan Kyoburungi

Uganda Women Lawyers Association and others V.A.G Constitution Petition No
2 of 2003

Uganda V Kato and others (1976) HCB

LIST OF INTERNATIONAL LEGAL FRAME WORK

The universal declaration of human rights 1948

International covenant on civil and political rights

International covenant on economic, social and cultural rights

Convention on the limitation of all forms of discrimination against women
(1979)

General declaration of their rights of a child

LIST OF UGANDA'S FRAME WORK

Constitution of the republic of Uganda 1995

Domestic violence Act 2010

Succession Act

Divorce Act

Children's act Cap 59

Police act Cap 303

LIST OF ABBREVIATIONS

FIDA	Federation of Women Lawyer
CEDOVIP	Center for domestic violence prevention
HCB	High Court Bulletin
ULR	Uganda Law Report
UWLA	Uganda Women Lawyers Association
EALR	East African Law Report
V	Versus
ALLER	All England Law Report

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CHAPTER ONE

1.0 Introduction

In previous years, domestic violence was the order of the day in Uganda and its rate of increasing was high.

This was evidenced by cases handled by the judiciary compared to other cases. This left peace and harmony in the family at the stake and legal mercy since they were over affected.

However, it should not be forgotten that less research to illustrate the effectiveness of Uganda's legal framework towards domestic violence is less meaning that little part of domestic violence vice has been attended. Therefore this research seeks to fill that gap by illustrating the effectiveness of legal framework in Uganda towards domestic violence particularly domestic violence Act

2010.

The term domestic violence has become the most used legal term to mean "the homes having conflict or distance at residence and within a family involving violence and often resulting into the call of law enforcement agency"¹.

It can also be called domestic disputes or family disturbance. It can also mean violence between members of the same house hold or spouses. It can also be termed as assault or other violent Act committed by a member of a house hold against another.

It may also mean "the affiliation of physical injury or creation of reasonable fears that physical injury or harm will be inflicted by the parent or a member or a former member of the child's house hold against the child or against another member of the house hold"².

¹ black's law dictionary 8th edition page 522

² black's law dictionary 8th edition 1601

Male and female domestic violence in rural areas are on the great level since accompanied by alcohol consumption. This makes partners own great risks of HIV AIDs.

This is based on the study conducted by Hopkins Bloomberg School of public health³. This study found out that at least one woman out of three living in areas of Uganda is reported being physically threatened or associated by spouse links between the risk of domestic violence and alcohol consumption, also the risk of women getting HIV from their spouse.

1.1 Background of the study

There has been long term existence of domestic violence in Uganda. Men, women and their children have been innocently affected by domestic violence which attracted the enactment of the law specified to deal with it specifically which is “domestic violence Act 2010”.

Since the above law was enacted there has been no research about efficacy of domestic violence Act 2010 in delivering justice to the victims of domestic violence in Uganda. This attracted the researcher’s attention to find out effective is the above law in delivering the expected justice to the victims’ domestic violence in Uganda.

It is very well known that Uganda is among the African countries with a percentage of domestic violence; most times this comes as a result of African cultures which prioritizes men’s superiority over women that contradicts with legal frame work that provide for “equality of all people”.⁴

Uganda is a country with more than 80 districts which are dominated by 65 tribes⁵.

This shows that these 65 tribes lies under different culture and every culture with its ways of reacting against domestic , for example some cultures like Bakiiga culture from western Uganda (from Kisoro, Kabale, etc) use force to

³ Hopkins bloom berg a school of public health, research of 2006

⁴ article 21(1) of the 1995 constitution of Uganda 3rd edition.

⁵ the schedule of the 1995 Ugandan constitution

solve problems other cultures, encourages polygamous marriages to solve family disputes while others encourages divorce.

1.2 Problem Statement

Domestic violence in Uganda is one of the complicated issues that have been called for enactment of domestic violence Act 2010 which received the presidential assent in March 2010.

It has even attracted the involvement of international organizations in matters of domestic violence for example FIDA which aims at solving and settling family disputes.

However, little attention has been paid on enforcement and effecting the domestic violence Act of 2010, this dissertation therefore seeks to illustrate the effectiveness of the above Act in delivering expected justice and discovering its loopholes at the same time.

1.3.1 Objectives of the study

The main objectives of this research are to illustrate the efficacy of domestic violence Act 2010 in delivering justice to the victims of domestic violence in Uganda. This means that a researcher is to illustrate different forms of domestic violence, its effect and the efficacy of the domestic violence Act in solving it.

1.3.2 Specific objectives

To find out the degree and the rate of increment or decrement of domestic violence in Uganda.

To identify the efficacy of domestic violence Act 2010 in delivering justice to the victim of domestic violence in Uganda.

To examine the effects of domestic violence to the citizens of Uganda.

To examine whether existing legal framework is enough to handle the degree of domestic violence in Uganda.

1.4 Breakdown of chapters

Chapter one is composed of introduction, background of the study, statement of the problem, objectives of the study, breakdown of chapters, significance of the study, literature review and methodology

Chapter two illustrates causes and forms of domestic violence.

Chapter three shows the effects of domestic violence to the people of Uganda

Chapter four illustrates the efficacy of domestic violence act 2010 in delivering justice to the people of Uganda

Chapter five shows the conclusion, recommendation, references and appendices

1.5 Significance of the study

There has been an endless increment of domestic violence in Uganda as a nation. This explains why Uganda is among the countries with the biggest number of street kids in Africa.

It has been found out that most cases of domestic violence in Uganda arise in rural areas compared to urban areas, so this dissertation is aimed at showing and finding the efficacy of domestic violence Act 2010 in delivering justice to the victims of domestic violence in Uganda and settling family dispute as seen below.

The research specifies different appropriate means on how domestic violence could be combated.

This research lays out the power of enacted law for the above vice (domestic violence Act 2010) in delivering the expected justice.

The research illustrates different forms of domestic violence and how they could be addressed.

The research still continues to show how Ugandan family members are continuously facing the endless wave of domestic violence, despite of the existing law.

1.6 Hypothesis

This research is leveled on two major hypotheses as seen below.

- i. That the domestic violence Act 2010 is delivering justice to the victims of domestic violence in Uganda.
- ii. That despite the justice being delivered, but some victims of domestic violence in Uganda are still facing the same challenges as before and perpetrators are Going Unpunished.

Literature Review

In the book “justice for children in Uganda”⁶ the author clearly illustrates domestic violence as one way of child abuse where its results is children running away from their parents.

In the book thereof, the author goes on and categorizes the children’s who are not under the care and protection of their parents in four categories as seen below.

1. Children abandoned in public places.
2. Those who have lost parents.
3. Children who have been assaulted by parents or other persons.
4. Those who have escaped beyond the control of their parents.

The author goes on to explain that although a child that lives on street is a potential offender, he or she needs urgent help from the society she urges that a public should not see those children as criminals who deserves punishment but instead to see them as children in need of care and protection⁷.

In the hand book, responding to domestic violence, introducing domestic violence⁸ as a complete and serious crime in Uganda. It highlights the efforts put forward to prevent the domestic violence in Uganda by the police, non-government organization as well as the child and family protection unit. This book was published as atool to guide police officers on handling cases of

⁶ written by Matalda.MSsengoba

⁷ article 60f united nations convention to the right of children

⁸ by Turyasingura hope a hand book for the police center for domestic violence prevention (CEDOVIP) copyright 2007

domestic violence since cases of domestic violence are brought to their attention.

