

**AN ANALYSIS OF THE SUFFICIENCY OF THE DOMESTIC VIOLENCE LAW IN
UGANDA A CASE OF KAMPALA DISTRICT.**

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**A REPORT SUBMITTED TO THE SCHOOL OF LAW IN PARTIAL FULFILMENT OF
THE AWARD OF THE DEGREE OF BACHELOR IN LAWS OF KAMPALA
INTERNATIONAL UNIVERSITY**

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DECLARATION

This research report is as a result of my entire effort and has been written after under taking extensive research on the topic under study, all secondary data adopted herein has been sought for its relevancy as for the research and included after undertaking an analytical review. I **AKANKWAISA BRENDA** therefore, take confirmation that all contents of this material are original and have never been presented to any Institution of higher learning for the award of a degree or its equivalent.

SIGNATURE


.....

AKANKWAISA BRENDA

DATE


.....

APPROVAL

This research report is done by **AKANKWAISA BRENDA**, has been under my supervision and is now ready to be submitted at the University Board of Kampala International University.

SIGNATURE.....

MR. AGABA ARNOLD

DATE.....16/10/2017.

DEDICATION

I dedicate this study to my father Mr. Mwebesa Ephraim for his financial support throughout the course of doing this dissertation, to my beloved mother Mrs. Mwebesa Mable to my friends Betty Kinyatta and Kisakye isack for their advice, support and prayers, my God reward you abundantly.

ACKNOWLEDGEMENT

Above all, I thank the Almighty God, Who looked after my health and gave me the ability and the patience to finalize this piece of work. This dissertation could not have been possible without the help of many individuals.

First, I would like to express my deepest appreciation to my supervisor Mr. AGABA ANORLD for her limitless advice constructive criticism and proper guidance, critical reading for the manuscript, valuable suggestions and comments during the entire work. I am also indebted to the faculty of law.

There are many other individuals who supported me in various ways although cannot mention their names here. I simply say thank you so much for your immense support.

List of acronyms

CEDAW:	Convention on the elimination of all forms of discrimination against women
DEVAW :	Declaration on the elimination of all forms of violence against women
UN:	United Nations
UDHR :	Universal declaration of human rights
CEDOVIP :	Center for domestic violence prevention
ICCPR :	International Convent on civil and political rights
ICESCR:	International Covenant on social cultural rights
AI :	Amnesty International
NGO	Non-governmental organizations
UNICEF :	United Nations children Fund
US	United States
CFPU	Child and Family Protection Unit
ICPD :	International Conference on population and development
CSW :	Commission on status of women

LIST OF STATUTES

The domestic violence Act of 2010

The penal Code Act Cap 120

The marriage Act Cap 251

The Divorce Act cap 249

The Children's Act Cap 51

REGULATIONS

Domestic Violence Intervention Act S.N.S. 2001 C29

Domestic violence and protection orders and regulations 2009

Domestic violence regulations of No. 1 of 1995

INTERNATIONAL INSTRUMENTS

CEDAW

DEVAW

UN

UDHR

CEDOVIP

ICCPR

ICESCR

LIST OF CASES

Van Eeden v Minister of Safety and Security (Judgment of the Supreme Court of Appeal delivered on 22 September 2002 in Case No 176/2001)

Minister of Safety and Security v Van Duivenboden (Judgment of the Supreme Court of Appeal delivered on 22 August 2002 in Case No 209/2001).

Uganda Vs Candia (Criminal Session case No. 0054 of 2017

Onega Vs Uganda (Criminal Application No. 0010 of 2016

Uganda Vs Drazua (Criminal Case No. 032 of 2012

International cases

Carmichele v Minister of Safety and Security and Another 2001(4)SA938(CC),

Plattform Arzte fuer das Leben v. Austria, Judgment of 21 June 1988, Ser. A, No. 139, 32, 13 EHRR 204; and X and Y v. Netherlands, Judgment of 26 March 1985, Ser. A, No. 91, 23, 8 EHRR 235, 81 ILR 103.

TABLE OF CONTENTS

Contents

DECLARATION.....	i
APPROVAL	ii
LIST OF STATUTES.....	v
LIST OF CASES	vii
TABLE OF CONTENTS	viii
CHAPTER ONE.....	1
1.1 Introduction	1
1.1.1 Background of the study.....	1
1.2 Statement of the problem.....	9
1.3 Objective of the study.....	11
1.3.1 General Objective.....	11
1.3.2 Specific Objective.....	11
1.6 Research Questions.....	11
1.4 Scope of the study.....	11
1.5 Significance of the study	12
1.7 Methodology.....	13
1.8 Literature Review	14
Chapterization/Synopsis	19
CHAPTER TWO	21
THE LEGAL FRAMEWORK AND THE LAW APPLICABLE ON DOMESTIC VIOLENCE IN UGANDA AND INTERNATIONAL SCENE.....	21
2.0 Introduction	21
2.2 Statistics on and attitudes toward domestic violence	24
2.3 The Problem of Defining Domestic Violence	31
2.4 The International Legal Framework.....	34
2.5 Identifiable gaps between Ugandan law and related international human rights provisions.	42

CHAPTER THREE	44
THE SUFFICIENCY OF THE DOMESTIC VIOLENCE LAWS IN UGANDA	44
3.1 Domestic Violence in Uganda.....	44
3.2 Responding to violence against women	46
3.3 Responding to rape and sexual assault	46
3.5 Responding to domestic abuse	51
 CHAPTER FOUR	 60
PRESENTATIONS AND RESEARCH FINDINGS	60
4.0 Introductions.....	60
4.1 Results	60
4.2 Discussion.....	66
4.3 Statistics on and attitudes toward domestic violence	69
4.4 Protection and Resources Available	70
4.5 Interview from different people.....	71
 CHAPTER FIVE	 77
CONCLUSIONS AND RECOMMENDATIONS	77
5.0 Introduction	77
5.1 Conclusions	77
5.2 Recommendations	80

CHAPTER ONE

1.1 Introduction

This chapter entails the background to the area of the study, statement of the problem, research objective scope of the study, research questions significance of the study and chapterization, methodology, research design and the literature review. The above mentioned areas are of significance in this study since the chapter is the very foundation and reason why we are to carry out this study.

1.1.1 Background of the study

Over the past decade, recognition of the scope and significance of domestic violence globally has increased. Domestic violence has been defined as “the range of sexually, psychologically and physically coercive acts used against adult and adolescent women by current or former male intimate partners”¹. A growing body of evidence is highlighting the magnitude of the problem of domestic violence in developing countries².

In sub-Saharan Africa, empirical evidence on the prevalence of domestic violence is limited and confined to a small number of population-based³ or special-population studies⁴.

Recognition of the links between domestic violence and a range of adverse reproductive health outcomes including non-use of contraception and unintended pregnancy⁵, poor outcomes of pregnancy and birth⁶, gynaecological morbidity⁷ and sexually transmitted diseases and human immunodeficiency virus (HIV)⁸ is also growing.

¹ World Health Organization. WHO/WHO Violence against women: a priority health issue. Geneva: World Health Organization, 1997. WHO document WHO/FRH/WHO/97.8#.

² Heise LL, Pitanguay J, Germain A. Violence against women: the hidden health burden. World Bank discussion Paper No. 255. Washington (DC): World Bank, 1994.

³ Jewkes R, Penn-Kekana L, Levin J, Ratsaka M, Schriber M. Prevalence of emotional, physical, and sexual abuse of women in three South African provinces. *South African Medical Journal* 2001;91:421-8.

⁴ Coker AL, Richter DL. Violence against women in Sierra Leone: frequency and correlates of intimate partner violence and forced sexual intercourse. *African Journal of Reproductive Health* 1998;2:61-72.

⁵ Gazmararian JA, Lazorick S, Spitz AM, Ballard TJ, Saltzman LE, Marks JS. Prevalence of violence against pregnant women. *Journal of American Medical Association* 1996;275:1915-20.

⁶ Jejeebhoy SJ. Associations between wife-beating and fetal and infant death: impressions from a survey in rural India. *Studies in Family Planning* 1998;29:300-8.

⁷ Schei B, Bakketeig LS. Gynaecological impact of sexual and physical abuse by spouse. A study of a random sample of Norwegian women. *British Journal of Obstetrics and Gynaecology* 1989;96:1379-83.

⁸ Martin SL, Kilgallen B, Tsui AO, Maitra K, Singh KK, Kupper SL. Sexual behaviors and reproductive health outcomes: associations with wife abuse in India. *Journal of the American Medical Association* 1999;282:1967-72.

Domestic violence is a worldwide problem that is increasingly drawing the attention of citizens, states, and the international community. Recent measures taken by the United Nations to address violence against women, including the adoption of the Declaration on the Elimination of Violence Against Women (DEVAW) and the creation of a U.N. Special Rapporteur on Violence Against Women, demonstrate the growing global understanding that the international community recognizes that systemic domestic violence constitutes a violation of women's human rights⁹. DEVAW affirms that "violence against women constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms."¹⁰ Similarly, the United Nations Committee on the Elimination of Discrimination Against Women (CEDAW Committee) has asserted that under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), "the definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately."¹¹

Domestic violence is the willful intimidation, physical assault, battery, sexual assault, and/or other abusive behavior as part of a systematic pattern of power and control perpetrated by one intimate partner against another.

It includes physical violence, sexual violence, psychological violence, and emotional abuse. The frequency and severity of domestic violence can vary dramatically; however, the one constant component of domestic violence is one partner's consistent efforts to maintain power and control over the other.

Over the past decade, recognition of the scope and significance of domestic violence globally has increased. Domestic violence has been defined as "the range of sexually, psychologically and physically coercive acts used against adult and adolescent women by current or former male

⁹ Interview with Religious Leader, (March. 12, 2003).

¹⁰ Declaration on the Elimination of Violence against Women, G.A. Res. 48/104, 48 U.N. GAOR, Supp. (No. 49) at 217, U.N. Doc. A/48/49 (Dec. 20, 1993) [hereinafter DEVAW].

¹¹ Convention on the Elimination of All Forms of Discrimination against Women, Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, General Recommendation 19, Violence against Women (11th Sess., 1992), U.N. Doc. HRI/GEN/1/Rev.1 (1992), available at <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom19> (last visited Feb. 1, 2016) [hereinafter CEDAW General Recommendation 19].

intimate partners’’. A growing body of evidence is highlighting the magnitude of the problem of domestic violence in developing countries.

Given the importance of ideas of family and kinship in many African political systems, it is not surprising that families themselves have often been the site of violent coercion. This volume uncovers the history of domestic violence in Africa and illuminates the challenges faced by contemporary attempts to end domestic violence. By bringing together activists, legal scholars, anthropologists, and historians, this volume puts into conversation disciplinary approaches to the problem of domestic violence and thus provides enhanced perspectives on the complexities of domestic violence and efforts to address it.

The history of domestic violence in Africa comprises two interwoven narratives. The first describes changes in the experience of violence within the family, helping us understand why the form and prevalence of family-based violence changed over time in particular communities. However, we also recognize that the *idea* of domestic violence as a category of analysis is not a universal phenomenon. Rather, as Linda Gordon writes, the “modern history of family violence is not the story of changing responses to a constant problem, but, in large part, of redefinition of the problem itself.” A second narrative thus tracks the changing definitions of the “problem” of domestic violence.

I therefore define domestic violence broadly, to include all acts of violence which are seen by those who inflict, endure, or regulate them as being justified by a familial relationship. By using this definition, we also wish to draw attention to the connections between violence committed by men against women and other forms of violence that are justified through the institutions and ideologies of kinship and family. Violence between parents and children, violence between co-wives in polygynous marriages,

Domestic violence is an epidemic affecting individuals in every community, regardless of age, economic status, sexual orientation, gender, race, religion, or nationality. It is often accompanied by emotionally abusive and controlling behavior that is only a fraction of a systematic pattern of dominance and control. Domestic violence can result in physical injury, psychological trauma,

and in severe cases, even death. The devastating physical, emotional, and psychological consequences of domestic violence can cross generations and last a lifetime.

According to the Domestic violence Act 2010, Domestic relationship means a relationship defined in section 3; domestic violence constitutes any act or omission of a perpetrator which harms, injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the victim or tends to do so and includes causing physical abuse, sexual abuse, emotional, verbal and psychological abuse and economic abuse; harasses, harms, injures or endangers the victim with a view to coercing him or her or any other person related to him or her to meet any unlawful demand for any property or valuable security; has the effect of threatening the victim or any person related to the victim by any conduct mentioned in paragraph (a) or (b); or otherwise injures or causes harm, whether physical or mental, to the victim;¹²

Uganda is not accepted from the global problem of widespread domestic violence. An in-depth study on violence against women conducted by the Gender Studies and Human Rights Documentation Centre (Gender Centre) determined that one in three Ugandan women suffer from physical violence at the hands of a past or current partner.¹³ In addition, three in ten Ugandan women admit to having been forced to have sex by their male partner, and twenty-seven percent of women have experienced psychological abuse, including threats, insults, and destruction of property. Ugandan women face powerful obstacles to reporting violence, which stem from cultural beliefs that domestic violence is a private, family matter that should be addressed outside of the criminal justice system. Despite these obstacles, women continue to report incidents of domestic violence to the newly created Women and Juvenile Unit (WAJU) of the Ugandan police force in record numbers. Notwithstanding the increasing openness about domestic violence in Ugandan society, many Ugandans continue to believe that cases of domestic violence must be resolved within the family, and Uganda's criminal justice system continues to treat crimes of domestic abuse less seriously than other violent crimes. Center for Domestic Violence Prevention.¹⁴

¹² Section 2a), (b), (c) and (d) of the Domestic violence Act 2010

¹³ Division for the Advancement of Women. Department of Economic and Social Affairs. "Convention on the Elimination of All Forms of Discrimination Against Women: States Parties." [Accessed 1 June 2008]

¹⁴ Center for Domestic Violence Prevention (CEDOVIP). 2007. *Responding to Domestic Violence: A Handbook for the Uganda Police Force*. (CEDOVIP: Document Number 37299) [Accessed 5 June 2008]

Due to the determined efforts of Ugandan women's rights advocates, who have worked to increase public awareness about domestic violence through initiatives such as the "16 Days of Activism" in 2002, speaking engagements on radio and television programs, and national advertising campaigns, Uganda is beginning to recognize that domestic violence is a serious problem. In collaboration with the NGO, Leadership and Advocacy for Women in Africa Uganda Alumnae¹⁵, a group of students, faculty, and human rights experts from the Georgetown University International Women's Human Rights Clinic conducted a fact-finding mission to investigate the problem of domestic violence in Uganda during March 2003.¹⁶ The delegation conducted interviews with numerous public officials and private individuals, including police officers, medical professionals, judges, prosecutors, religious and community leaders, women's rights advocates, and others. The group collected information about the governmental response to domestic violence and analyzed the current state of Ugandan law, international.¹⁷

Domestic Violence is a phenomenon affecting many societies directly and indirectly around the world; and somehow, after many years of research not a single definition describes this phenomenon adequately yet. Defining domestic violence can be very difficult, as it is a broad term used to describe a range of behaviours and has a multiplicity of meanings to different people in different contexts¹⁸.