According to the research made, entitled just die quietly, domestic violence and women vulnerability in Uganda,⁹ it clear shows how women in Uganda are sexually associated and how they are infected with HIV/AIDs according to the interview made with Harriet Abwori at Mulago on 9th-Sep-2013.

Still the author continues to show that majority of the people are HIV affected and the big number of the victims are women because the state has failed to protect them against domestic violence.

Humans rights watch research shows that Ugandan women became vulnerable to HIV infection as a result of domestic violence in complete and interviewing ways.

In concession, the above research made by human rights watch shows that the government also is much obliged to fight domestic violence as the mother of HIV/AIDs.

According to daily monitor,¹⁰ the archbishop of Kampala archdiocese, Dr. Cyprian KizitoLwanga asked the government to implement the domestic violence Act,¹¹ that was passed five years ago in order to curb the domestic violence.

The daily monitor showed that Dr. Lawanga said that domestic violence is one of the Uganda's top challenges that need urgent redress.

Dr. Lwanga said many Ugandans are suffering because of unsolved problems especially domestic violence.

In this same newspaper, Dr. Lwanga asked the government to priotise the implementation of the Act by carrying out the awareness campaigns country wide. This archbishop continued to show that domestic violence is failed by lies and lack of faithfulness among marriage couples. For example due that couples,

⁹ by human rights watch

¹⁰ 12th august 2015. page 3

¹¹ 2010

for example, that some married couples are not open to each others and don't speak the truth especially men who don't want to reveal their income.

We ca not have stable progressive society when our families are still unstable¹². Dr. Lwanga said.

In the case of R V Makindi,¹³ the accused who was a guardian of a small boy of about 6 years old was accused of killing a boy who died of severe injuries inflicted on him but their accused.

This happened after the accused had forewarned to beat a deceased to death for his previous action that had led to his imprisonment.

Causes and forms of domestic violence in Uganda

They are many existing and documented theory that seek to answer of what could be the causes of domestic violence or family disputes. Some theories focus on social way of living human characters any financial status. However some theories are being questioned on their validity as far as domestic v

Family background

This has played no simple role in promoting physical violence in homes and Uganda at large. This is due to the fact that most children grows up seeing their fathers fighting their mother which makes them to grow up with a common and local mentality that violence is normal and part of life.

Some of such fighting's comes as a result of social and traditional setup in that women from given cultures were brought up with a mentality that if a man doesn't beat her then she is not loved. That is a true case with Bakiga¹⁴ and Banyoro from western Uganda.

This explains why rural women do repeated mistakes in need of being beaten by a man as a way of expressing love for them.

The payment of bride price

¹² editorial@ug.nationalmedia.com

¹³ (1961)E.ALR page 32 to 327

¹⁴ Nyabuzana Stella a respondent found in Kisenyi on 22nd July 2015

The payment of bride price lowers the dignity of women up to that of a commodity. This explains why women don't have "assay" in the family and why they don't have authority to any of the family properties.

If marriage is violent and she attempts to leave, she is always requested to pay back the bride price that a man paid and which she can't afford since she owns nothing on family properties.

In Uganda, most people who are subjects to customary law have been the main candidates of this practice.

And other men make their women to over work so that she can produce the bride price paid to their home out of her work.

The case of Uganda V Eduku¹⁵ demonstrated the abuse and the struggle for women emancipation. In these cases, the brother in law of the wife wanted to inherit a widow under the Teco culture and which she chose a man of her choice as the new husband she was labeled adulterous. The court held that since the bride price was not fully paid, there was no existing marriage between the complainant and the woman for they were not considered a husband and a wife since the bride price had not been fully paid. This testifies that bride price is one of the most causes of domestic violence.

The mentality of women should be submissive to their husband

According to the African cultures, women are supposed to be submissive to their husband, even when the man is wrong, it is said that women have no right of correcting him, that it will be a sign of disrespect hence living women with no voice and say in a family.

When the above African beliefs were accompanied by religious holy books like Quran and bible, women were left with little rights to say anything for example the public says that "wives submit your selves into your husbands as is fit in the lord¹⁶.

¹⁵ (1975) HCB 359

¹⁶ Colossians 3:18

Furthermore, Quran says that “men have authority over women because God has made one superior to the other and because they spend their wealth to maintain them good women and obedient. They guard their unseen parts because God guided them¹⁷.”

Alcoholism

According to the new vision,¹⁸ alcoholism and poverty are perceived to be the leading cause of domestic violence a survey by synovitis revealed it.

According to the study carried out in September of 2009, alcohol was a leading cause of domestic violence followed by poverty. This is the major reason as to why domestic violence is the order of the day in rural areas. Alcohol consumption drives some one’s mind away from the state of being sober hence affecting his sense of judgment and decision making.

In most cases when a man is drunk, he fights hard to drunk, he fights hard to prove his authority of man ship and power over his family in the public by beating up his wife and children hence calling for legal agencies. This explaining why men are perpetrators and women are victims.

Economic reason

In the past women used to look at their husbands as only head winners but in this global world women have found themselves in economic fields where by others earn better than their husbands. Since men want to continuously to exercise control over family resources, they also demand control over the money earners by their wives, which becomes hard for women to accept hence leading to family disputes.

In other cases, men mistreat their wives because they know that, their wives are too poor to resist the cruelty put upon them hence leading up admitting whatever comes across. The main cause of conflict under this scenario is that husbands continuously insist that women should surrender their earnings since they are also owned by men.

¹⁷ Quran 4:34” women” Dawood, page 83

¹⁸ 28th nov 2009 by madinalTbajjukira

Education level

According to the existing research shows that the big number of women in Uganda is not educated, worse still in that small number of educated women they are few personalities with legal literacy.

Women who are illiterate suffer a lot of violence simply because they are ignorant of their rights and are governed by cultural values. This is why men prefer to marry uneducated women. On the other hand educated women suffer because men think that educated women are uncontrollable since educated women know their rights and they usually demand that they also need to get a fair treatment something men find to degrading to accept.

Wrong documentaries

The existing of bad documentaries like movies that encourages divorce and literature books for example class of distinctions book 2¹⁹ that rotates a round divorce without reconciliation has very much promoted literate and film fans who so much enjoy them. This comes as a result where one tries to react in a home in the same manner that wrong cast/character do in that book or movies hence causing family complications.

Adultery

This comes as a result of lack of trust among the married partners and failure to be faithful to one another.

This normally comes as a result of miss-comfort in a family to different cases like being abusive, arrogant, failure to provide necessities or the failure to satisfy one partner sexually which calls to the aggrieved party to look for a partner outside marriage which contradicts with the law,²⁰ and which creates suspicion between partners and heavy family violence at last if confirmed to be two.

¹⁹ by Anita deBough

²⁰ section 154 of the penal code Act Cap 120

Forms of domestic violence

Domestic violence takes different forms. Victims of domestic violence are abused in various ways. Children and women account for the majority of victims of domestic violence. However most research shows that men are perpetrators but on some incidents women are also perpetrators. This means that at times also men are victims of domestic violence.

However it should not be forgotten that where women are victims of domestic violence, children are affected more than men and below are the common forms of domestic violence

Sexual abuse

In marriage most men and women are harassed sexually and little is done with the penalizing the perpetrators. In most cases marriage women are forced to have sex without their consent which leads to injury and psychological torture and on the other hand men are denying sex by their wives which creates high changes of adultery. In most cases most partners do mistakenly commit adultery because their spouses deny them sex; this has left the chances of marriage people to have a peaceful marriage without violence at the stake.

Sexual abuse or sexual assault is one of the common domestic violence among the married people.

Physical abuse

This means the kind of pain inflicted on the victim, it may be by slapping, beating, lifting or assault as long as the victim is going to feel physically offended.

In such cases, the perpetrators may be a parent guardian, spouses, a child, a boss, brother, sister or any close relative may be responsible for it. this comes as result of someone to think that he or she owns justice in his hands to punish anybody who has done wrong and if that thinking of people is accompanied by the state of being not sober, then someone is likely to act outside the law, such

cases have acted as precedents for example R V makindi²¹. Cases have been reported in newspapers for example new vision one day reported a story of a father who was arrested on suspicions of having defiled his daughter,²².

Emotional psychological abuse

Some parents more so step parents, they tend to provide harsh and hostile environment to the children who does not belong to them. This is exercised by over beating them, making them over work beyond the normal limit, be abusive to them, denying them necessities like food, beddings and at times medical attention.

This affects the child psychologically in growing up; he grows with a violent mind and poor mentality over all step parents. This is seen on how they suffer diseases of poor feeding due to poor balance of diet. This brings poor development of the body and stagnant growth hence leaving a child in a sorry state of legal mercy.

Child labour as form of domestic violence

Child labour is said to mean the employment of workers under the age of majority²³.

In Uganda, many children have been victimized to be the subject of child labour which contradicts with the provisions of a given statutes, in Uganda as seen below.

Article 15 of African charter on the rights and welfare of the child provides that "every child shall be protected from all forms of economic exploitation and performing any work that is likely to be hazardous or not to the interest of the child's healthy, physical, mental, spiritual, moral or social development"²⁴

Similarly to article 32 of the convention on the rights 32 of the convention on the rights of the child recognize the rights of a child to be protecting from

²¹ (1961) EALR

²² new vision of 30th June 1995

²³ black's law dictionary 8th edition page 256

²⁴ 17th to 20th July 1979

economic exploitation and from performing any work that is likely to interfere with the child's education or that is likely to be harmful on child's healthy, mental, physical, spiritual, moral and social development²⁵.

S 8 of the children's Act prohibits any employment that may be harmful to the child's healthy or mental, physical or moral development of a child²⁶.

s. 32 (2) of employment all prohibits the employments of the child under the age of fourteen unless he is under supervision of the adult²⁷.

s. 32 (4) of the employment Act prohibits the employment of a child in any dangerous or injurious or hazardous to work to his or her healthy²⁸.

s. 32 (1) of the employment Act completely prohibits employment of any child at any kind of work as long as is below the age of twelve²⁹.

Economic financial violence

Another type of domestic violence is the denial and complete prohibition of women to have a say or a hand in financial issues. This is done and fulfilled by denying some married women to work or get employees on jobs of their professionalism and denying them to make decisions on economic matters in the home or family.

Most men exempt their wives to access the above economic right with a common and local mentality of that when married women get money; she becomes uncontrollable hence denying them their economic right.

²⁵ 20th, Nov 1989 it was proposed and it was entered into force 2nd September 1990

²⁶ cap 59

²⁷ 2006

²⁸ 2006

²⁹ 2006

CHAPTER TWO

THE UGANDAN LEGISLATION ON HUMAN RIGHTS

Before enactment of domestic violence Act 2010, there were officer laws meant to combat Domestic Violence in a country. However these laws seemed to be less effective in delivering justice and which lead to the enactment of domestic violence Act 2010. The main focus of these laws, it was to protect the human rights in Uganda and this illustrates that, they intended to leave no room for domestic violence as seen below.

2.1 The Constitution of republic of Uganda³⁰

This is the supreme law of the land in Uganda. In accordance with article 2 (2) of the constitution of the Republic of Uganda, any other law that contradicts with the provisions of the constitution is null and void to the extent of its inconsistency.

The constitution of Uganda has specific provisions that protects human rights that protects human rights. It clearly lays down the rights of children, men and women. The constitution of Uganda is therefore central on protecting human rights and fighting domestic violence at large as seen below.

Since it provides that "All persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy well protection of the law"³¹. This means that all acts of segregating a person on grounds of sex, religion, tribe, status, culture, and race, standard are all illegal and attracts punishments as it may be stipulated by the law.

"Children shall have the right to know parents and be cared for by their parents of those entitled by the law to bring them up"³²

³⁰ The 1995 constitution of Uganda as amended by act n0. 1 of 2000

³¹ Article 21(1) of the 1995 constitution

³² Article 34(1) supra

This means that the above article caters for the victims more so children who are harshly and intentionally denied. The access to education hence making the right to education every body's right and a responsibility of educating every parent's obligations.

The constitution goes on and provides that "No person shall be deprived of life intentionally except in the execution by court of competent jurisdiction in respect of criminal offences under the law of Uganda and the convictions and sentences have been confirmed by highest appellate court"³³ This means that any domestic violence that is inflicted to any person let it be intentionally or unintentionally that leads to the death of any person, it shall be punishable by the law hence leaving the gaps death caused by domestic violence covered.

The constitution still provides that:

No person shall be required to perform forced labour"³⁴

"No person shall be held in slavery or servitude"³⁵ This means that any forced labour without consent of the worker, it shall rise to domestic violence and which is constitutionally prohibited, however the above clauses have the exceptions that are mentioned in clause (3) as seen below

Article 25 (3) states that for the purposes of this Article for the purposes of this Article forced labour does not include

- (a) Any labor required in consequence of the sentence or order of the court.
- (b) Any labour required of any person, while that person is lawfully detained, which though not required in consequence of the sentence or order of the court is reasonably necessary in the interests of the hygiene for the mentainance of the place which the person is detained.
- (c) Any labor required of a member of disciplined force as part of that members duties such as, or in the case of a person who has conscientious objections to service as a member of naval, military or air

³³ Article 22(1) supra

³⁴ Article 25(7) supra

³⁵ Article 25(1) supra

force. Any labour which that person is required by law to perform in place of that service.

- (d) Any labour required during the period when Uganda is at war or in case of any emergency or calamity which threatens the life and well-being of the community, to extent that the requiring of the labour is reasonably justifiable in the circumstances of any situation arising or existing during the period or as the result of the emergency or calamity for the purposes of dealing with that situation, or
- (e) Any labour reasonably required as part of reasonable and normal communal or other civil obligations.

This means that a part from the above exceptions, any forced labour with the economy of a worker is illegal and punishable.

The constitution goes and states that:-

“Every person has a right to own property either individually or in association with others”³⁶

“No person shall be compulsorily deprived of a property or any interest in or right over a property of any description except where the following conditions are certified”³⁷

This means that every person has a right to own a property any act of deprivation of a property is illegal and punishable by the law. A part from the exceptions in Article 26 (2) (a) (i) (ii) the rest of the actions related to this are all illegal which illustrates that the Ugandan constitution protects Ugandan from deprivation of a property.