Domestic violence usually begins as an isolated abusive incident, however, when the abuse is repeated and becomes a constantly abuse, it is defined as "battering"¹⁹

According to the Uganda Demographic and Health Survey 2006, more than two thirds of Ugandan women experience violence from their partners. Sixty eight percent had been harassed or beaten by their partners during the 12 months preceding the survey.²⁰ Methods used included

¹⁵ Inc. (LAWA-Uganda), and students from the University of Uganda Law School, 2010

¹⁶ Mary Robinson and Kjell M. Bondevick African Women Leaders Project (AWLP). May-June 2008. " Support Efforts to Pass Gender Related Legislation in Uganda." [Accessed 5 June 2008]

¹⁷ Mary Robinson and Kjell M. Bondevick African Women Leaders Project (AWLP). May-June 2008. " Support Efforts to Pass Gender Related Legislation in Uganda." [Accessed 5 June 2008]

¹⁸ Burton, S., Regan, L. & Kelly, L. *Supporting women and challenging men: lessons from the Domestic Violence Intervention Project*. Bristol: The Policy Press. (2008)

¹⁹ McKie, L., Fennell, B. & Mildorf, J. 'Time to disclose, timing disclosure: GPs' discourses on disclosing domestic abuse in primary care.' *Sociology of Health & Illness*. 24, 3: 327-346. (2002)

²⁰ *The New Vision* [Kampala]. 9 October 2007.

beating, pushing, dragging, forced sex, arm twisting, threatening, insulting and choking. Rural women suffered more violence than urban women. Likewise, uneducated women suffered more than their educated colleagues. The survey also shows that seven in 10 women agreed that it was justified for women to be beaten. This indicates that women in Uganda generally accept violence as part of male-female relationships, which is not surprising because traditional norms teach women to accept, tolerate and even rationalise battery.²¹

The most accepted reasons for wife beating, according to the report, are neglecting children (56%) and going out without informing the husband (52%). Four in 10 women think that arguing with a husband justifies wife beating and 31% and 23% of women, respectively, feel that denying a husband sex and burning food are justifications for wife beating. Acceptance of wife beating is generally lower among women in urban areas, those residing in Kampala, those in highest wealth bracket, women with higher or secondary education and women who are employed.²²

Uganda ratified the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW)²³. In addition, Uganda's Constitution accords women "full and equal dignity of the person with men" and prohibits "laws, cultures, customs or traditions" that undermine their welfare, dignity or status²⁴. Nevertheless, Amnesty International (AI) indicates that there are certain customary laws and practices concerning land ownership, marital customs and child custody norms that conflict with CEDAW and women's constitutional rights. For example, marital rape is not recognized under the Penal Code, since consent to marriage is interpreted as consent to sexual activity under customary law. According to AI, domestic violence including marital rape may only be dealt with under the lesser criminal charge of assault which carries with

²¹ *The Monitor* [Kampala].. Fred Muzaale. "Domestic Violence Kills Many in Kayunga." (AllAfrica) [Accessed 5 June 2008] 1 May 2008

²² Uganda.. Bureau of Statistics. *Uganda Demographic and Health Survey 2006*. [Accessed 5 June 2008] August 2007

²³ United States (US). 11 March 2008. Department of State. "Uganda." *Country Reports on Human Rights Practices for 2007*. [Accessed 9 June 2008]

²⁴ The constitution of the Republic of Uganda 1995, Article. 33; Amnesty International 30 Nov. 2007, Section. 3.2)

it a lower maximum sentence of up to five years imprisonment and does not deal with other forms of domestic violence, including sexual and psychological violence²⁵.

Uganda has no specific law in place prohibiting domestic violence²⁶, and a draft domestic violence bill has "languished" for years in parliament²⁷. The domestic relations bill was tabled in December 2003, but was shelved in 2005 after it came under attack from both legal and parliamentary affairs committee members and the public²⁸. In 2006, President Yoweri Museveni declared that the bill "... was not urgently needed" and debate was halted. However, following a mission to Uganda in March 2008 by the African Women Leaders Project (AWLP), an 18-month initiative by the Club of Madrid to support women leaders in four African nations including Uganda, President Museveni reportedly made a public call for its "speedy passage"²⁹. Cited in AWLP's May-June 2008 newsletter, the Speaker of the House of Assembly indicated that he would ensure the bill's passage before the end of parliament.

In the Kawempe Division in Kampala District, a by-law was passed in October 2007³⁰, that makes it possible to impose a fine on or demand compensation from a perpetrator of domestic violence. The by-law also provides for a fine to be imposed on anyone who "abuses or physically hurts" a community member or authority figure who intervenes or comes to the aid of a victim. According to Raising Voices, a non-governmental organization (NGO) based in Kampala that works toward preventing domestic violence, it is the first by-law to be passed in Uganda that addresses domestic violence. Raising Voices is a project of the Tides Center, a registered American charitable organization³¹.

Domestic violence is the willful intimidation, physical assault, battery, sexual assault, and/or other abusive behavior as part of a systematic pattern of power and control perpetrated by one

²⁵ Division for the Advancement of Women. Department of Economic and Social Affairs. "Convention on the Elimination of All Forms of Discrimination Against Women: States Parties." [Accessed 1 June 2008]

²⁶ *The Monitor* [Kampala].. Fred Muzaale. "Domestic Violence Kills Many in Kayunga." (AllAfrica) [Accessed 5 June 2008] 1 May 2008

²⁷ Freedom House 2007; *The New Vision* 28 Sept. 2007

²⁸ WorldChanging 1 Dec. 2007

²⁹ African Women Leaders Project May-June 2008

³⁰ Raising Voices n.d.a; *The New Vision* 9 Oct. 2007

³¹ Raising Voices n.d.a; *The New Vision* 9 Oct. 2007

intimate partner against another. It includes physical violence, sexual violence, psychological violence, and emotional abuse. The frequency and severity of domestic violence can vary dramatically; however, the one constant component of domestic violence is one partner's consistent efforts to maintain power and control over the other.³²

Domestic violence is an epidemic affecting individuals in every community, regardless of age, economic status, sexual orientation, gender, race, religion, or nationality. It is often accompanied by emotionally abusive and controlling behavior that is only a fraction of a systematic pattern of dominance and control. Domestic violence can result in physical injury, psychological trauma, and in severe cases, even death. The devastating physical, emotional, and psychological consequences of domestic violence can cross generations and last a lifetime.³³

Domestic violence crosses all social, racial, and economic boundaries. There are however certain factors that could contribute to the likelihood that an individual will either be a perpetrator of domestic violence or a victim of it.

Though men and women are capable of violent behaviors within domestic relationships, men are typically the perpetrators of abuse towards their female partners. Furthermore, men who experienced child abuse or witnessed battering behaviors when they were children were more likely to abuse their partners when in adult domestic relationships³⁴. This is not to say that all men who have either been victims themselves or witnessed violence within the home when they were children will become batterers.

It does however increase the likelihood that he will become a batterer. The danger with children both male and female who either witness or fall victim to abuse when they are young is that he/she will learn that violence is an acceptable way of expressing anger or settling a dispute. Moreover, even if a child does not actually see the abuse, he/she is usually well aware of it. There are some jurisdictions within the United States that consider exposing children to spousal abuse as a form of child abuse³⁵. These children who witness family violence frequently

³² Freedom House.. "Uganda." *Freedom in the World*. [Accessed 5 June 2008] 2007

³³ 4 February. Fred Muzaale. "Victims of Domestic Violence Get Home." (AllAfrica) [Accessed 5 June 2008] 2007

³⁴ GOSSELIN, D. K., *Heavy Hands: An Introduction to the Crimes of Family Violence* (4th ed.). Upper River, NJ: Pearson Education Pg. 36 2010.

³⁵ Harway, M., & O'neil, J. *What causes Men's Violence Against Women*. Thousand Oaks: Sage Publications Inc.. Pg 5, 1999.

experience cognitive impairment and their social and emotional development is negatively impacted. Those with a mental or physical disability as well as the elderly are at a greater risk of becoming victims of domestic violence³⁶.

1.2 Statement of the problem

Uganda is not exceptional from the global problem of widespread domestic violence. An in-depth study on violence against women conducted by The Gender Studies and Human Rights Documentation Centre (Gender Centre) determined that one in three Ugandan women suffer from physical violence at the hands of a past or current partner³⁷. In addition, three in ten Ugandan women admit to having been forced to have sex by their male partner, and twenty-seven percent of women have experienced psychological abuse, including threats, insults, and destruction of property.³⁸

Ugandan women, children and men face powerful obstacles to reporting violence, which stem from cultural beliefs that domestic violence is a private, family matter that should be addressed outside of the criminal justice system. Despite these obstacles, women continue to report incidents of domestic violence to the newly created Women and Juvenile Unit (WAJU)³⁹ of the Ugandan police force in record numbers. Notwithstanding the increasing openness about domestic violence in Ugandan society, many Ugandans continue to believe that cases of domestic violence must be resolved within the family, and Uganda's criminal justice system continues to treat crimes of domestic abuse less seriously than other violent crimes.

In addition, Uganda's Constitution accords women "full and equal dignity of the person with men" and prohibits "laws, cultures, customs or traditions" that undermine their welfare, dignity or status⁴⁰. Nevertheless, Amnesty International (AI) indicates that there are certain customary laws and practices concerning land ownership, marital customs and child custody norms that conflict with CEDAW and women's constitutional rights. For example, marital rape is not

³⁶ Evelyn Lirri. "Domestic Violence Rampant." (AllAfrica) [Accessed 5 June 2008] 10 February 2008

³⁷ N.d. "Center for Domestic Violence Prevention (CEDOVIP)." [Accessed 5 June 2008]

³⁸ Dorcas Coker-Appiah & Kathy Cusack, Violence Against Women and Children in Uganda: Report of a National study on violence 65 (1999).

³⁹ Domestic Violence – Tides Center Project Raising Voices Instrumental in Ugandan Law's Passage." (Tides Center) [Accessed 5 June 2008]

⁴⁰ Constitution of Uganda 1995, Article. 33; AI 30 Nov. 2007, Sec. 3.2)

recognized under the Penal Code, since consent to marriage is interpreted as consent to sexual activity under customary law.⁴¹

The domestic violence Act ⁴²states that A person in a domestic relationship shall not engage in domestic violence. A person in a domestic relationship who engages in domestic violence commits an offence and is liable on conviction to a fine not exceeding forty eight currency points or imprisonment not exceeding two years or to both⁴³.

The penal code Act of Uganda⁴⁴ also provides that Any person who by threats or intimidation procures or attempts to procure any woman or girl to have any unlawful carnal connection, either in Uganda or elsewhere; by false pretences or false representations procures any woman or girl to have any unlawful carnal connection, either in Uganda or elsewhere; or applies, administers to or causes to be taken by any woman or girl any drug, matter or thing with intent to stupefy or overpower her so as to thereby enable any person to have unlawful carnal connection with that woman or girl, commits a misdemeanour.

Most women do not report cases of domestic violence to authorities⁴⁵ and police rarely intervene or investigate⁴⁶. *Country Reports 2014* indicates that many law enforcement officials consider spousal battery "a husband's prerogative". Other reported reasons for women's reluctance to file a complaint include fear of reprisal, embarrassment, poverty, ignorance of the law and lack of information on where to make a report⁴⁷. Based on the background this study will attempt to establish how sufficient the domestic violence laws have been in Kawempe Division Kampala District Uganda.

⁴¹ Penal Code Act Cap 120 of Uganda

⁴² Part II section 4 of the Domestic violence Act 2010

⁴³ The domestic Violence Act 2010

⁴⁴ Article 132 of the Penal Code Act Cap 120 of Uganda

⁴⁵ *The New Vision* 28 Sept. 2007; Freedom House 2007

⁴⁶ US 11 March. 2008, Section. 5

⁴⁷ *The New Vision* 28 Sept. 2007; Freedom House 2007

1.3 Objective of the study

1.3.1 General Objective

The main objective of the study is to analyze how whether domestic violence laws and regulations have been fully put in action in Kampala Uganda and the extent to which laws and regulations have been effective to combating domestic violence.

1.3.2 Specific Objective

- To examine the forms and causes of domestic violence, in Uganda
- To analyze the legal framework on domestic violence in Uganda.
- To examine the extent to which domestic violence laws have been enforced in Kampala Uganda

1.6 Research Questions

The research questions to be answered include:

- What are the forms and causes of domestic violence, in Kampala, Uganda?
- What are the legal framework on domestic violence in Uganda?
- What is the extent to which domestic violence laws have been sufficient in Kampala Uganda

1.4 Scope of the study

Content scope

This study will focus on the sufficiency of the domestic violence laws in Uganda. Specifically the study will evaluate the observance of the legal regulations by the local and international community in spite the fact that there are no strong legal regulations on the domestic violence thus making its legality permissible in Uganda. The study will also find out whether the existing laws on domestic violence have been properly effected properly as concerns the rampant increase in domestic violence in Uganda.

Time scope

The study will take a time period of three months from March 2017 to June 2017. The study period is from 2010 to 2016 because this is the period when The Domestic violence Act was amended to effect its sufficiency in Uganda.

Geographical scope

Geographically, the study will be carried out in Kawempe Division which is one of the five divisions of Kampala District. It covers about an area of 25square kilometers or 3245.20 hectares, 22 parishes and 126 villages. It had an estimated population of 150,245 people in 1991 with a density of 49. By 2014 the population had risen to about 323789 with a density of 100 (Mugaga, 2006). It will be easy and cheap to collect data in a short period of time since Kawempe Division is readily accessible by the researcher.