The constitution still provides that “No person shall be deprived of personal liberty except in any of the following cases”³⁸

This article protects personal liberty, and it's a criminal offence for one to be unlawfully detained and it attracts the criminal punishment as stipulated by the penal code Act Cap 120.

³⁶ Article 26(1) supra

³⁷ Article 26(2) supra

³⁸ Article 23(1) supra

This simply reveals that the personal liberty of all Ugandans are constitutionally protected, But this right has an exceptions that are clearly shown under Article 23 (i) (a) (b) (c) (d) (e) (f) (g) and (h) meaning that any personal liberty deprived away from these exceptions its illegal.

The 1995 Ugandan Constitution still goes on to illustrate that “No person shall be subjected to any form of torture of cruel, in human or degrading treatment or punishment”³⁹

This right has no exception, meaning that it’s an absolute right. This illustrates that no any condition that can make torture justifiable and no defense can bring torture the respect for human dignity and protection from in human treatment is an observed in conclusion.

It’s beyond clear that the constitution of Uganda holds ll human rights momentum as shown above.

2.2 Penal Code Act⁴⁰

This Act is a law that defines offences, and punishments attracted by those offences. It also lays down the general principles of criminal liability together with the general and specific defenses that one can plead.

The penal code addresses certain offences committed and the punishment they attract if one is found.

The rights of Ugandans from being deprived.

The penal code Act provides that “Any person who unlawfully with a malice forethought causes death of another person by un an lawful act of omission commits murder”⁴¹ This provision protects right to life which is provided in the

³⁹ Article 24 supra

⁴⁰ Cap 120

⁴¹ Section 188 of PCA cap 120

constitution” and punishment for murder is death sentence as provided under Section 189 of the penal Code Act.

The penal code Act goes on to protect right to life with other sections like section 190, which provides a life imprisonment as a punishment for manslaughter.

Manslaughter simply means the death of someone that comes as a result of another person’s negligence; this shows how right to life is observed.

In continuation, chapter 23 (xxii) of the penal code Act provides for the offences of assault. In this chapter there section 235 which caters for common assault, section 236 provides for assault causing actual body harm section 237 assaults on persons protecting wreck and finally section 238 assaults punishable with two years’ imprisonment all the above sections, caters and defends right to life.

Chapter 13(xiii) of the penal code Act provides for the offences related to the religion. This protects Article 29 of the 1995 Ugandan Constitution which provides for protection of freedom of conscience, expression, movement, religion, assembly and association.

This chapter is comprised of 5 sections and which includes. Section 118 providing for insult to religion. Section 119 provides for disturbing of religious assemblies, section 120 provides for trespassing on burial places; section 121 provides for hindering the burial of a dead body and **section 122** provides for writing or uttering words with intent to wound the religious feeling.

Chapter 25 (xxv) of the Penal code Act Cap 120 provides for the offences concerning the theft and chapter 27 (xxxvii) provides for the offences concerning robbery and extortion. All sections under the two chapters (chapter 25 and 27) seek to protect Article 26 of the 1995 Ugandan constitution. This Article protects people from deprivation of the property, which means that the above two chapters protects every person’s right to own property either individually or in associative as stipulated by the constitution.

Chapter 24 (XXIV) of the penal code Act Cap 120 and all sections under that chapter provides for offences against Liberty. The whole of chapter 24 of the penal code Act seeks to protect Article 23 of the constitution which protects the right of personal liberty and it's under this chapter where we find offences like abduction, kidnapping and many others relating around the right to personal liberty.

Then **chapter 28 (xxviii)** of the penal code Act provides for the offences of Burglary, house breaking and similar offences. The whole section under this chapter seeks to protect Article 27 of the constitution that protects right to privacy of a person, home and other property and it provides punishments for someone found guilty of the offences there under. In conclusion penal code Act plays a big role in protecting human rights which are provided by the constitution as seen above.

The divorce Act (*Commencement 1st Oct 1904*)

This Act entirely address the steps, procedures and ground for the dissolution of marriage. In this Act there are some provisions that protects human rights as seen below.

Section 14 of the divorce Act states that "A husband or wife may apply by petition to the court for a judicial separation on the grounds of cruelty adultery or dissipation without reasonable excuse for two years or upwards and the court on being satisfied that the allegations of the petitions are true, and that there is no legal ground why the application should not be granted, may decree judicial separation accordingly"

According to the content of the above section, every man in marriage has right of being free from any cruelty, which protect Article 24 of the constitution which provides that no person shall be subjected to any form of torture or cruel, in human or degrading treatment or punishment" hence protecting the absolute human right.

According to **section 18** of the divorce Act, the wife has a right to apply by petition to the court for an order to protect any property that she acquired after she was deserted by her husband. This section protects the human right which is called a right to own property, this right is provided for in the Ugandan constitution of 1995 in **Article 26 (1)**. This illustrates how far is the divorce Act concerned with the protection of human rights in Uganda.

Section 29 of the divorce Act provides for the custody of the children and it states that “in suit for dissolution of marriage, or for nullity of marriage or for judicial separation, the court may at any stage of proceedings or after decree absolute has been pronounced make a such order as it thinks fit, and may from time to time vary or discharge the orders with respect to custody, maintenance and education of the minor children of marriage, or for placing them under the protection of court.

This section partly, protects **Article 30 of the 1995** constitution which provides that every person has a right to education, which leaves it as an obligation of a parent.

Still the above section protects **Article 34 (1)** of the Ugandan constitution of 1995 which states that “children shall have the right to know parents and be cared for by their parents or those entitled by the law to bring them up” meaning that almost every right of a child is catered for.

In conclusion, despite the fact that divorce Act focuses on dissolution of marriage, it still protects some constitutional rights as shown above.

2.3 Children’s Act⁴²

This Act entirely addresses the rights of children in Uganda. It defines a child as “a person below the age of 18 years⁴³

The following are the provision which protects the rights of children in the above Act.

⁴² Cap 59

⁴³ Section 2 of the children’s Act

Section 5 (1) of the children's Act provides that "it shall be the duty of the parent, guardian or any person having custody of a child to mention that child and in particular that duty gives a child a right to

- (a) Education and guidance (b) immunization (c) adequate diet (d) clothing
- (e) shelter and (f) medical attention.

This means that the above section protects Article 34 of the 1995 Uganda constitution which provides for the rights of children. This protects the children who are victims of domestic violence and severely face, poor feeding the denial of medical attention, and this reveals that under children's Act, the rights of children are observed.

Section 6(1) of the children's Act provides that "Every parent shall have parental responsibility of his or her child. This section extends the responsibility of education, shelter, medical care and other necessities to the parents of a child. This section also partly protects Article 30 of the 1995 Ugandan constitution which provides that "All person have a right to education" meaning that the right of children to be educated at the being protected.

The same section still protects **Article 34 (1)** which states that "subject to laws enacted to their best interest, children shall have the right to know and be cared for by their parents or those entitled by the law to bring them up.

In conclusion **section 4** of the children to live and stay with their parents, hence protecting children's rights as provided by the constitution and there are these laws that protect human rights in Uganda and the protection of human rights means the protection of a person from domestic violence.

CHAPTER THREE

INEFFICIENCIES AND LOOPHOLES IN THE PREVIOUS LAWS BEFORE ENACTMENT OF DOMESTIC VIOLENCE ACT 2010

The passing of domestic violence Act 2010 to combat the vice of domestic violence, it was a confirmation that there was loopholes and inefficiencies in the previous laws against domestic violence. They were those loopholes that called for the enactment of domestic violence Act 2010, and the following are the inefficiencies and loopholes that were found in the previous laws.

In the previous laws under the penal code Act⁴⁴. The provision against rape as one form of domestic violence was not uniform. The penal code Act defines rape as *“any person who has unlawful carnal knowledge of a woman or a girl without her consent or with her consent if the consent is obtained by force or by means of threats, intimidation of any kind or fear of bodily harm or by means of false representation as to the nature of act or in the case of married woman by impersonating her husband commit the feeling termed as rape”*⁴⁵.

According to the above definitions, it's clear that the law favors only women yet in the middle of it we see ingredients like intimidation, threat, and impersonation which can also be done by women to against the consent of a man, but it can't rise to rape.

Under pervious laws, the emotions of a person were not considered. This means that they only catered for physical abuse that was easy to observe leaving those who are mentally tortured to suffer. This explains why there is a lot of provisions against physical domestic violence, for example murder, attempted murder, manslaughter, defamation to mention but a few and the above loopholes were addressed by section 2 of domestic violence Act 2010 which provides that” on a motional, verbal and psychological abuse, no partner is expected to humiliate, degrade another and the law prohibits a partner from repeated insults ridicule or name calling under paragraph (a) and yet paragraph (b) is to prohibit on repeated threats to cause emotional pain.

⁴⁴ Section 7(1) a

⁴⁵ Section 7(2)b

This section is for the purpose of avoiding the injury of integrity of another psychologically which was not the case with previous laws.

On economic and financial violence, previous laws were much dormant. It is clear that before enactment of domestic violence Act 2010, there was a denial and a complete prohibition of women to have a say or hand in financial issues. This could be done by denying married women to work the jobs of their professionalism and denying them to make decisions on economic matters in a home. It was previously bad luck that all existing laws at that time never addressed this problem and which was a loophole and this a loophole was addressed under paragraph (i) (ii) and (iii) of section 2 (a) under economic abuse, which provides that the victim and his or her children if any should not be deprived of house hold necessities and the section continues to address the economic domestic violence which was not the case previously.

The previous laws gave no local council courts a chance to handle family issues. It's clear that not all domestic violence cases deserved the police more so if there is a chance of reconciliation. The laws before the year of 2010 left everything in the hands of the police and magistrate courts.

This explains why most cases were not reported and why many victims had decided to be diehards of domestic violence, this was due to the fact that most people feared the police and yet others could see the domestic violence they are facing when it is too small to be handled by the police. This inefficiency was addressed in section 6 part II where the victim can consult the local courts in the boundaries of the perpetrators or the victim himself. This has left every level handling the cases in its capacity and that is to say, that the local council courts handled the minor cases and the police handle what is beyond the capacity of the local council courts and the magistrate court handles what is above the capacity of the police.

In previous laws all defenses in the court were acceptable since there was no restriction on some defenses, that is to say why most cases could not succeed, this means that previous laws were not specific on the matters concerning domestic violence hence leaving a chance for perpetrators to go due to false and

minor defenses during the court hearing. This loophole was cleared by bringing section 5 of the domestic violence Act 2010 which provides that “consent is not a defense in domestic violence. This was done because it could be hard for someone either a judge or a police officer to determine the truthiness and the validity of this defense. This section clears the corner in the case of rape, where it states that “when a woman gains consent during sex after using force at the beginning it does not rise to rape” this means that rape being part of domestic violence, it does not matter whether the woman gains consent or not, it will remain an offence as stipulated by the law.

Pervious laws the role of the police to fight domestic violence was not strengthened. The police was mandated to investigate, to arrest the victim and take a victim to court just like any other criminal offence. This kept domestic violence at the level of other offences yet its effect is greater than any other offence of its levels. This explains why there were many provisions against domestic violence yet there is an increment of domestic violence cases every time. This loophole was cleared by section 7 of the domestic violence Act 2010 which provides that.

“Notwithstanding of section 6, a complainant may be made to a police officer⁴⁶

“A police officer to whom the complaint of domestic violence is made or whom investigates the complaint shall⁴⁷

“Assist the victim, including giving assistance or advice in obtaining shelter”⁴⁸

“where a sign of physical or sexual abuse are evidence, ensure that the victim undergoes a medical examination and receive a medical treatment”⁴⁹.

“Advise the victim of the right to apply for relief under the Act and the right to lodge a criminal complaint and⁵⁰. “Offer procedural guidance and any

⁴⁶ Section 7(2)c

⁴⁷ Section 7(2)d

⁴⁸ Section 7(3)

⁴⁹ Section 7(4)

assistance as may be necessary to ensure the wellbeing of a victim, the victim's representative and other witnesses⁵¹.

"A police officer may record a statement by the victim or a victim's representative on the nature of domestic violence⁵². Where a victim or victim's representative desire, the statement on the nature for domestic violence shall be taken by the police officer of the same sex as that of the victim"⁵³.

This means that every person with authority is obligated to fight domestic violence. Right from the local council to police and the courts and hence putting every man under tight conditions to fight domestic violence.

In conclusion, it's beyond true that the previous laws that existed before enactment of domestic violence Act were too essential but it's also clear that those laws had a lot of loopholes that left the desire of more justice to be executed.

3.1 REASONS FOR THE PERSISTENCE OF DOMESTIC VIOLENCE DESPITE OF THE PRESENCE OF DOMESTIC VIOLENCE ACT 2010.

Before the enactment of domestic violence Act 2010, there was a belief that a given law specifically to fight domestic violence was missing and it was from this belief that Ugandans had to seek for the enactment of the domestic violence Act 2010. But still after the enactment of the Act we are continuously seeing the persistence of domestic violence as it used to be before the enactment of domestic violence Act. And this research also seeks to address what could be the reasons for the persistence of this vice as seen below.

3.1.1 Education level

Educated women command extra respect in the society and hence majority find it hard to go to courts and police to report that they are victims of domestic violence. This is usually a known fact to men and they will violate rights of women with full knowledge that women fear to report to police and he does it as the way of testing women's level of subordination, education notwithstanding.

This is true since there are not many reported case of women ever mistreating their husbands because of their achievements. Rather than cerebrate the achievements of women, men tend to negatively accept such achievements and this has left educated ladies when they are victims of domestic violence with no question.

3.1.2 The payment of bride price

Despite thefact that the law to combat domestic violence has been put in place, but there has been no law put in existence to combat bride price. This means that customary law is still leading. And it's very clear that under customary law women should be submissive to their husbands and on failure to do so, it attracts hostility and cruelty hence leaving the vice or domestic violence at the top. This means that, the existing laws are made to fight violence but not the cause of it, this reveals that until the causes of domestic violence gets solutions, and there will be no end of it.