1.5 Significance of the study

The findings of the study will be important in the following ways.

With all the uprisings, revolutions and civil unrest experienced across the world happen before they choose to wage war with another state.

The study will help the researcher enrich his / her know ledge with the information gathered from different consulted materials that are relevant to the study.

It will also assist the researcher to tabulate data and come up with possible recommendations relating to the domestic violence and how to strike a balance on the state intervention. Consequently, it presented and approved by the concerned constitution the researcher will quality for the award of bachelor's degree in law.

The study will provide information to the whole world that may or may have undergone situations of domestic violence and make them understand that there is domestic violence that responds to atrocities committed to them.

1.7 Methodology

The study will largely be quantitative. The quantitative data collection methods will use mainly closed ended questionnaire, which were filled in by the respondents. According to Amin⁴⁸ both qualitative and a quantitative techniques can be used triangulated especially where the study involves investigating people's opinions. Although, qualitative techniques will be also be employed to address the gap left by quantitative methods. The qualitative methods to be used include interviews guided by an interview schedule.

A number of methodologies will be applied. These will include reviewing the available literature, use of questionnaires and interviews inter-alia.

The study will involve the use of personal or oral interview where the respondents will be asked some set of questions as individuals basing on the problem under investigation in order to get first hand information about the investigated issue.

The study will involve reviewing the available document about the topic under investigation. Here, some of the document reviewed included textbooks, pamphlets, responses, Statutes/Acts and also judicial decisions pertaining information about the problem under investigation in order to get the needed information.

Methods of data analysis

The study will use one method of data evaluation. That is qualitative method.

Research Design

The research will be cross sectional. A descriptive kind of study will be adopted. The study will be designed to critically analyze the sufficiency of the domestic violence in Uganda

Study Area

The researcher looked at Uganda especially Kawempe Division in Kampala.

⁴⁸ Amin, M.E. *Social Science Research: Conception. Methodology and Analysis*. Uganda, Kampala, Makerere University. P 46, 2005.

Type of Data

The study will involve the use of both primary and secondary data. The primary data will be used in order to acquire first hand information. The secondary data will be used to relate the information that will be obtained on the ground with the already existing information on the problem under investigation.

1.8 Literature Review

Violence inflicted upon a wife by her husband⁴⁹ has often been viewed as normal and expected, unfortunately. In ancient Rome, husbands had the legal right to “punish” their wives if they did not obey their rules. For a short period during the 300's, such violence displayed by the husband, a wife who violated her duties as dictated by society could be beaten legally by her husband. In fact, neighbors would expect such beatings to occur. Such violence was severe since marriages were often arranged rather than occurred out of feelings of love between husband and wife. This permissive attitude toward wife beating persisted until the end of the 1800's when public sentiment was that such behavior was wrong, although there was no criminal charge for such behavior. However, even during the late 1940's in England, wives could be physically assaulted or punished by their husbands for not obeying them. Legal protection for wives who are assaulted by their husbands continues to be limited in many parts of the world, including the United States. However, currently shelters for women who suffer abuse from their husbands are increasingly available around the country.

Despite the fact that a considerable amount of current research seems to indicate that sexual abuse has a significant psychological impact on the individual, placing this reality into the context of a working definition of sexual abuse proves quite problematic. For the purpose of examining sexual abuse, sexual abuse is defined as the sexual manipulation of a person by another person in authority or an individual in a position of power that involves sexual contact (either physical and/or visual or verbal contact). Whether it is because some researchers believe that sexual abuse does not have a significant impact on the psychological development of the person or because it is due to the fact that social scientists simply cannot develop a definition that

⁴⁹ City of Edinburgh Council *Working with men as part of a multi-agency approach to tackling domestic abuse: final report*. Edinburgh: City of Edinburgh Council. Pg. 37 2002

encompasses the entire scope of psychological trauma that can be encountered because of this act, the reality is that the psychological element of sexual abuse has been overtly omitted from discussions of this Sexual Abuse in general.

The word 'domestic' is derived from the Latin word *domus* meaning a 'home'. Domestic (Domesticus in Latin) connotes what happens in and around a family dwelling place⁵⁰. Violence is the use of coercive forms of power: the use of force or the threat of its use to compel someone to do something that the person might not otherwise do. It is part of a continuum ranging from legitimate power (a person does something because it is right to do so) through utilitarian power (a person does something because of a reward for doing so) to coercive power. According to Jones (1994)⁵¹ violence is any act that causes the victim to do something they do not want to do, prevent them from doing something they want to do or causes them to be afraid. Hence violence need not involve physical contact with the victim, but verbal threats and psychological abuse can be equally destructive. Violence is any destructive behavior, which is geared towards hurting another person.

Domestic abuse or violence is that abuse, physical, sexual, verbal and emotional which occurs within the home. In some cases (and frequently in this study) it can be used to refer to spousal abuse, IPV or husband-wife abuse. Spousal violence is the deliberate aggressive behavior against the spouse with the intent of producing harm. Domestic violence is the acts of psychological, physical, property and sexual abuse committed against a woman member of the family unit by a member of that unit. Acts of violence committed by a man against the woman who is the mother of his offspring is also considered as domestic violence even if there is no matrimonial bond or stable '*de facto*' union between them. It has been argued that spousal violence is most destructive because the intensity of intimacy makes spouses very vulnerable to each other⁵². This jeopardizes their safety and wellbeing. Domestic violence is not limited to wives being assaulted by their husbands. It also includes husbands being abused by their wives. Since the 1960's, the violence of a parent inflicted upon his or her offspring has been the increasing focus of public awareness.

⁵⁰ Tony, J. Gender Series: Violence and Abuse of Women and Girls in Kenya. Journal of Population Communication Africa PP. 20-25, 2002

⁵¹ McKay, M. and Jones. The Link Between Domestic Violence and Child Abuse: Assessment and Treatment Considerations. USA P 32, 1994

⁵² Brencht, S., Chadwick, D. & Jacobson, C. 2nd , Social Psychology. Prentice Hall Inc. 1980.

Child abuse or murder by a parent is a disturbing part of American Society. More recently, elder abuse has been identified as a problem. In this particular situation, elderly parents are abused or beaten by their adult children.

While sexual coercion or violence in any form is beyond contempt, the incidence of child sexual abuse provokes perhaps the strongest response from American society. This may be due in part because it is an act perpetrated on the most vulnerable group within our society and its effects have far-reaching repercussions on the development of this country's future society.

Research has demonstrated that child sexual abuse is largely related to the incidence of violence in the home and has been exacerbated by the predominantly inadequate response by social service systems in addressing it. According to Jaffe et al., when children are exposed to violent behaviors in the home, which is most frequently extended to the mother, they are predisposed not only to emotional difficulties but to perpetuating such violence in their adult lives⁵³.

Rhodes, K. & Levinson suggested that Violence constitutes unjustified and illegal conduct, whoever the victim may be, but violence against women is especially reprehensible. This is because the legal and judicial treatment of such violence has often been given inappropriate media attention and justified by an attitude that is disrespectful and discriminatory towards women both as individuals and as subjects of law. Domestic violence is a form of gender violence, which relates more to issues of power than sexuality. It has been known for sometime that rape or sexual assault is not related to sexuality; it is related to dominance and an apparent need to humiliate the person being attacked. Similarly, battering as part of domestic violence is also at its heart; an effort to assert dominance or to re-assert a self-image based on dominance⁵⁴.

Mullender, A. & Burton⁵⁵ assert that domestic violence has increased at an alarming rate in the modern day. In America alone more than twenty thousand people lose their lives every year as a result of violent offences perpetrated against them. In fact, several credible experts have referred

⁵³ Cosgrove, K. *Report on the Castlemilk Demonstration Project on Domestic Violence*. Edinburgh. Health Education Board for Scotland. P.59, 1998

⁵⁴ Rhodes, K. & Levinson, W. Interventions for Intimate partner violence against Women: Journal of clinical applications 289 601 – 605. 2003

⁵⁵ Mullender, A. & Burton, S. 'Reducing domestic violence...what works? Perpetrator programmes. Policing and Reducing Crime Briefing Note'. London: Home Office. 2000

to domestic violence as the top most health concern for women. Despite the recent trend of violence being perpetrated on men by females, women still remain the main victims of domestic violence; the perpetrators are usually family members that the victim has a close relationship with such as husbands, fathers, boyfriends, brother, uncles and cousins. The contemporary outbreak of aggression by children in learning institutions coupled with frequent broadcasts in the media about unimaginable incidents of violence necessitate. Domestic violence within previous relationships was also prevalent; around 60 percent reported being victimized by a previous partner. According to the findings in Hester & Hamner⁵⁶ experiment, a high number of the participants that were examined learned their abusive demeanor through previous experience within families of domestic violence. This study also found fewer than 3 percent of the participants admitted to never being exposed to domestic violence, including that of emotional or physical childhood abuse. These same participants said that they had never witnessed any form of sexual violence or domestic violence within their family of origin. This study found that the impact of assault of any form as a child has a huge impact on an individual as an adult. A journal article by Hines and Saudino (2002) says that within a lifetime, on average, fifty percent of all male and female Americans will be victims of aggression from their intimate partner. They proclaim that the most popular explanation for the conveyance of domestic violence must be awarded to the social learning theory. One of the most accurate theories as to why people choose to be violent in their adult years is due to their exposure to violence as a child.

Dutton, K. & Cavanagh⁵⁷ explained that the development of a funding strategy should be located within a broader strategic framework on violence against women. The National Strategy to Address Domestic Abuse in Scotland is due for review. The basic principles of the current strategy are applicable across all forms of violence against women. It would seem an appropriate opportunity to expand the terms of reference of the strategy and incorporate broader aspects of violence against women. Specific work would seem to be indicated in relation to sexual violence.

⁵⁶ Hester, M., Hamner, J., Coulson, S., Morahan, M. & Razak, A. *Domestic Violence: making it through the criminal justice system*. Sunderland: International Centre for the Study of Violence and Abuse. 2003

⁵⁷ Dutton, K. & Cavanagh, K. *Multi-agency work and sexual violence: a literature review*. Glasgow: Glasgow Violence Against Women Partnership. Pg 67 2003

Broadening the strategic framework on violence against women might include consideration of the types of services on offer to women, and how to ensure that they reflect what women are looking for from services. Research has indicated, for example, that women value a more proactive approach to follow-up support and advocacy. A review of the mechanics of multiagency partnerships might also be worth some consideration. Some of the themes identified by Dutton and Cavanagh in relation to multiagency responses to sexual violence would bear further exploration, as more partnerships begin to develop in response to sexual violence.

Many women disclose in the first instance to people they know - family, friends, workmates - and so more attention should be paid to the development of information and support for the general public. Providing information and support through workplace campaigns, awareness raising programmes in schools and general public education campaigns could greatly enhance the level and quality of informal support available to women from those closest to them.

There are significant gaps in the research literature. Research which addresses the experiences and needs of black and minority ethnic women experiencing violence is scarce, perhaps reflecting the dearth of services for this group of women. There is a similar lack of understanding of the needs of women with disabilities and of lesbian women. There is little assessment of effective interventions for children and young people who have experienced violence themselves, or who have witnessed violence against women. Dedicated literature reviews may be required in each of these areas.

Finally, but most importantly, the views of women themselves should be sought. There is an absence of consultative mechanisms which enable women to input directly to the development of services which might meet their needs. This is a gap which should be filled as a priority before very much more work is developed.

Abusive relationships tend to follow a cyclical pattern according to Matthews, Walker, and Weiss,⁵⁸. The changes between the various stages presented are subtle, and vary depending on

⁵⁸ Matthews, D.D. *Domestic violence sourcebook*, 2nd ed. Detroit, MI: Omnigraphics. (2004).

the relationship and the nature of the abuse. In the beginning phase of the abusive relationship, some type of abuse occurs.

This can be physical, sexual, or emotional, however, most often it is subtle and in the form of verbal insults or accusations. Sometimes, though, the initial incident is physical. After the first episode of physical abuse, an abuse; may not have to beat his partner to gain or maintain control. The threat of violence may be enough, because his partner knows he is capable of following through on his threats⁵⁹.

Although, there have been implementations of local domestic conventions and domestic violence units as well as many multi-agencies that work together to tackle domestic violence and changes in legislation and police policy, there are still some major concerns of how domestic violence is being dealt today.

Research limitation

The researcher will encounter a number of limitations in the course of undertaking research. The limitations will include shortage of research materials carried out on the topic.

Time is yet another limitation to be encountered in the course of carrying out the research. This is will be coupled with the fact that the research has to be carried out in the course of the semester when a lot more other businesses like course works and final examination are also demanding.

Chapterization/Synopsis

Chapter one, will discuss the introduction, statement of the problem the objectives of the study research questions, scope, significance of the study, methodology, literature review and the chapterization

Chapter two this chapter will discuss the legal framework and the law applicable on domestic violence in Uganda and international scene

⁵⁹ Salber, P.R. & Taliaferro, E.. *The Physician's Guide to Domestic Violence: How to Ask the Right Questions and Recognize Abuse ... Another Way to Save a Life*. Volcano, CA: Volcano Press, Inc. (1995)

Chapter three will discuss the sufficiency of the domestic violence laws in Uganda
Chapter four will discuss the presentations and research findings
Chapter five will give the conclusions and recommendations of the study

CHAPTER TWO

THE LEGAL FRAMEWORK AND THE LAW APPLICABLE ON DOMESTIC VIOLENCE IN UGANDA AND INTERNATIONAL SCENE

2.0 Introduction

Domestic Violence is a phenomenon affecting many societies directly and indirectly around the world; and somehow, after many years of research not a single definition describes this phenomenon adequately yet. Defining domestic violence can be very difficult, as it is a broad term used to describe a range of behaviours and has a multiplicity of meanings to different people in different contexts⁶⁰.

Domestic violence usually begins as an isolated abusive incident, however, when the abuse is repeated and becomes a constantly abuse, it is defined as “battering”. Physical is not the only form of domestic violence.⁶¹ Psychological and emotional violence are common forms of domestic violence as well and therefore the government has widened the definition of domestic violence to cover psychological intimidation and controlling behaviour and at the same time, recognising that domestic violence occurs in younger people’s intimate relationships, applying to victims under the age of 18 as well:

“any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality”. This includes psychological, physical, sexual, financial and emotional abuse⁶²

The new Home Office definition expresses controlling behaviour and coercive behaviour. Controlling behaviour is a reach of acts intended to make an individual subordinate or dependent by separating them from any kind of support, not allowing them to obtain personal gain by

⁶⁰ Burton, M., *Legal responses to Domestic Violence*. Oxon: Routledge-Cavendish, 2008.