3.1.3 The failure to enforce the Act

The main reason as why previous laws were dormant, it's because they were left on mere papers without enforcement making laws without enforcement, it's a mere jokes, nothing can ever take place unless if the law is enforced. Since the enactment of domestic violence Act 2010, there has been no enforcement of it. According to the daily monitor⁵⁴ the archbishop of Kampala archdiocese, Dr. Cyprian KizitoLwanga asked the government to implement the domestic violence Act that was passed five years ago to curb the domestic violence.

The daily monitor showed that domestic violence is one of the Uganda's top challenges that need urgent redress.

Dr. Lawanga said that many Ugandans are suffering because for unsolved problems especially domestic violence.

In this same newspapers. Dr. Lwanga asked the government to prioritize the implementation of the Act by carrying out the awareness campaigns country wide.

⁵⁴ 12th August 2015 page 3

This archbishop continued to show that domestic violence is influenced by lies and lack of faithfulness among the married couples. For example that some married couples are not open to each other and don't speak the truth especially men who don't want to reveal their income.

This means that unless the Act is enforced, domestic violence will not end.

3.1.4 Ignorance of the law

Most people in Uganda who are victims of domestic violence are endlessly suffering it because they are ignorant of the law. The existence of the law without the awareness of the people still it is was useless.

However the law was made there is a need to sensitize the people on how to use it. Victims fail to report the perpetrators because they know nothing about legal issues. This comes as a result of a big number illiteracy and those who are literate still they lack the legal knowledge. Hence leaving domestic violence at its climax.

3.1.5 Corruption in the law enforcing agencies

According to the existing theories, it clear that big number of people don't report their cases to police and those few that are reported to police, most of them are not taken to court. This is due to corruption among the law enforcing agencies, this comes as a result of a perpetration having money to invest in for corruption while the victim is poor. This has been a big case with wives of rich people who suffer daily domestic violence and nothing is done to perpetrators. This has also left the persistence of domestic violence in Uganda even though there are laws existing.

3.1.6 Unseriousness of the victims

Most victims of domestic violence, they always suffer continuously because they lack seriousness. This is always seen that although they are battered, they don't report their cases and even if they report cases to police, some don't go back to make a follow up and even those that try to reach up to the court level some don't go to courts to testify against the perpetrators.

4This means that even if the law is in existence, nothing shall change until the victims becomes serious on any vice done against them.

In conclusion, everybody is obligated to work hand in hand with law enforcing agencies and the judiciary in order to bring domestic violence at the end

CHAPTER FOUR

CRITICAL ANALYSIS OF DOMESTIC VIOLENCE ACT 2010 AND ITS EFFECTIVENESS IN DELIVERING JUSTICE TO THE VICTIM OF DOMESTIC VIOLENCE

The passing of domestic violence Act⁵⁵ is the major landmark. However, the necessary regulations should be put in place for it to be operational because without it will remain on paper like others. The institution supposed to enforce it must have the capacity and adequate resources both human and financial, for example if police or the local council are handicapped who will benefit from it. So as the law has been made to protect the victims of domestic violence, it should be enforced so that justice can be delivered.

The effectiveness of domestic violence Act 2010 in bringing justice to the victims of domestic violence is examined below.

S. 2(a) defines violence to constitute of any Actor omission of a repatriator which harms, injures or endangers the health, safety, limb or wellbeing of another be it mental or physical injury.

Thus under section **4(1)** of this same Act any person in a domestic relationship is prohibited from engaging in a domestic violence.

yet section **4(2)** such persons that engage in domestic violence commit an offence and are liable to conviction of fine not exceeding forty eight currency points or imprisonment for the period not exceeding two years.

However, although the law provided for this, acts of violence are still being tolerated and victims of violence are still unwilling to appeal for justice. This is due to the customary law that is left to work alongside the statutory law and yet violence occurs within the marginalized section of women, who find it easy to succumb to customary law than to statutory law, thus rendering the effectiveness of the Act power less in securing justice.

⁵⁵ 2010

In reflection of section **2a (I) (II) (III)** under economic abuse in a home, the law provides that the victim and his or her children if any should not be deprived of household necessities, no deprivation that should prevail on property jointly or separately owned by the victim or no deprivation is expected on payments of rent related to the shared households and maintenance. This law entitles victim of violence to access what belongs to him or her whether he or she singly or jointly owns the property under question. Thus under paragraph **C** no prohibition or restriction that is put on accessing such properties that the victim is entitled to use or enjoy.

However under succession laws in customary law the woman has no right to inherit the properties and under circumstances of divorce she can be kicked out of the house without sharing the physical or financial resources available in the family.

Under **section 2** on emotional, verbal and psychological abuse no partner is expected to humiliate, degrade another and the law prohibits a partner from repeated insults, ridicule or name calling under paragraph **(a)** yet paragraph **(b)** is to the effect of prohibition of repeated threats to cause emotional pain.

The law is for the purposes of ensuring that no partner that may injure the integrity of another through psychologically their partner through humiliation and degradations. However, it is not easy to tell what happens psychologically in absence of a witness because there are chances of perpetrator to deny or even accuse his partner having done the same. Through the torture they suffer and thus they may be unwilling to consult with law enforcers, for fear of experiencing worse situations.

Under **section 5**, the law prohibits the perpetrators from raising a defense that the victim consented to violence. This is done to avoid abnormal interference of the law enforcement agencies during the execution of justice. This could be hard for the law enforcers to prove or disapprove whether the victim consented at the time of perpetrating him or her.

Under **section 6** the proceedings may take place if the victim legally consults local council courts. It is in a way that local council courts under **subsection (I)**

should be found where the perpetrators or the victim resides. (2) Upon receipt of the complaint, court is expected to make record of complaints. However the local council courts have handled domestic violence issues in manner that is unprofessional. Because some of them are not educated thus finds it difficulties in taking records on details of the victims and their perpetrators thus the data base of domestic violence remaining unfulfilled making research difficult.

Since domestic violence Act was assented to fight domestic violence and punish perpetrators of domestic violence, it is clear that its self it is insufficient to bring the end of domestic violence and other forms of violence against women. There are many aspects of the new law that will strengthen the fight against domestic violence for instance local councils⁵⁶ are given a mandate to try cases of domestic violence. Fines are set for perpetrators of domestic violence⁵⁷. The law penalizes a partner in domestic relationship who injures or endangers the health of others⁵⁸. And it's illegal to deny a partner the economic or financial resources to which they are entitled. This is a great step in the fight against domestic violence in Uganda, but this research contends that the law alone may not make much impact in the fight against domestic violence if it is not accompanied by attitude and behavior change.

At the moment there are many areas in Uganda where violence against women is justified, even found acceptable worst of all many women in Uganda believe that their husbands beating them is the acceptable behavior such attitudes and practices will not change by enactment of the law but also through individuals and communities realizing that there is no justification for violence against women and that men, women and children need to rise up and oppose it. But change in attitudes, behaviors, customs, and traditions that discriminate against women and perpetuate violence against women will provide along lasting solution and ensure that all men and women enjoy their full rights.