⁶¹ Lowenstein, L.F., Domestic Violence: Recent Research Part 1. *Justice of the Peace* [online]. 196 (37). 2005

⁶² Home Office., *Ending violence against women and girls in the UK* [online]. Home Office. Available from: <https://www.gov.uk/government/policies/ending-violence-against-women-and-girls-in-the-uk> [Accessed 4th February 2014]. 2013

controlling and regulating their everyday move and behaviour. Coercive behaviour is an act of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim⁶³.

As an example, The Supreme Court held in *Yemshaw v. Hounslow London Borough Council* [2011] that domestic violence was not confined to physical violence but extended to threatening or intimidating behaviour and any other form of abuse being applied directly or indirectly. Domestic violence and abuse is not regarded of age, class, wealth, education, gender, race or any other determinant. Domestic violence is as likely to be happening to a lawyer, a doctor, a teacher, or even a police officer⁶⁴.

These definitions of domestic violence gave me insights into what the concept is all about and as a result I was able to outline the objectives of this study.

The definition gives a detailed account of different forms of domestic violence which include:

a) Physical abuse involves the infliction of pain and injury on the complainant's body. It includes beating, punching, kicking, biting, burning, maiming or killing, with or without weapons.

b) Sexual abuse includes any act or conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity of the complainant.

c) Emotional, verbal and psychological abuse means a pattern of degrading or humiliating conduct towards a victim such as repeated insults, ridicule or name calling, repeated threats to cause emotional pain, the repeated exhibition of obsessive possession or jealousy to such an extent that it constitutes a serious invasion of the victim's privacy, liberty, integrity or security.

d) Economic abuse includes the unreasonable deprivation of economic or financial resources to which a victim is entitled under the law or which the complainant requires out of necessity, including household necessities for the complainant or victim.

⁶³ Home Office. *Ending violence against women and girls in the UK* [online]. Home Office. Available from: <https://www.gov.uk/government/policies/ending-violence-against-women-and-girls-in-the-uk> [Accessed 4th February 2014]. 2013

⁶⁴ Gaz, LS.,. Features: How to stop domestic Violence. *Law Society Gazette* [online]. 41 2012

It also includes unreasonable disposal of household effects or other property in which the victim/complainant has an interest.

e) Harassment includes engaging in a pattern of conduct that induces a fear of harm to the complainant including repeatedly watching or loitering outside of or near a building or place where the complainant resides, works, carries on business, studies or happens to be. It also includes repeatedly making telephone calls, sending delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mails or other objects to the complainant.

F) Stalking includes repeatedly following, pursuing or accosting the complainant⁷.

Legislation

Uganda has no specific law in place prohibiting domestic violence⁶⁵, and a draft domestic violence bill has "languished" for years in parliament⁶⁶. The domestic relations bill was tabled in December 2003, but was shelved in 2005 after it came under attack from both legal and parliamentary affairs committee members and the public⁶⁷. In 2006, President Yoweri Museveni declared that the bill "'... was not urgently needed'" and debate was halted (ibid.). However, following a mission to Uganda in March 2008 by the African Women Leaders Project (AWLP), an 18-month initiative by the Club of Madrid to support women leaders in four African nations including Uganda, President Museveni reportedly made a public call for its "speedy passage"⁶⁸. Cited in AWLP's May-June 2008 newsletter, the Speaker of the House of Assembly indicated that he would ensure the bill's passage before the end of parliament.

In the Kawempe Division in Kampala District, a by-law was passed in October 2007⁶⁹, that makes it possible to impose a fine on or demand compensation from a perpetrator of domestic violence. The by-law also provides for a fine to be imposed on anyone who "abuses or physically hurts" a community member or authority figure who intervenes or comes to the aid of a victim. According to Raising Voices, a non-governmental organization (NGO) based in Kampala that

⁶⁵ *The Monitor* 10 Feb. 2008; US 11 Mar. 2008

⁶⁶ Freedom House 2007; *The New Vision* 28 Sept. 2007

⁶⁷ WorldChanging 1 Dec. 2007

⁶⁸ AWLP May-June 2008

⁶⁹ Raising Voices n.d.a; *The New Vision* 9 Oct. 2007

works toward preventing domestic violence, it is the first by-law to be passed in Uganda that addresses domestic violence. Raising Voices is a project of the Tides Center, a registered American charitable organization.

2.2 Statistics on and attitudes toward domestic violence

In August 2015, the Uganda Bureau of Statistics published a report indicating that 68 percent of ever-married women aged 15 to 49 years had experienced some form of violence inflicted by their spouse or intimate partner. A 2006 study by the Uganda Law Reform Commission yielded similar data, indicating that 66 percent of both men and women respondents had experienced domestic violence⁷⁰. The United States (US) Department of State reports in its *Country Reports on Human Rights Practices for 2007* that a 2006 survey indicated that 70 percent of women had been physically or sexually abused⁷¹. This survey also found that 60 percent of men and 70 percent of women in Uganda condone "wife beating". This attitude reflects statistics published by the United Nations Children's Fund (UNICEF) in its 2008 report, which indicates that 77 percent of women aged 15 to 49 years feel that spousal violence is justified for a variety of reasons, such as if the woman burns food or refuses sexual relations⁷². According to the 2006 Uganda Law Reform Commission study, domestic violence is most common in northern Uganda, where it is reported to have occurred in 78 percent of homes (CEDOVIP 2007).

The Ugandan Penal Code Act Cap 106

Since Ugandan law treats domestic violence primarily as a crime, it is in the area of criminal law that it is developing. In terms of its abovementioned wide international definition, other aspects of or remedies for domestic violence may also be accommodated and developed in other areas of law, such as the law dealing with maintenance. In Uganda domestic violence is prosecuted as an assault under the penal code, and its provisions are used to prosecute intimate partner violence against women whether they take the form of simple or ordinary assaults or assaults occasioning grievous bodily harm (Just die quietly 2003:51).

⁷⁰ CEDOVIP 2007

⁷¹ US 11 Mar. 2008, Sec. 5

⁷² UN Dec. 2007, 147; see also *The New Vision* 28 Sept. 2007

The Ugandan Penal Code Act Cap 106 provides⁷³:

“Any person who unlawfully assaults another is guilty of a misdemeanor, and, if the assault is not committed in the circumstances for which a great punishment is provided in this code, is liable to imprisonment for one year.”

And Section 228 of the Ugandan Penal Code Act Cap 106, states:

“Any person who commits an assault occasioning actual bodily harm is guilty of a misdemeanor and is liable to imprisonment for five years.”

Remedies for victims of domestic violence are contained in the penal code which imposes a variety of punishments of their offenders including cautions, fines and imprisonment for between one and five years.

Despite the availability of these punishments, domestic violence remains a hidden problem since it usually occurs in the home, men being the usual perpetrators and women the usual victims⁷⁴. The presence of violence in the home is normally attributed to power struggles in the family. The gender inequalities between men and women in the family promote violence⁷⁵. Hence the general assault provisions which are used to prosecute domestic violence assaults under the penal code are not designed to cater for the distinctive social, cultural, economic, and political circumstances under which domestic violence unfolds. An assault by a stranger is different from one committed by an intimate partner. In other words, the wide definition of assault under the penal code does not capture the aspects of intimate partner violence which is based on control, power and abuse of trust. The prescribed sentences are also inappropriate. Specific legislation dealing only with domestic violence could not only embrace all forms of domestic violence but also provide more appropriate remedies (as opposed to criminal sentences), such as, compensation of victims, orders for child custody, emergency protection orders and the removal of the offender from the home.

⁷³ Section 227 of the Ugandan Penal Code Act Cap 106

⁷⁴ Miranda, D., , *Women and Violence, Realities and World Responses World wide* 1988

⁷⁵ Nyirenda, A., , *Domestic Violence in Zambia: The Prosecution of cases involving Women Suffering Domestic Violence in Dole and Kitwe Districts of Zambia*, Dissertation Submitted in Partial fulfillment of the Master's Degree in Women's Law, Faculty of Law, University of Zimbabwe. 2005

The 1995 Constitution of the Republic of Uganda

The 1995 Constitution is the supreme law of the Republic of Uganda and all the laws must conform to it. Article 2(1) provides that:

“The Constitution is the supreme law of Uganda and shall have binding force on all authorities and persons through out Uganda.”

And sub-article (2) states that;

“If any other law or custom is inconsistent with any of the provisions of this Constitution, the Constitution shall prevail, and that other law or custom shall, to the extent of the inconsistency, be void.”

Although the Constitution does not have a specific provision dealing with domestic violence issues, it does, however, guarantee a wide range of rights. Article 21¹⁰ confirms the equal status of all Ugandans before the law, provides for the equal protection of the law, and prohibits discrimination on a number of grounds including sex, ethnic origin, tribe, and race. Article 33¹¹ accords women equality with men and provides that laws, cultures, customs which undermine the status, dignity, wellbeing or interest of women are prohibited by the constitution. However, government policy has failed to translate these lofty constitutional provisions into action. In other words, there has been a distinct failure to implement constitutional provisions to protect women. What is missing is the link between laws contained on the statutes and their effective implementation in society.

Uganda has progressive constitutional provisions for women, but they are not operational. The constitution is designed to provide for the Ugandan people’s fundamental rights and freedoms, yet women’s constitutional rights are literally trampled on every basis. The National Association of Women Judges in conjunction with Law Reform Commission has drafted legislation in respect to domestic violence. Since the early 1990’s, local NGO’s have unsuccessfully lobbied the government to pass domestic legislation and legislation addressing domestic relations.¹² Fortunately, efforts in Uganda are still continuing to pass the domestic violence legislation and to

raise awareness of the problem of domestic violence and to end it through the use of media campaigns, public events, lobbying, and the training of stakeholders.

Protection and Resources Available

Most women do not report cases of domestic violence to authorities⁷⁶ and police rarely intervene or investigate;⁷⁷. *Country Reports 2007* indicates that many law enforcement officials consider spousal battery "a husband's prerogative". Other reported reasons for women's reluctance to file a complaint include fear of reprisal, embarrassment, poverty, ignorance of the law and lack of information on where to make a report.

A report released by AI in 2007 indicates that women living in the north have limited access to protection from any form of violence because "police posts and stations are few and far between"⁷⁸, and because it is normal practice for police to demand money to take action on any complaints⁷⁹. In cases of domestic violence, AI notes that victims often do not complain to police because they depend on their partners for financial support. Another option for victims of spousal abuse is a traditional familial reconciliation process, which may involve a form of paid compensation to the victim called *luk*. Women interviewed by AI indicated that the informal process was ineffective as husbands would not pay *luk* and would often continue to abuse their wives.

In an attempt to address the problem of domestic violence, the Uganda Police Force established a Gender Desk in 1986, which became the Child and Family Protection Unit (CFPU) in 1989⁸⁰. The Uganda Police Force has also developed a handbook in cooperation with the Center for Domestic Violence Prevention (CEDOVIP), an NGO based in Kawempe that collaborates with other stakeholders in the community to advocate for changes in attitudes and behaviour toward domestic violence. In June 2007, the handbook entitled *Responding to Domestic Violence* was published to assist the community and police in handling such cases⁸¹. CEDOVIP is also

⁷⁶ *The New Vision* 28 September. 2007; Freedom House 2007

⁷⁷ US 11 March. 2008, Section. 5

⁷⁸ AI 30 Nov. 2007, Sec. 1

⁷⁹ AI 30 Nov. 2007. Sec. 5.1.2

⁸⁰ CEDOVIP 2007

⁸¹ US 11 March. 2008, Section. 5

working with Raising Voices in implementing the National Domestic Violence Prevention Initiative, a training program being offered to ten organizations located throughout Uganda. The program is aimed at enhancing community-based prevention efforts.

In February 2007, *The Monitor*, a Kampala-based daily newspaper, reported that a home had been constructed in the Kayunga District to accommodate fifty victims of domestic violence⁸². Police statistics reportedly indicate that at least one woman is killed in Kayunga as result of domestic violence every two months⁸³. Further information on the existence of shelters for victims of domestic abuse elsewhere in Uganda could not be found among the sources consulted by Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

Despite the chronic and widespread nature of the global phenomenon of domestic violence, there has been an astounding failure to prosecute this crime even in countries with greater institutional capacity.⁸⁴

In Uganda, there are no specific laws that provide Ugandan women with any meaningful protection from domestic violence. Since the early 1990s, local NGOs have unsuccessfully lobbied the government to pass domestic violence legislation and legislation addressing domestic relations. According to women's rights activists, in many Ugandan communities, wife battery that does not result in serious injury is tolerated and is considered a normal part of marriage.⁸⁵ As a result of the underreporting of domestic violence and the paucity of official statistics, domestic violence rates are difficult to measure with absolute accuracy. However, it is generally agreed

⁸² 4 Feb. 2007

⁸³ *The Monitor* 1 May 2008

⁸⁴ Human Rights Watch, *The Human Rights Watch Global Report on Women's Human Rights* (New York: Human Rights Watch, 1995), chapter 6. Additional reports on domestic violence in specific countries include: Human Rights Watch, *Sacrificing Women to Save the Family? Domestic Violence in Uzbekistan* (New York: Human Rights Watch, 2001);

⁸⁵ Law & Advocacy for Women – Uganda, "Project Report on the Domestic Violence Study," second Edition, (Kampala: LAW-U, 2001), p. 59

that domestic violence rates are high in Uganda. According to U.N. statistics, in 2000, 41 percent of Ugandan women had suffered domestic violence.⁸⁶ A study that examined domestic violence among women attending the prenatal clinic in Mulago Hospital, the largest hospital in Uganda providing free medical services, found that 40.7 percent of women reported physical assaults in the year before conceiving.⁸⁷ Police Superintendent Helen Alyek of the Child and Family Protection Unit at Nsambya Police Station told Human Rights Watch that complaints of domestic violence rose from 495 in 2001 to 1009 in 2002. Alyek attributed the rise primarily to training on women's rights, but also to increased levels of violence as a result of poverty.⁸⁸

As recently as August 2002, the U.N. Committee on the Elimination of Discrimination against Women (CEDAW Committee)⁸⁹ expressed concern at the high incidence of violence against women in Uganda, including domestic violence and marital rape, and the absence of legal measures to address such violence.⁹⁰

In the absence of a domestic violence law, the police and courts rely on assorted, non-specific provisions in the Penal Code that cover assault and homicide.⁹¹ A prior judicial order of separation is necessary in order to charge a man with the rape of his wife and the law otherwise relies on the common law presumption of consent within marriage.⁹² Existing criminal laws do not provide adequate legal remedies and punishments are often very lenient, with the accused being warned or fined.⁹³ In our interviews we found that battered women rarely report domestic

⁸⁶ Innocenti Research Centre, *Domestic Violence Against Women and Girls*, June 2000, Innocenti Digest no. 6, (Italy: UNICEF, 2000), p. 5.