Such cultures and traditions that discriminate against women have long passed their expiry dates and need to be buried forthwith across the country of

⁵⁶ it is provided for under section 6 of the domestic violence Act 2010

⁵⁷ section 6(5) e

⁵⁸ section 6(5)

Uganda; the magnitude of violence against women is well appreciated. Its causes and manifestation appears to be equally well understood as a negative consequences on individuals, families and communities why then do we continue to have high levels of domestic violence?

During this study the researcher has found out that unacceptably high number of Ugandan women continues to experience domestic violence, mostly at hands of men. it is telling that although the big number of cases go unreported, the police crime report for 2009 shows an increase in reported case of death resulting from domestic violence, it was from 137 in 2008 to 167 in 2009. Change makers who are champions of the campaign are men and women that undertake a personal change of attitude and behavior. The change is a personal will and voluntary.

The domestic violence Act⁵⁹ provides the opportunity to expand the type of gender based violence in Uganda to include domestic violence as an added type in police records across the nation.

The domestic violence Act 2010 needs to be implemented expeditiously. **Section 6** of the Act amplifies the proceedings in the local council courts to control domestic violence and therefore protocols and guidelines have to be developed for all local council courts in the country.

Section 7(a) of the domestic violence Act 2010 shows the duties of a police in the control of the domestic violence and therefore police officers deployed to the child and family protection unit need policy guidelines and protocols as well as the capacity to enable them handle the protocols.

The Act provides Avery clear definition of domestic violence that includes not only physical and sexual assault but also emotional, verbal, psychological and economic abuse as well as various forms of harassment. Byrecognizing the effect of psychological abuse, the bill would open the door for women who are enslaved by the threat of violence.

⁵⁹ 2010

When firearm is kept in a home, this fear is especially acute and may paralyze the victim from seeking the assistance. The introduction of protection orders is another welcome measure, a protection measure works like a restraining order to prevent perpetrators from having contact with the victim. It may include provisions regarding temporary child custody and maintenance payments to the victim. Moreover courts would be required to hear a case within 48 hours of application being filed even on holidays and weekends. Such an expedient response could prevent a violent situation from becoming a deadly one.

The domestic violence Act 2010 also have good attempts to address economic factors that lead to power imbalances between men and women, many victims today in Uganda are forced to choose between a life with an abusive partner or one of complete poverty. Others fear that they will not receive the custody of their children, the courts presently favors partner custody or that they will be unable to provide for dependants without particular support hence leaving the violence against women still prevailing.

Section 8 provides the duties of the practitioner.

A practitioner simply means “a person registered under section 21 of the medical and dental practitioners Act to practice medicine, surgery or dentistry and includes a medical official”

And section 8 states that:

A practitioner who reasonably suspects that a person under his or her care is a victim of domestic violence shall assist the victim in the following manner;

- a) Offer the requisite medical assistance to the victim.
- b) Be accurately document the visit of the victim
- c) Inform of victims of options available within the judicial system to the victim.
- d) Make him/her self available to testify in court regarding the case where necessary.

These means that even medical doctors are obligated to fight domestic violence. This helps in cases where domestic violence victims opt for medical assistance other than judicial assistance.

The domestic Act becomes more effective on this point when the medical doctor fulfills his obligation of attending the court and give evidence in his knowledge hence delivering justice to the victim of domestic violence.

Section 9 of domestic violence Act

Provides the justification of the magistrate court in family issues. Section 9(1) provides that every magistrate court may hear and determine the matter of domestic under this Act. This helps the victim in accessing a nearby magistrate court without minding which kind of violence hence delivering justice to the needy victim at the right time.

Section 9 (2) allows the magistrate court to issue the protection order with an intention of securing a victim from any kind of domestic violence inflicted by the perpetrator hence delivering justice to the victim.

Section 9(3) encourages the magistrate court to follow the principles or procedures described by family and children court rule hence leaving the perpetrator under the correct authority.

Section 10 of the domestic violence act explains the procedures acquiring the protection order from the court. Section 10(1) shows that a victim or a representative of a victim may apply to a magistrate court for protection order. Section 10 (2) shows the documents to a company the application and this includes affidavit and any report or document to be relied on can also be attached, while section 10(5) provides time limit or the court to hear the protection order. This means that on the arrival of the request for the protection order. It will be given the first hand attention with in 48 hours which is clear signal of the effectiveness of the domestic violence Act 2010.

Section 11 of the domestic violence Act provides for the interim order. Interim order simply means the temporary court decree until something else occurs. This means that in case of an emergence, the court may issue the above order.

Under the principles of domestic violence Act without the following long procedures hence delivering justice to the victim and assign of the effectiveness of the domestic violence Act 2010.

Section 12 provides for the protection orders as seen below.

Section 12 (1) provides that on the hearing date specified in an interim protection order the court may issue the protection order, the court may issue the protection order where the court is satisfied that an act of domestic violence has been committed by the perpetrator. This means that interim order is temporary it can be cancelling depending on the satisfaction of the court. Hence meaning that justice is delivered to the victim.

Section 12 (2) provides that “a protection order may be issued expert if the court is satisfied that a perpetrator has been served with a notice of application for the order while section 12(3) provides that a protection order shall be served upon the respondent immediately but not later than 48 hours meaning that time limit is an important issue for the justice to be delivered to the victim.

Section 13 of the domestic violence Act 2010 provides the contents of protection order. For the protection order to be valid it must be containing given contents or ingredients as seen below.

S.13 (1) states that “a protection order may where appropriator from committing or enlisting the help of another person to commit the Act of domestic violence.

Prohibits a perpetrator from entering or approaching any place or premises where the victim works, frequents, attends or any part of premises or place.

This reveals that in the protection order, the perpetrator is absolutely denied to reach some promises of a victim which is a sign of justice deliverance, while sub section B it continuously limits the movement of perpetrator.

Section 13 (1) (d) directs the perpetrator to pay the maintenance in respect of the victim’s need or needs of any child or dependent of the perpetrator, including necessities.

This means that a prohibition of inflicting of violence to the victim by the perpetrator does not mean the prohibition of responsibility. There are instances where the protection order is issued, some perpetrators tend to neglect their responsibility it is this section of the Act that orders the perpetrator to continuously meet the expenses of mental name as his or her responsibility.

According to **section 13 (2)** the court may order a protractor to vacate his or her matrimonial home if it is found out that can be delivered.

Section 13(3) provides that an order to vacate premises may only be issued by court after consideration of social report prepared by social welfare office yet section 13(4) provides that a protection order shall remain in force until it is varied or revoked by a competent court. This means that the protection order has no time limits as long the violence and the reason for its existence is still there unless the competent court revokes it's when it will come to an end which is an identity of their justice to the victims of domestic violence.

Section 14 of the domestic violence Act 2010 shows the grounds under which an interim protection order or protection order such grounds include the following

- (i) An application on a notice by a complainant or respondent.
- (ii) Where the court is satisfied than the good cause has been show any many otters as it may lead to the vocation of an order.

Section 15 of the domestic violence Act 2010 provides that a victim or a victim's representative of a police officer may apply for the certified copy of the protection order if the one he had previously got lost meaning that perpetrators who ignorant love to hide or intentionally misplace the court documents of a victim with targets of practicing inflicting violence on victims are also violence handlered in the above manner.