⁸⁷ Dan Kaye, "Risk Factors, Nature and Severity of Domestic Violence among Women Attending Antenatal Clinics in Mulago Hospital, Kampala, Uganda," *Central African Journal of Medicine*, vol. 48, no. 5/6, May/June 2001, p. 64. Human Rights Watch interview with Dan Kaye, Department of Obstetrics and Gynaecology, Makerere University Medical School, Kampala, January 15, 2003.

⁸⁸ Human Rights Watch interview with Helen Alyek, superintendent, Child and Family Protection Unit, Nsambya Police Station, December 19, 2002.

⁸⁹ Established by the United Nations to monitor compliance with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

⁹⁰ CEDAW Committee Draft Report, *Consideration of Reports of State Parties, Uganda, (advance unedited version), Third Periodic Report*, (Exceptional session, August 5 to 23, 2002), U.N. Doc. CEDAW/C/2002/EXC/CRP.3/Add.3/Rev 1, para. 23, [online], <http://www.un.org/womenwatch/daw/cedaw/cedawExsess/ConcComments/ConComUganda.PDF> (retrieved December 1, 2002).

⁹¹ Threatening Violence, sec. 76; Common Assault, sec. 227; Assault Occasioning Bodily Harm sec. 228; Grievous Harm, sec. 212. The Penal Code, (Chapter 106), Laws of Uganda, (1978 reprint).

⁹² The presumption that a spouse consents to sex with their partner through the act of marriage.

⁹³ LAW-U, "Project Report on the Domestic Violence Study," p. 58.

violence cases due to their lack of confidence in the legal system, and, in the cases in which they do report, law enforcement officials rarely intervene to protect women. A wife who reports her husband to the police for beating her faces social stigmatization for exposing family matters to the public.⁹⁴ Most notably, in March 2002, then Vice-President Specioza Kazibwe⁹⁵ stated that she had been a victim of domestic violence. This deeply personal revelation, which should have helped in the destigmatization of the issue, was instead met by extremely negative press and anti-women rhetoric on the radio.⁹⁶

Individual women and NGO representatives depicted government institutions that directly handle cases of violence against women as ineffective and non-responsive to women's needs. The Coalition Against Gender Violence, composed of five professional women's NGOs and the Ministry of Gender, Labour and Social Development, reported: "Numerous challenges remain regarding reporting, follow up, arrest, trial and punishment of perpetrators [of gender violence]. These include the fact that officials in these different structures and often the victims themselves are inculcated in and have internalized the culture of gender inequality such that they are not cognizant of what constitutes gender violence."⁹⁷ In an effort to enhance the police response, the government has established family protection units at police posts at the national level, gender desks at the district level, and has carried out gender sensitization of law enforcement agencies.⁹⁸ However, NGOs report that while police are trained extensively on children's rights, training on women's rights is largely absent.

To date, the most significant pieces of pending legislation with regard to domestic relations are the Domestic Relations Bill (Draft) (Domestic Relations Bill), which seeks to consolidate the six

⁹⁴ The Coalition Against Gender Violence, Population Secretariat, Ministry of Finance and Economic Planning, "An Assessment of Gender Violence In Apac and Mbale Districts of Uganda, 1999 to 2000" (Kampala: Coalition Against Gender Violence, 2000), p. 80.

⁹⁵ Specioza Kazibwe resigned from the post of vice-president in May 2003. See "Uganda: Mixed reaction to vice-president's resignation," *IrinNews.org*, Nairobi, May 22, 2003, [online], <http://www.irinnews.org/report.asp?ReportID=34256> (retrieved May 22, 2003).

⁹⁶ For an example on the debate surrounding Kazibwe's allegations, see "Should the VP have remained silent?" *The New Vision*, March 19, 2002, [online], <http://www.newvision.co.ug/detail.php?mainNewsCategoryId=9&newsCategoryId=31&newsId=48895> (retrieved May 27, 2003).

⁹⁷ The Coalition Against Gender Violence, Population Secretariat, Ministry of Finance and Economic Planning, "An Assessment of Gender Violence In Apac and Mbale Districts of Uganda, 1999 to 2000" (Kampala: Coalition Against Gender Violence, 2000), p. 80.

⁹⁸ CEDAW Committee Draft Report, *Consideration of Reports of State Parties, Uganda*, para. 7.

different statutes that relate to marriage and divorce in Uganda, and the Sexual Offences (Miscellaneous Amendments) Bill (Sexual Offences Bill). There has been serious government opposition to their enactment because they address issues such as marital rape, women's ownership of marital property, and polygyny,⁹⁹ and therefore have far-reaching cultural and religious ramifications. The CEDAW committee has expressed concern at the slow progress in eradicating both *de jure* and *de facto* discrimination¹⁰⁰ and has strongly recommended the speedy enactment of the Domestic Relations Bill and the Sexual Offences Bill. With the exception of criminalizing marital rape, however, neither the Domestic Relations Bill nor the Sexual Offences Bill addresses other facets of domestic violence.¹⁰¹

2.3 The Problem of Defining Domestic Violence

The definition of the scope of domestic violence is a major problem as it can be defined either narrowly or broadly (Abbi et al., 2010:438). Hence, there is no universally acceptable definition, which is why, in practice; there are few model definitions available. Here are two selected exemplary definitions of the term for the purpose of this essay. The United Nations Declaration on the Elimination of Violence against Women (UN, DEVAW, 1993) defines violence against women as: *'any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life'* (UN, DEVAW, 1993: article 1).

Accordingly, the Declaration went on to present a non-exhaustive list of what it considered constituted gender-based violence. These includes physical, sexual and psychological violence within the family, female child sexual abuse, dowry-related violence, marital rape, female genital

⁹⁹ Human Rights Watch refers to "polygyny" as "the state or practice of having more than one wife or female mate at one time" rather than "polygamy," being a marriage in which a spouse of either sex may have more than one mate at the same time. However, we may quote interviewees using the blanket term "polygamy."

¹⁰⁰ CEDAW Committee, *Concluding Comments, Consideration of Reports of State Parties*, para. 17.

¹⁰¹ The Uganda Law Reform Commission, established in 1990 with a mandate to formulate and assist in implementing laws that adhere to international standards and the Constitution, drafted the Domestic Relations Bill to address inequities in Ugandan laws on issues of domestic relations. The Sexual Offences Bill, drafted in 1999, came about partly as a reaction to proposals for lowering the age of consent to provide for earlier marriages of girls. Wary of overloading the Domestic Relations Bill, the Law Reform Commission proposed the drafting of an alternative bill relating specifically to domestic violence.

mutilation, rape and sexual abuse, sexual harassment in the workplace and educational institutions, trafficking in women, forced prostitution, battering, non-spousal violence, exploitation, state violence that occurs anywhere etc (UN, DEVAW, 1993: article 2).

The other definition of violence which is worthy to consider is one that is found in the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, better known as the Maputo Protocol, which was adopted by the African Union in 2003 in Maputo, Mozambique and entered into force in 2005 (AU, Maputo Protocol, 2003). As per this protocol, violence against women means: "*all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed conflicts or of war*" (AU, Maputo Protocol, 2003: article 1.b. paragraph. 8).

Article 3 of DEVAW stipulates that women are entitled to equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. These rights include inter alia:

- a) The right to life;
- b) The right to equality;
- c) The right to liberty and security of person;
- d) The right to equal protection under the law;
- e) The right to be free from all forms of discrimination;
- h) The right not to be subjected to torture, or other cruel, inhuman or degrading treatment or punishment.

The United Nations General Assembly, under Article 1 of the Universal Declaration of Human Rights (1948), *affirmed that all human beings are born free and equal in dignity and rights*¹⁷ (my emphasis). Women are human beings who have an inherent right to life under Article 3 of the same. In the case of *Van Eeden v Minister of Safety and Security (Judgment of the Supreme Court of Appeal delivered on 22 September 2002 in Case No 176/2001)* the Court, following the Constitutional Case of *Carmichele v Minister of Safety and Security and Another*

2001(4)SA938(CC), emphasized that freedom from violence is fundamental to the equal enjoyment of human rights.

The duty of the State to protect women and even third parties from domestic violence is also emphasized in the case of *Minister of Safety and Security v Van Duivenboden* (Judgment of the Supreme Court of Appeal delivered on 22 August 2002 in Case No 209/2001). Here the Minister was held liable in damages for injuries suffered by Mr. Duivenboden who, in the process of attempting to protect a woman from an assault by her husband, was injured by a firearm which the Police had wrongfully failed to confiscate from him. The fact that his wife had previously withdrawn charges against her husband in a bid to save their marriage did not detract from the Police's duty to confiscate the weapon from him in order to afford her and other innocent third parties, including Mr. Duivenboden, maximum protection from harm.

The right to be free from domestic violence is a fundamental and universal right and the right to access appropriate remedies is stipulated under Article 25 of the Women's

Protocol, wherein states parties shall undertake to:

“...provide for appropriate remedies to any women whose rights of freedom, as herein recognized, have been violated;...and ensure that such remedies are determined by competent judicial, administrative or legislative authorities, or by any other any other authority provided by law.”

It is also stipulated in the international human rights instruments that refugee victims of sexual violence and their families be provided with adequate medical and psycho-social care, including culturally appropriate counseling facilities, and generally be considered as persons of special concern to states and to the UNHCR with respect to assistance and the search for durable solutions. Support should also be given to the UN High Commissioner's efforts in coordination with other intergovernmental and nongovernmental organizations competent in this area, to develop and organize training courses for authorities, including camp officials, eligibility officers, and other dealings with refugees on practical protection measures for preventing and responding to sexual violence.¹⁰²

¹⁰² UNHCR General Conclusion 73: Refugee Protection and Sexual violence(1993)

2.4 The International Legal Framework

International law and policy on domestic violence has developed in the United Nations and in regional organizations such as the Council of Europe, and is in the process of being developed in the European Union. The recognition that domestic violence is a human rights violation under international law required decades of work by activists around the world. Now, international legal instruments and policy statements make clear that states have a duty under international law to prevent domestic violence and punish domestic violence offenders.

Domestic violence: Law and Policy

Although regional institutions have been paying increased attention to issues of domestic violence in recent years, many of the legal developments on domestic violence have taken place through the framework of the United Nations or within individual national legal systems.

The developments within the United Nations system in particular, the drafting and signature of United Nations treaties and documents recognizing domestic violence as a human rights violation and the extraordinary work of the Special Rapporteur on Violence Against Women and the Committee on the Elimination of All Forms of Violence Against Women on the issue—have been critical to efforts to raise awareness about domestic violence, articulate state responsibility for domestic violence, and identify strategies to combat domestic violence. The United Nations, as well as some national institutions, has also developed a model domestic violence law that can provide guidance in drafting domestic violence legislation.

On the national level, as well, significant advancements have been made through the drafting and passage of domestic violence laws and the creation of policies and protocols altering law enforcement, judicial, prosecutorial, or medical response to domestic violence. These laws and protocols vary considerably; some domestic violence laws, for example, criminalize domestic assault, others create civil remedies, and yet others do both. Despite their diversity, these laws can serve as useful models for new legislative and policy reform efforts. In addition, the successes and failures of these laws and protocols in other jurisdictions can be an invaluable resource in the effort to evaluate the appropriateness of adopting a particular policy or law and to

anticipate any unintended negative effects the law or policy may have on victims of domestic violence.

The United Nations

Treaties and Conventions

Early human rights law enacted by the United Nations is relevant to domestic violence. The International Bill of Human Rights consists of The Universal Declaration of Human Rights, adopted by the United Nations General Assembly in 1948, and its implementing covenants, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), which entered into force in 1976. While these documents do not explicitly address domestic violence, they, along with the Optional Protocol to the ICCPR, articulate a state's duty to protect fundamental human rights that are commonly violated in domestic violence cases. Those rights include the right to life, the right to physical and mental integrity, the right to equal protection of the laws and the right to be free from discrimination.

The Convention on the Elimination of All Forms of Discrimination Against Women, entered into force in 1981, also does not explicitly include language on violence against women or domestic violence but guarantees the human rights listed above. In 1992, the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW), which is the United Nations committee charged with monitoring the Convention, adopted General Recommendation Number 19. General Recommendation No. 19, Committee on the Elimination of Discrimination Against Women, U.N. Doc A/47/38 (1992). This recommendation addresses the Women's Convention's silence on violence and states that gender-based violence is a "form of discrimination which seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men." This recommendation was the first time a human rights treaty or convention was officially interpreted to prohibit violence against women. The recommendation made clear that domestic violence was included.

Article I: For the purposes of the present Convention, the term "**discrimination against women**" shall mean any **distinction, exclusion or restriction made on the basis of sex** which has the

effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

As of May 2009, 186 states have ratified or acceded to the treaty, most recently Qatar on April 29, 2009

In Articles 2 and 3, there is an obligation cast on the state parties to legislate and take all appropriate measures to end violence against women and to ensure full development and advancement of women in all wake of life

Article 5

Obligation on States Parties to take all appropriate measures to modify social and cultural patterns of conduct of men and women, with the objective to eliminate the prejudices and customary & all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

United Nations' Conference Documents

United Nations conference documents address the issue of domestic violence. They are widely recognized as consensus documents—that is, documents that reflect an international consensus on the state of international law. While not legally enforceable, they are, as one writer states, “signposts of the direction in which international human rights law is developing and should influence states that have accepted a commitment of progressive development toward enhanced respect for human rights in their international conduct and domestic law.”¹⁰³

The Report of the World Conference of the United Nations Decade for Women:¹⁰⁴ was the first time domestic violence was explicitly mentioned in an official document of the United Nations. Domestic violence is referred to several times in the document. The Legislative Measures section states:

¹⁰³ Rebecca J. Cook, *The Elimination of Sexual Apartheid: Prospects for the Fourth World Conference on Women* 29 (1995).

¹⁰⁴ *Equality, Development and Peace*, Copenhagen, July 1980, U.N. Doc A/CONF.94/35 (80.IV.30),

Legislation should also be enacted and implemented in order to prevent domestic and sexual violence against women. All appropriate measures, including legislative ones, should be taken to allow victims to be fairly treated in all criminal procedures.

At the 1985 Third World Conference on Women in Nairobi, Kenya, domestic violence received significant attention. The final conference report called on governments to “undertake effective measures, including mobilizing community resources to identify, prevent and eliminate all violence, including family violence, against women and to provide shelter, support and reorientation services for abused women and children.” Report of the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, held in Nairobi, July 1985, including Nairobi Forward-Looking Strategies for the Advancement of Women, U.N. Doc. A/CONF.116/28Rev.1 (85.IV.10).

The final conference document from Second World Conference on Human Rights, held in Vienna in June 1993, was the Vienna Declaration and Programme of Action (A/CONF.157/23), 12 July 1993. The Vienna Declaration stated:

In particular, the World Conference on Human Rights stresses the importance of working towards the elimination of violence against women in the public and private life . . . the elimination of gender bias in the administration of justice and the eradication of any conflicts which may arise between the rights of women and the harmful effects of certain traditional or customary practices.

Violence against women, including domestic violence, was a major focus at the 1995 Fourth World Conference on Women in Beijing, China. The conference document, the Beijing Platform for Action, identifies domestic violence as a human rights violation. The Platform states: “Violence against women both violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms.” It addresses violence against women as a separate “Critical Area of Concern” and includes it under the “Human Rights” section. The Beijing Platform outlines many specific actions governments, nongovernmental groups and others should take to confront and combat violence against women, including strengthening legal systems’ response to domestic violence.

Five years later, at the United Nations' conference, Beijing plus 5: A Special Session on Women 2000: Gender Equality, Development and Peace for the Twenty-First Century, the final document detailed obstacles for women and included domestic violence. The language of the document is strong and very specific:

Obstacles.

Women continue to be victims of various forms of violence. Inadequate understanding of the root causes of all forms of violence against women and girls hinders efforts to eliminate violence against women and girls. There is a lack of comprehensive programs dealing with the perpetrators, including programs, where appropriate, which would enable them to solve problems without violence. Inadequate data on violence further impedes informed policy-making and analysis. Sociocultural attitudes which are discriminatory and economic inequalities reinforce women's subordinate place in society. This makes women and girls vulnerable to many forms of violence, such as physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation. In many countries, a coordinated multidisciplinary approach to responding to violence which includes the health system, workplaces, the media, the education system, as well as the justice system, is still limited. Domestic violence, including sexual violence in marriage, is still treated as a private matter in some countries. Insufficient awareness of the consequences of domestic violence, how to prevent it and the rights of victims still exists. Although improving, the legal and legislative measures, especially in the criminal justice area, to eliminate different forms of violence against women and children, including domestic violence and child pornography, are weak in many countries. Prevention strategies also remain fragmented and reactive and there is a lack of programs on these issues

(a) As a matter of priority, review and revise legislation, where appropriate, with a view to introducing effective legislation, including on violence against women, and take other necessary measures to ensure that all women and girls are protected against all forms of physical, psychological and sexual violence, and are provided recourse to justice;

- (b) Prosecute the perpetrators of all forms of violence against women and girls and sentence them appropriately, and introduce actions aimed at helping and motivating perpetrators to break the cycle of violence and take measures to provide avenues for redress to victims;
- (c) Treat all forms of violence against women and girls of all ages as a criminal offence punishable by law, including violence based on all forms of discrimination;
- (d) Establish legislation and/or strengthen appropriate mechanisms to handle criminal matters relating to all forms of domestic violence, including marital rape and sexual abuse of women and girls, and ensure that such cases are brought to justice swiftly . . .

Other United Nations conference documents address the issue of domestic violence. The Programme of Action from the 1994 International Conference on Population and Development (ICPD) in Cairo, Egypt, articulates the need for government attention to all forms of violence against women. This need was emphasized again in the “Cairo plus 5” document, the Programme for Action, from the second International Conference on Population and Development (ICPD) in 1999. The Copenhagen Declaration on Social Development from the 1995 World Summit for Social Development in Copenhagen also calls on governments to take effective measures to combat and eliminate all forms of violence against women.

The Durban Declaration and Program of Action from the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban, recognizes that the intersection of gender and race, ethnicity or other status can make women particularly vulnerable to certain kinds of violence and calls on governments “[t]o consider adopting and implementing immigration policies and programs that would enable immigrants, in particular women and children who are victims of spousal or domestic violence, to free themselves from abusive relationships.”

The Declaration on the Elimination of Violence Against Women

In 1993, the United Nations General Assembly adopted the Declaration on the Elimination of Violence Against Women (DEVAW). This landmark document was a result of efforts within the United Nations Commission on the Status of Women (CSW) and the Economic and Social Council (ECOSOC). While DEVAW does not have the binding legal authority of a convention

or treaty, as a United Nations General Assembly declaration, it is universal in coverage and a strong statement of principle to the international community. Identifying the subordination of women as a principle cause of domestic violence, DEVAW states, “violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men.” DEVAW condemns the crucial social mechanisms by which women are forced into a subordinate position as compared with men” and defines violence as that occurring both in “private or public life.” Importantly, DEVAW provides specific steps member states should take to combat domestic violence, including legal system reform. DEVAW provides that states should investigate and punish acts of domestic violence, develop comprehensive legal, political, administrative and cultural programs to prevent violence against women, provide training to law enforcement officials and promote research and collect statistics relating to the prevalence of domestic violence.

World Conference on Human Rights in Vienna in 1993: The Vienna Declaration and Programme of Action included affirmation of the universality of women’s rights as human rights and a call for elimination of gender-based violence

DEVAW states that violence against women is “a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women”

The Special Rapporteur on Violence Against Women

In 1994, the Commission on Human Rights appointed Radhika Coomaraswamy, from Sri Lanka, to the position of Special Rapporteur on Violence Against Women, Including Its Causes and Consequences. The mandate of the Special Rapporteur as articulated by the Commission is to “see and receive information on violence against women, its causes and consequences, from Governments, treaty bodies, specialized agencies and other special rapporteurs . . . [and] recommend measures, ways and means, at the national, regional and international level to eliminate violence against women and its causes, and to remedy its consequences” U.N.C.H.R. Res. 1994/45 (ESCOR 1994), paras. 6 and 7. Rapporteurs are seen as one of the most effective tools within the United Nations to monitor human rights violations. Since taking office in 1994, Ms. Coomaraswamy has issued 28 reports (as of February 2003) on violence

against women. The reports focus on many different forms of violence, in many different countries and many include references to domestic violence.

In 1996, Ms. Coomaraswamy's reports addressed domestic violence at length and included model legislation on domestic violence. The model legislation includes a definition of domestic violence, a declaration of purpose and both civil and criminal provisions. It is discussed further below in the Model Legislation section.

Ms. Coomaraswamy's 2001 report to the Preparatory Committee for the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban, Racial Discrimination, Xenophobia and Related Intolerance on the subject of race, gender and violence against women (A/CONF.189/PC.3/5), 27 July 2001, describes some of the ways in which race, gender and violence against women intersect and emphasizes that battered women who belong to marginalized groups often confront additional obstacles, such as language barriers or cultural insensitivity, to protecting themselves from violence.

Links to the Special Rapporteur's reports on violence against women are available under the Domestic Violence: Research and Reports section of this website.

State Responsibility for Private Acts of Violence

One of the most significant obstacles to overcome in the effort to define domestic violence as a human rights violation was the traditional view that international law is applicable only to governments and their representatives, but not to private actors as in the case of intimate partner assault. In fact, even before the United Nations and other institutions explicitly named domestic violence as a human rights violation, there was significant authority that states have a duty to protect individuals from offenses by private actors. When the International Covenant on Civil and Political Rights was drafted, it was contemplated that governments had a duty to protect individuals from violations by private citizens. The Human Rights Committee of the United Nations, the European Commission of Human Rights and the European Court of Human Rights have concurred with this view.¹⁰⁵

¹⁰⁵ From Andrew Byrnes, *Women, Feminism and International Human Rights Law—Methodological Myopia, Fundamental Flaws or Meaningful Marginalisation?*, 12 *Austl. Y.B. Int'l Law* 205 (1992).

Case law interpreting international and regional human rights law also supported this position. In the Velasquez Rodriguez Case, Inter-American Court of Human Rights, Ser. C, No. 4, Judgment of 29 July 1988, 1989 28 ILM 291, for example, the Inter-American Court of Human Rights held that Honduras was required to “take reasonable steps to prevent human rights violations and to use the means at its disposal to carry out a serious investigation of violations committed within [its] jurisdiction, to identify those responsible, to impose the appropriate punishment and to ensure the victim adequate compensation.” Other cases supporting this position include the Case of Plattform Ärzte fuer das Leben v. Austria, Judgment of 21 June 1988, Ser. A, No. 139, 32, 13 EHRR 204; and X and Y v. Netherlands, Judgment of 26 March 1985, Ser. A, No. 91, 23, 8 EHRR 235, 81 ILR 103.

This human rights law dictates that, although one act of domestic violence may not invoke the protections of international law, a state’s institutionalized inaction in the face of a pervasive domestic violence problem violates its international obligations. From Kenneth Roth, Domestic Violence as an International Human Rights Issue, in Human Rights of Women 326¹⁰⁶. In addition, a state may violate its international legal obligations if it applies its laws in a discriminatory fashion, giving more attention and resources to crimes other than domestic violence. However, Joan Fitzpatrick, in her article, The Use of International Human Rights Norms to Combat Violence Against Women, in Human Rights of Women 532, 539¹⁰⁷, makes the important point that an equal treatment approach for battered women leaves important issues unaddressed. She emphasizes that domestic violence survivors “operate under pressures not felt by other crime victims.” They may not be able to sever ties to their assailants in a way that accommodates the application of general criminal laws. Instead, domestic violence survivors may require additional services to truly achieve equal treatment.

2.5 Identifiable gaps between Ugandan law and related international human rights provisions.

As discussed earlier, although there is no specific law in Uganda that provides women with meaningful protection from domestic violence, it is an international obligation for states parties

¹⁰⁶ (Rebecca Cook ed., 1994); Dorothy Q. Thomas & Michele E. Beasley, Domestic Violence as a Human Rights Issue, Hum. Rts. Q. 15 (1993)

¹⁰⁷ (Rebecca Cook ed., 1994)

under Article 2(1) of the Women's Protocol to the African Charter, to "combat all forms of discrimination against women through appropriate legislative, institutional and other measures."

And Article 2(1)(b) proceeds: "In this regard they shall

(b) enact and effectively implement appropriate legislative or regulatory measures, including those prohibiting and curbing all forms of discrimination particularly those harmful practices which endanger the health and general well-being of women."

Domestic violence is one of those "harmful practices".

General recommendation 19 of CEDAW calls on state parties to enact specific domestic violence legislation as soon as possible. In 2002 the UN Committee on the Elimination of Discrimination against Women (CEDAW Committee)¹⁰⁸ expressed concern at the high incidences of violence against women, including domestic violence, and the absence of a legal measure to address such violence in Uganda. In the absence of a specific domestic violence law, the police and courts rely on assorted, non-specific provisions in the penal code that cover assault and homicide.

The existing criminal laws do not provide appropriate remedies and the punishments are often very lenient, with the accused being warned or fined or imprisoned for between one to five years. Once again, the duty is upon the Government of Uganda to enact specific legislation on domestic violence that will offer remedies and protection which is more appropriate than those provided under the penal code, such as orders of payment for the compensation of victims, orders for child custody and maintenance, emergency protection orders and orders for the removal of the offenders from the home.

¹⁰⁸ Established by the UN to monitor compliance with the Convention on the Elimination of all forms of Discrimination against Women (CEDAW).

CHAPTER THREE

THE SUFFICIENCY OF THE DOMESTIC VIOLENCE LAWS IN UGANDA

3.1 Domestic Violence in Uganda

Despite the chronic and widespread nature of the global phenomenon of domestic violence, there has been an astounding failure to prosecute this crime even in countries with greater institutional capacity.¹⁰⁹ In Uganda, there are no specific laws that provide Ugandan women with any meaningful protection from domestic violence. Since the early 1990s, local NGOs have unsuccessfully lobbied the government to pass domestic violence legislation and legislation addressing domestic relations. According to women's rights activists, in many Ugandan communities, wife battery that does not result in serious injury is tolerated and is considered a normal part of marriage. As a result of the underreporting of domestic violence and the paucity of official statistics, domestic violence rates are difficult to measure with absolute accuracy. However, it is generally agreed that domestic violence rates are high in Uganda. According to U.N. statistics, in 2000, 41 percent of Ugandan women had suffered domestic violence. A study that examined domestic violence among women attending the prenatal clinic in Mulago Hospital, the largest hospital in Uganda providing free medical services, found that 40.7 percent of women reported physical assaults in the year before conceiving. Police Superintendent Helen Alyek of the Child and Family Protection Unit at Nsambya Police Station told Human Rights Watch that complaints of domestic violence rose from 495 in 2001 to 1009 in 2002. Alyek attributed the rise primarily to training on women's rights, but also to increased levels of violence as a result of poverty.