Section 13 of the domestic violence Act 2010 shows the enforcement of the protection order for example section 16 (1) provides that where a perpetrator violets or breaches terms and conditions of an order the victim may apply for a court remedy, meaning that in case of perpetrator failure to respect the order, a

court action may be taken. Sub section (2) continues to show that for that application to have a legal effect it must be attached with an affidavit. While section 16 (4) shows the remedy available for some one who fails to comply with an order and the remedies include the fine not exceeding 4 currency points or imprisonment not exceeding two years or even both. Court may decide another remedy that considers to be fit for the violation showing that the Act delivers justice.

Section 17 Of the domestic violence Act shows the jurisdiction of family and children court and which includes;

- (i) Family and children court may hear and determine the matter of domestic violence under this Act. Whether or not it involves a child.
- (ii) The family and children court may issue the interim or protection order in the manner of magistrate courts.
- (iii) The family and children court shall apply the procedure prescribed by the family and children court rules, subject to the necessary modification.
- (iv) The subsection (4) (5) and (6) shows the rules and procedures to be followed as they are made by the rules committee meaning that through domestic violence Act 2010, justice is observed and executed.

Part III of the domestic violence Act shows the miscellaneous in section 18, 19 and 20 as seen below.

Section 18 of the domestic violence Act 2010 shows that for the case of appeals under this Act with the necessary modifications be that provided for the local council courts Act 2006 the civil procedure Act and magistrates court Act. This illustrates that in cases where one party is not satisfied he or she has more change a head to appeal against the ruling given which is at emblem violence Act.

Then **section 19** shows the regulations made by minister for the better carrying into the effect of the provisions of this Act and section 20 shows the co-

authority of a ministers to amend the first second and the third schedules of domestic violence Act.

In conclusion of this chapter domestic violence Act 2010 sections are real correctness to the loopholes of previous laws before enactment of this Act. The whole Act is a full illustration of the true justice to the victim meaning that no more doubt that domestic violence Act is effective in delivering justice to the people who are victims of domestic violence

CHAPTER FIVE

5.1 Conclusion

In conclusion the research has revealed that the problem of domestic violence is a critical concern. Despite the fact that enactment of the law took place⁶⁰ and other positive steps are being taken by the government to curb domestic violence in Uganda, the vice of domestic violence is still persistent. This means that the law only can't end domestic violence without other steps being taken.

During the research the researcher found out that most domestic violence cases rotate a round gender based domestic violence and economic issues as he research showed us.

There is no doubt that there is sufficient legislation to deal with domestic violence in Uganda, so proposing new law to curb domestic violence would be an exaggeration. What is urgently needed is the implementation of the current laws and expanding on it to be more inclusive and realistic.

The impact of law existence without implementation can be measured at the rate through which the population faces it. The domestic violence; therefore as earlier the researcher said the problem at this scale requires the implementation of domestic violence Act⁶¹. This means that there is a need for all stakeholders in Uganda to work together towards the fighting of domestic violence. For example, the law enforcers should be active in all capacities to enforce the law and even citizens of Uganda should bear a burden to report all cases of domestic violence in the society. This will attract the maximum peace in our families more so if we allow the statutory law to work against customary law on points where they contradict. For example the customary law allows the superiority of a man over a woman which calls for physical violence i.e. Beating up the women in most cases, such customary thinking should be replaced with the doctrine of equality for all this will simplify the work for law enforcers.

⁶⁰ domestic violence Act 2010

⁶¹ daily monitor of 12th August 2015

5.2 Recommendations

This dissertation is aimed at highlighting the efficacy of domestic violence Act 2010 in delivering justice to the victims of domestic violence in Uganda. Therefore this research identifies the causes and forms of domestic violence, effects of the vice to the people of Uganda, the power or the effectiveness of domestic violence Act 2010 in delivering justice, and finally it gives strategies that should be adopted (recommendations) in order to combat domestic violence in Uganda.

In the view of findings here in an effort to promote the rights of every one the researcher recommends the following measures that have been provided for by the law and as the matter of practice there is a need to adopt them as seen below.

The need to expand the law

Domestic violence Act addresses the most of the strategies to combat domestic violence but it does not give the penalties or strikes against the law enforcers who are contributors of domestic violence. Foreexample these days the Ugandan police has been the master of domestic violence in struggle to enforce other laws.

according to the new vision of 13th shows that on 10th of October the Ugandan police used a lot of violence in the arresting of ZainabFatuma a national executive committee member of FDC and FDC secretary for environment to the extent that she was stripped naked in the public and worst of all till today no action has been taken to penalize the police men who did that illegal act. Therefore recommend that the domestic violence Act should be expanded to penalize any personality, organ or body that causes domestic to anybody.

Building capacities for communities to fight violence

There is a need for actors like organizations responsible for domestic violence, the police family unit among others to work towards building the capacities of the community and strategically identifying different categories of people in their respective professionals to participate in fighting against violence. This can

be done through training the resourceful members of the community right from leaders to local people. This will help in strengthening the practical skills to apply these concepts while at home, and any work place to give the law strong hold.

Combating alcoholism

This dissertation illustrates alcoholism as one of the major cause of domestic violence in Uganda. It therefore recommended that law enforcing agencies like police N.G.Os and the government at large should carry out the campaign to combat alcoholism as the source of violence across the country. This can be done by enforcing the current laws that govern alcoholism by allocating time for bars to open and time to close, age limit of alcohol takers and pass more laws to address the gaps left. This goal targeted can be successfully achieved if the above mentioned bodies work hand in hand with the religious leaders to preach the negative reparations of taking alcohol.

Education curriculum

Not forgetting that most children grows in homes occupied by domestic violence there is no need of the ministry of education to include the negative effects of domestic violence in the education curriculum and its causes, forms and how one can combat it. This will help the government to update those children that violence free life is every man's right. Furthermore, it will help the children who are parents of tomorrow to know that, domestic violence is not part of human life and it is abnormal. This will clearly manifest less or no violence in the families of literates.

Supporting the victims of domestic violence

The victims of domestic violence in Uganda need temporary refugee camp since in most cases they have to run away from violence. This therefore necessary to have crisis counters set up by the government and non-governmental organization to provide shelter for such victims.

Counseling should be part of service offered to crisis centers. The government at the national level should have access to servicing and lay strategies for tackling domestic violence and at the same time focusing on how to find domestic violence crisis center's deep in the village. This will leave who was once victimized to never be victimized again.

Closing gaps between law enforcers and victims

There is a need to change in cultural setup stream line to the institutional setup which promotes actions for injustices in the society. This should be done by creating a direct linkage with institutions like schools, Prisons, churches and clans, because such institutions may have an upper hand because they may directly deal with community members.

The review of domestic violence Act

The domestic violence Act should be reviewed to make penalties more severe especially where an offender does it intentionally and has committed the offence several times. The fine for example should rise up to 100 currency points. During this review the domestic violence Act 2010 and provisions of domestic relations bill and sexual offence bill should be combined into a single law to prevent duplicity of legislation, which may create contradiction and confusion.

Economic empowerment

The government should economically empower the victims of domestic violence to avoid again the future violence in their lives. It's clear that economic dependency where women over depend on men in case of any need has also done no simple role in promoting domestic violence. For example the government should bring more loans like Bonabagigahare.⁶² So that the standard of living among the victims can be improved.

⁶² 12th October 2015

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APPENDIX

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