As recently as August 2002, the U.N. Committee on the Elimination of Discrimination against Women (CEDAW Committee)¹¹⁰ expressed concern at the high incidence of violence against women in Uganda, including domestic violence and marital rape, and the absence of legal measures to address such violence. In the absence of a domestic violence law, the police and

¹⁰⁹ For a general discussion on domestic violence globally, see Human Rights Watch, *The Human Rights Watch Global Report on Women's Human Rights* (New York: Human Rights Watch, 1995), chapter 6. Additional reports on domestic violence in specific countries include: Human Rights Watch, *Sacrificing Women to Save the Family? Domestic Violence in Uzbekistan* (New York: Human Rights Watch, 2001); Human Rights Watch, *Seeking Protection: Addressing Sexual and Domestic Violence in Tanzania's Refugee Camps* (New York: Human Rights Watch, 2000);

¹¹⁰ Established by the United Nations to monitor compliance with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

courts rely on assorted, non-specific provisions in the Penal Code that cover assault and homicide. A prior judicial order of separation is necessary in order to charge a man with the rape of his wife and the law otherwise relies on the common law presumption of consent within marriage. Existing criminal laws do not provide adequate legal remedies and punishments are often very lenient, with the accused being warned or fined. In our interviews we found that battered women rarely report domestic violence cases due to their lack of confidence in the legal system, and, in the cases in which they do report, law enforcement officials rarely intervene to protect women. A wife who reports her husband to the police for beating her faces social stigmatization for exposing family matters to the public. Most notably, in March 2002, then Vice-President Specioza Kazibwe stated that she had been a victim of domestic violence. This deeply personal revelation, which should have helped in the destigmatization of the issue, was instead met by extremely negative press and anti-women rhetoric on the radio.¹¹¹

Individual women and NGO representatives depicted government institutions that directly handle cases of violence against women as ineffective and non-responsive to women's needs. The Coalition Against Gender Violence, composed of five professional women's NGOs and the Ministry of Gender, Labour and Social Development, reported: "Numerous challenges remain regarding reporting, follow up, arrest, trial and punishment of perpetrators [of gender violence]. These include the fact that officials in these different structures and often the victims themselves are inculcated in and have internalized the culture of gender inequality such that they are not cognizant of what constitutes gender violence."¹¹² In an effort to enhance the police response, the government has established family protection units at police posts at the national level, gender desks at the district level, and has carried out gender sensitization of law enforcement agencies. However, NGOs report that while police are trained extensively on children's rights, training on women's rights is largely absent.

To date, the most significant pieces of pending legislation with regard to domestic relations are the Domestic Relations Bill (Draft) (Domestic Relations Bill), which seeks to consolidate the six

¹¹¹ For an example on the debate surrounding Kazibwe's allegations, see "Should the VP have remained silent?" *The New Vision*, March 19, 2002, [online], <http://www.newvision.co.ug/detail.php?mainNewsCategoryId=9&newsCategoryId=31&newsId=48895> (retrieved May 27, 2003).

¹¹² The Coalition Against Gender Violence, Population Secretariat, Ministry of Finance and Economic Planning, "An Assessment of Gender Violence In Apac and Mbale Districts of Uganda, 1999 to 2000" (Kampala: Coalition Against Gender Violence, 2000), p. 80.

different statutes that relate to marriage and divorce in Uganda, and the Sexual Offences (Miscellaneous Amendments) Bill (Sexual Offences Bill). There has been serious government opposition to their enactment because they address issues such as marital rape, women's ownership of marital property, and polygyny,¹¹³ and therefore have far-reaching cultural and religious ramifications. The CEDAW committee has expressed concern at the slow progress in eradicating both *de jure* and *de facto* discrimination¹¹⁴ and has strongly recommended the speedy enactment of the Domestic Relations Bill and the Sexual Offences Bill. With the exception of criminalizing marital rape, however, neither the Domestic Relations Bill nor the Sexual Offences Bill addresses other facets of domestic violence.¹¹⁵

3.2 Responding to violence against women

The starting point for this report is the assumption that all forms of violence against women are linked. However, the research literature focuses mainly on discrete aspects of violence against women, with different aspects attracting attention within different fields.

This section of the report reviews research which assesses the effectiveness of interventions to address violence against women, identifies some of the gaps in the literature, and attempts to assess how far what has been learned about one aspect of violence against women can be transferred to another.

3.3 Responding to rape and sexual assault

The criminal justice system response

The reporting and subsequent investigation and prosecution of rape and sexual assault are the focus of much of the available research literature on the subject, particularly in Britain. As already indicated, the establishment of specialist police units in Scotland to deal with sexual assault dates back to the mid 1980s, and followed highly publicised research which critiqued

¹¹³ Human Rights Watch refers to "polygyny" as "the state or practice of having more than one wife or female mate at one time" rather than "polygamy," being a marriage in which a spouse of either sex may have more than one mate at the same time. However, we may quote interviewees using the blanket term "polygamy."

¹¹⁴ CEDAW Committee, *Concluding Comments, Consideration of Reports of State Parties*, para. 17.

¹¹⁵ The Uganda Law Reform Commission, established in 1990 with a mandate to formulate and assist in implementing laws that adhere to international standards and the Constitution, drafted the Domestic Relations Bill to address inequities in Ugandan laws on issues of domestic relations. The Sexual Offences Bill, drafted in 1999, came about partly as a reaction to proposals for lowering the age of consent to provide for earlier marriages of girls. Wary of overloading the Domestic Relations Bill, the Law Reform Commission proposed the drafting of an alternative bill relating specifically to domestic violence.

existing police practice (Chambers and Millar, 1983). The trend towards specialism in this area continued throughout the 1990s, and is now standard across the Scottish police forces. Although the model varies slightly from one force area to another, key components include dedicated interview suites, specialist officers, and a 'victim-centred' approach. In some areas there is also a dedicated forensic suite.

Practitioners acknowledge that there have been significant improvements in the police response to rape and sexual assault complainers over the last 20 years (Christianson and Greenan, 2001), and this is supported by research. A study of 23 women in Sussex who had reported to the police between 1991 and 1993 found that 57% of them felt mostly positive about the response of police officers, while 43% were mostly negative about the response of police officers (Temkin, 1997). None of the women, including those who felt negative about the service overall, felt that they were disbelieved, or that the police were 'heavy-handed' in their approach. In addition, the majority of the women (19 out of 23) valued the manner and attitude of the police officers who dealt with them. For the women who were 'mostly negative' about their experience with the police, poor follow up, difficulty accessing information, disbelieving attitudes and insensitive handling were the main features of their complaints about the service.

The Justice ministries for the countries involved in the study offered a range of technical and procedural 'barriers to successful prosecution', including limited or absent evidence, under-reporting or delayed reporting, lack of support services, delays in court proceedings and 'limited incentives for prosecutors'. The authors contend that, despite a wide range of legal and procedural reforms which have been enacted across Europe since 1980, there is still an absence of good practice in enabling rape complainers to give their best evidence or in supporting and protecting "their dignity and integrity" during the trial process (Regan and Kelly, 2003: 17).

Overall, they argue, rape is very much 'a forgotten issue' on political and social policy agendas, attracting neither the debate nor the resources which have gone into highlighting domestic violence as a social policy priority. They make a number of recommendations for change, including the suggestion that research should be undertaken to explore the points of attrition in rape cases and identify possible reasons for the increase in attrition.

A small scale pilot study which addresses these issues has already been undertaken in Scotland. The study retrospectively tracked the progress of 191 complaints involving sexual offences through the criminal justice system, by examining crime reports, interviewing police officers, examining fiscal files and interviewing precognition officers and procurators fiscal. Two police forces were involved, one urban and one rural, and seven fiscal offices. Of a total of 47 cases which began as complaints of rape, 17 did not progress beyond the police, a further 15 did not progress beyond the fiscal, and of the 15 which went to court, eight resulted in a conviction (Jamieson, 2001).

Although this seems an improvement on the 22% conviction rate reported in an earlier study (Brown, Burman, Jamieson, 1992), Jamieson notes that more than half of the cases which proceeded to court involved child complainers. A further breakdown of the figures shows that of the nine cases involving child complainers, five resulted in a conviction, compared with only two out of the 14 cases involving an adult complainer. Although Jamieson comments on the range of reasons given in police crime reports for not proceeding, including withdrawal of the complaint, false allegation, and no known suspect, she does not identify any one area of police procedure as particularly problematic. In relation to cases marked 'no proceedings' by the procurator fiscal, she suggests that the basis for deciding there is 'insufficient evidence' might bear further exploration. Acknowledging that the fiscals interviewed all maintained that decisions should be made on the basis of sufficiency of evidence, and not on the credibility of the complainer, she nonetheless notes:

"In the case files we examined, we formed the impression that judgements about credibility were most often recorded in cases in which there is equivocation about the sufficiency of the evidence." (Jamieson, 2001: 80).

There have been some significant changes in the legislative response to rape and sexual assault over the past three years in Scotland. A recent Lord Advocate's reference on the definition of rape clarifies Scots law and makes it clear that rape is based on an absence of consent, and does not require the use or threat of force. The introduction of the Sexual Offences (Procedure and Evidence) (Scotland) Act 2002 prohibits the accused in sexual offence trials from conducting his own defence, and tightens the restrictions regarding use of sexual history/character evidence. The

Solicitor General has recently announced a review of the prosecution of rape and sexual offences in Scotland. All of these initiatives might be expected to improve the treatment of rape complainers and hopefully the attrition rate. Regan and Kelly (2003) recommend that governments evaluate recent and new legal and procedural reforms. A precedent has been set in Scotland with the evaluation of the Protection from Abuse (Scotland) Act 2001, and it would seem that this exercise would bear repeating in relation to the recent sexual offences legislation.

Supporting survivors of rape and sexual assault

Rape crisis centres have provided support services for rape and sexual assault survivors in Scotland since the 1970s. In common with similar services in other parts of the world, centres were usually based on a feminist political perspective, with support provided 'by women, for women'. The support aimed to be woman-centred, non-judgmental and non-directive. It was free, and it was confidential. The stated goal was to help the woman regain control over her life, and support was delivered in ways designed to enhance this:

"Most women have their initial contact with us through the telephone. Women assaulted by men have had their sense of control over their own lives and bodies destroyed. In using the telephone a woman has the power over her contact with us - by hanging up when she wants, by ringing back if she wants, by making arrangements to meet face-to-face and keeping or breaking them - she chooses the extent of her involvement." (Edinburgh Rape Crisis Centre, 1981: 6).

The mechanics of service delivery varied from one area to another, often dependent on funding. Where possible, centres provided medical and legal advocacy for women, and accompaniment through the criminal justice process. Until the late 1980s, most centres were run entirely by volunteers.

Believing women and validating their reactions to sexual assault were core to the process. Challenging the social norms of the time, rape crisis centres gave a clear message to individual women and to the rest of society - women were not responsible for rape, men were:

"When a woman has been raped she often encounters disbelief and blame from all corners - family, friends, police, doctors. She suffers from the fear that somehow she contributed to the attack. Our acceptance without judgement of whatever the woman wants to tell us can help begin

the process of banishing this guilt. We do not doubt or question what she says." (Edinburgh Rape Crisis Centre, 1981:6).

Belief and unconditional acceptance continue to be central to the ethos of rape crisis. In a recent handbook on rape and sexual assault, "believe the woman" is still at the top of the list (Rape Crisis Centre, Glasgow, 2003).

The criminal justice system response

Policy and legislative frameworks play a significant role in determining the focus of responses to women working in prostitution. In Scotland, the focus of the criminal justice system has been largely reactive, working from a 'crime management' perspective which defines women in prostitution as offenders, more likely to be arrested than the men who buy sex from them. The imposition of fines adds to the debt many women are working to repay, they may then be jailed for non-payment of fines, and the debt problems are then exacerbated. In the meantime, women who are assaulted while working in prostitution may be reluctant to report assaults to the police because they can then be arrested on outstanding warrants. Thus women's experiences as victims of male violence remain largely invisible (Women's Support Project, 2002).

Looking for ways to change this situation, the Routes Out Partnership recently commissioned a review of legal responses to prostitution in four countries. The review assesses current and past approaches to prostitution in Victoria (Australia), Ireland, the Netherlands and Sweden; identifies the rationale for the changes made in each country's position and assesses the impact of the changes on women involved in prostitution and the men who use them. The countries studied utilise one of three regimes - Victoria and the Netherlands have both moved to legalisation involving state sanctioned brothels, Ireland has adopted a regulatory approach, and Sweden has moved to a position of criminalising the buying of sex and decriminalising the selling of it (Bindel and Kelly, 2004).

In the state of Victoria, Australia, and in the Netherlands, legalisation of prostitution is primarily focussed on licensed brothels; some aspects of street prostitution are still illegal. The rationale for adopting this approach can be seen, in part, as being about removing the 'nuisance' element of street prostitution by providing a state sanctioned indoor environment. The provision of a 'clean' and safe environment is also seen as an advantage, improving the sexual health of prostitutes

(and the men who use them) and breaking the links between prostitution and organised crime (Bindel and Kelly, 2004).

The authors comment that this does not appear to be the case in practice. In both Victoria and the Netherlands, there is still evidence of strong links between organised crime and prostitution, along with a significant increase in the number of licenced and unlicenced brothels. Police and local authorities have inadequate resources to enable effective monitoring of which brothels are operating without licences, and in the Netherlands, it is noted that the expansion of 'legal' prostitution has been matched by a similar expansion in 'illegal' prostitution. Women working in prostitution are still stigmatised, and many continue to work illegally because they do not want to be officially recorded as prostitutes (Bindel and Kelly, 2004).

'Regulation' of prostitution involves a mix of approaches including responding to the 'nuisance' aspect of prostitution and/or adopting an unofficial position of tolerance. The goal is 'management' by maintaining public order, rather than 'prevention'. Implementation of a regulatory approach in Ireland since 1993 has not resulted in any discernable weakening of the links between prostitution and organised crime. It has, however, had a negative impact on women, as the powers given to the police to deal with public soliciting have primarily been

3.5 Responding to domestic abuse

Criminal and civil justice responses

Many aspects of the criminal justice system response to domestic violence have come under scrutiny in Scotland and elsewhere over the last two decades. Throughout the 1970s and 1980s, domestic violence advocacy organisations consistently identified the justice system's inadequate response as the most significant barrier to women achieving safety. Frustration at the perceived indifference of police, prosecutors and judges was gradually matched by the realisation that "the failure of the courts and police to protect women was not simply a matter of an attitude on the part of individual practitioners. It was a lack of legal tools to intervene in a legal system that did not take into account...the complexities of women's experiences in a society in which citizens' access to resources and social privilege is determined by their sexuality, race, gender and class position.". This 'lack of legal tools' contributed to low arrest rates, ineffective prosecution and infrequent conviction (Pence and Shepard, 1999:9).

Attrition in domestic violence cases is still remarkably high. A recent study in England found that of 869 domestic violence incidents reported to the police, only 291 were deemed to have a power of arrest attached. Of 222 actually arrested, 60 individuals were prosecuted for criminal offences. Ultimately, only 31 individuals were convicted, and only four of those received custodial sentences. Three police areas in Northumbria were studied, each with slight variations in the policing approach adopted. The authors note with concern that cases from the area which used a 'positive policing' approach, i.e. most likely to arrest, were most likely to fail at court. The authors suggest the need for a more consistent approach across police areas, but also for this to be reflected in the courts (Hester, Hanmer et al, 2003).

For women with children, there may be further difficulties if their partner has a right to contact with the children. Research with survivors of domestic abuse in England found that contact with children by a violent ex-partner led to further abuse of the woman and/or the children in 92% of cases. In cases where the partner applied to the court for contact it was rare for this to be denied, and even in cases where there were allegations of physical or sexual abuse of the children, contact orders which allowed direct visiting contact were granted in 75% of the cases. The authors acknowledge that a broader piece of research would be valuable, involving the children, ex-partners and professionals involved in the administration and monitoring of contact orders (Radford, Sayer and AMICA, 1999). There is a lack of any empirical research in Scotland on the use of contact orders in cases where there has been domestic abuse, but the Scottish Executive has recently commissioned research which should address this gap.

The remainder of this section will explore some of the key themes identified in the research literature in relation to the policing and prosecution of domestic violence, and the development of coordinated justice system responses to domestic violence.

Policing domestic violence

In Scotland, there have been significant changes in the police response to women reporting domestic abuse since the publication, in 1990, of a Scottish Office circular to Chief Constables which provided guidance for Scottish forces on how to respond to domestic abuse. The guidance indicated clearly that allegations of assault by a partner should be investigated as thoroughly as

any other assault, and that where sufficient evidence existed, an arrest should be made. The guidance also outlined steps which should be taken to ensure the safety and welfare needs of women and children were addressed as a priority (HMICS, 1997).

The thematic inspection by Her Majesty's Inspectorate of Constabulary in Scotland which resulted in the publication of *Hitting Home* in 1997¹¹⁶ reviewed the progress made since 1990 and made several recommendations for further improvement in the Scottish police forces' response to domestic violence. Some of the recommendations would now be seen as standard in any service review, on almost any issue - for example, awareness training, the development of written guidelines, and participation in local multiagency partnerships. Others referred more specifically to organisational issues within forces. The use of nominated officers was clearly identified as beneficial, to improve the monitoring of individual incidents and the provision of follow-up contact to victims, and also in improving liaison with other agencies. It was noted that, even in forces which had designated domestic violence liaison officers, there was a lack of clarity about who had responsibility for deciding on further investigative action, and it was recommended that this should be addressed. The use of statistics on repeat victimisation as an aid to monitoring the effectiveness of interventions was commended as an example of good practice by one force, and the report recommended that this should be adopted more widely. Concern was expressed about the lack of information sharing in most forces between officers dealing with domestic abuse and those dealing with child abuse cases. This echoed a concern about the lack of formal procedures in some forces for sharing information about possible child protection concerns with relevant agencies, in particular the social work department and the Reporter to the Children's Panel (HMICS, 1997).

Prosecuting domestic violence

In Scotland, the decision to prosecute is made by the procurator fiscal, and is based on two key factors - whether there is a sufficiency of evidence, and whether it is in the public interest to proceed to trial. Two independent sources of corroborative evidence are required - in cases of assault, the statement of the complainer is one source of evidence. Other sources might include

¹¹⁶ Uganda: Museveni approves multipartyism," *IRINNews.org*, February 19, 2003, [online], http://www.irinnews.org/report.asp?ReportID=32388&SelectRegion=East_Africa&SelectCountry=UGANDA (retrieved April 11, 2003).

forensic evidence, medical reports, photographs of the injuries sustained or the scene of crime, or the testimony of other witnesses who saw or heard the assault. Taken together, the evidence must demonstrate beyond reasonable doubt that an offence was committed, and that the accused person was the perpetrator of that offence.

In cases of assault by a partner, as in other cases of violence against women, the presumption has been that the woman herself is the main witness in the Crown case. The nature of the crime means that eye witnesses are rare, or reluctant to come forward. Children and young people are often the main witnesses to assaults on their mothers, but it may not be considered appropriate to call them as witnesses in court. Corroboration may therefore be difficult to find. Even where women have welcomed the arrest and charging of their abuser, they may be unwilling or unable to co-operate with the prosecution. The time delay between arrest and trial can mean that they have reconciled with their partner in the hope that things will now change; or they may be pressured to 'withdraw the charges' by the accused or his family. Whatever the reason, the procurator fiscal must then decide whether to proceed to trial with a 'hostile' chief witness (Barry, 2000).

In other jurisdictions, prosecution may proceed without the woman's co-operation. In Canada, a 'pro-prosecution' policy has applied in all provinces since 1986, i.e. cases will be prosecuted where there is sufficient evidence, regardless of the wishes of the individual complainant. In practice, this means that the Crown must consider whether to lead the case without the woman's testimony, taking into account the strength of any other available evidence. It is not generally considered appropriate to compel her to testify, or to charge her with contempt if she doesn't (F/P/T Ministers Responsible for Justice, 2003).

By reducing the number of withdrawals of charges, the pro-prosecution policy aimed to reduce the attrition rate. Early studies suggested that it was successful. 38.4% of charges were dismissed or withdrawn prior to the introduction, in 1981, of the pro-prosecution policy in London, Ontario. By 1990, this rate had decreased to 10.9% (F/P/T Ministers Responsible for Justice, 2003).

The policy also aimed to improve the co-operation of women survivors with the criminal justice process. The non-co-operation of survivors of domestic violence continues to be a source of frustration for prosecutors (Brown, 2000, cited in F/P/T Ministers Responsible for Justice, 2003) but there are ongoing developments to improve this position. A recent study identified the availability of witness support and the use of video taped evidence as the two most influential elements in determining the co-operation of women (Dawson and Dinovitzer, 2001, cited in F/P/T Ministers Responsible for Justice, 2003).

Work with domestic violence offenders

It is not within the scope of this report to review the substantial body of literature on offenders. However, in the context of domestic abuse, it is important to acknowledge that 'making men visible'¹¹⁷ is central to the effectiveness of the multi-agency initiatives which are recognized as examples of best practice. How far domestic violence offender programmes actually improve the safety of women and children continues to be the subject of debate. Research suggests that a significant number of men attending probation programmes refrain from violence in the short term but that this impact diminishes over time (Burton, Regan and Kelly, 1998; Dobash et al, 1996). Attrition is high (Burton, Regan and Kelly, 1998) and sanctions for breaching probation orders are not always implemented, although where they are, the completion rate improves and recidivism appears to reduce ((Mullender and Burton, 2000).

The content and ethos of domestic abuse offender programmes may vary considerably. Some programmes take a therapeutic focus, others an educational focus. Most involve a combination of individual work and groupwork. In the U.K., most programmes are psycho-educational, and make use of cognitive behavioural techniques combined with an analysis of the gendered nature of domestic abuse (Mullender and Burton, 2000). Minimum standards of practice have been adopted by RESPECT, the National Association for Domestic Violence Perpetrator Programmes and Associated Support Services. Key principles for RESPECT would include work with the partners of abusive men as an essential part of any programme, and the need for programmes to be linked to the overall community response to domestic abuse (RESPECT, 2000).

¹¹⁷ Common Country Assessment, *Uganda: Promise, Performance and Future Challenges*, p. 12.

Men's programmes in the U.K. are almost exclusively court-mandated probation programmes. An exception is 'Working with Men', a project based in north Edinburgh and initially funded by DAPHNE ¹¹⁸ to carry out a feasibility study into the development of a voluntary intervention for men who have assaulted their partners, or are at risk of doing so. A model of good practice was developed as part of the initial study. This involved practitioner training programmes on how to recognise and respond to abusive men, the adaptation of an existing men's programme, and the design of a suggested referral pathway for a men's service. An overarching theme was the integration of any voluntary men's programme into a multi agency response to domestic abuse. The project is now funded by DASDF ¹¹⁹ to develop the model further (City of Edinburgh Council, 2002).

Coordinated criminal justice responses to domestic abuse

Probably the best-known example of a coordinated criminal justice response to domestic abuse was developed in Duluth, Minnesota from 1980. The Duluth model, as it has become known, is sometimes assumed to apply only to the development of education groups for abusive men, or even to the 'Power and Control wheel' diagram which is used to explain the dynamics of domestic abuse. In fact, it is a pragmatic and methodical approach to developing an interagency response to domestic abuse, involving both individual advocacy and institutional advocacy. The rationale for engaging in both of these approaches is encapsulated in this definition given by an advocacy worker from Duluth:

"When I advocate for an individual woman, I am trying to help her overcome the many obstacles on her path to effectively using the courts and police to protect her. When I do systems

¹¹⁸ UNDP *Human Development Report 2002*, n.d. (New York: UNDP, 2002), p. 1, [online], http://hdr.undp.org/reports/global/2002/en/pdf/HDR%20PR_HDI.pdf (retrieved April 11, 2003). The Ugandan government's Poverty Eradication Action Plan (PEAP) forms the central policy framework for partnership between the government, the U.N., donor organizations, and civil society for addressing poverty and development. The PEAP also forms the foundation for Uganda's Poverty Reduction Strategy Paper. The government initiated the Uganda Participatory Poverty Assessment Project (UPPAP) in 1988, involving intensive consultations in thirty-six rural and urban communities, and the municipality of Kampala.

¹¹⁹ UNDP, *Uganda Human Development Report 2000: Unemployment and Poverty*, (Kampala: UNDP, 2000), para. 7.5.

advocacy, I am trying to build a new path. I come to understand what I need to do in systems advocacy by my work with individual women." (Pence, 2001, in Renzetti et al, 2001: 329).

Based on eight key components (see table, below), the Duluth model has been successfully replicated, with some adaptation, in several countries, including New Zealand, Australia, and the U.K. (Balzer, 1999; Holder, 1999).

Court procedures have also been reviewed. The court process for domestic violence cases dealt with by the magistrates' court has been reduced from 14 weeks to seven weeks as a result of the streamlining which has taken place. Cases which go to the Crown Court are also now dealt with on Mondays, and since January 2003, there has been agreement that only experienced full time judges will hear domestic violence cases (Robinson, 2003).

Overall, there has been a steady decrease in the number of cases discontinued, or in which the woman retracts. It is surprising, then, to note that cases in which the WSU is involved are more likely to involve retractions or be discontinued, despite the assumption often made that increased support for women will increase the likelihood that they will stay with the criminal justice process. The evaluation report speculates that this outcome may be due in part to the severity of the cases being referred to the WSU, but it is also noted that it is not clear whether the WSU was contacted before or after women retracted - i.e. prosecutors may be referring women to the WSU because they (the women) have decided not to proceed. It may also be that contact with the WSU means that women feel supported in a decision not to proceed with prosecution, for a variety of reasons, not least of which might be that prosecution may not be in the best interests of the women concerned (Robinson, 2003).

Justice system responses to domestic abuse continue to evolve in response to changing perceptions of what is required to protect the women who experience it and to challenge the men who perpetrate it. There has been a general trend towards greater understanding of the effects and dynamics of abuse, and the implications of this for women's ability to seek protection from the justice system. The research reviewed suggests that pro-arrest and pro-prosecution policies give a clear message that domestic abuse is a criminal act, and have some impact on reducing recidivism. However, the overall tenor of the research literature is that these shifts in policy are

most effective when located in the context of a coordinated justice system response to domestic abuse.

Multiagency responses to domestic abuse

The development of a multiagency response to domestic abuse is now widely acknowledged as the most effective way both to support and protect women and children who have experienced domestic abuse, and to challenge male perpetrators (Hague and Malos, 1996; Hague, 2001; Pence and McDonnell, 1999; Scottish Executive, 2002). Some of the features of multiagency criminal justice responses to domestic abuse are addressed elsewhere in this report. However, multiagency responses to domestic abuse may encompass a much more diverse range of agencies, including social work, housing, health, education and the voluntary sector, in particular Women's Aid (CoSLA, 1998; Scottish Executive 2002).

Individual practitioners from different agencies may work very successfully together at an individual case level without any formal interagency agreement. However, the development of a consistent coordinated response is more likely to be achieved when agencies engage in more formal strategic partnerships (Moelwyn-Hughes, 1999). It is crucial that multiagency partnerships on domestic abuse move beyond simply defining the problem and identifying the gaps in services. The development and implementation of shared policies and procedures, the provision of information and training for staff, and the establishment of effective monitoring systems are all essential steps in the process of ensuring that multiagency strategies to tackle domestic abuse move from being statements of intent to supporting the development of good practice (Gamache and Asmus, 1999; Hague and Malos, 1996; Hague, 2001).

Although there appears to be a degree of agreement about the key principles which underpin effective multiagency work, the specifics will vary from one area to another. The geography and demographics of an area, the number and range of services involved, and the gaps in local service provision will all play a role in shaping the development and delivery of a multiagency response to domestic abuse (Hague and Malos, 1996). The commitment of key personnel within the partner agencies will also be significant. Senior managers may not attend partnership meetings, but their support is crucial to ensuring that proposed policy and practice changes are adopted and implemented (Hague, 2001). The involvement of women's activist organisations,

including Women's Aid, in multiagency partnerships on domestic abuse ensures that the safety of women and children remains central to the process, and the impetus for change is not diluted (Kelly, 1999).

Good practice examples of multiagency work to tackle domestic abuse can be found in many areas, both in the UK and internationally. The 'Duluth model' is widely acknowledged to have provided a benchmark against which to measure coordinated criminal justice responses. A central component in the success of the Duluth initiative was the establishment of an independent non-profit organization, the Domestic Abuse Intervention Project (DAIP), to take on the role of coordinating and monitoring the criminal justice response to domestic abuse. The case tracking approach adopted by DAIP to support this work is undoubtedly very effective in identifying problems within the criminal justice system.

CHAPTER FOUR

PRESENTATIONS AND RESEARCH FINDINGS

4.0 Introductions

Interviews were conducted by highly trained interviewers of the same sex and in complete privacy; all information from the survey remained undisclosed to other family members. Completed questionnaires were maintained in secure facilities, and interview schedules were coded with the participants' study identification numbers.

Where personal identifiers were used, they were separated from interview schedules containing potentially sensitive information and kept separately and securely. At time of the present survey, limited referral facilities accessible to the Kampala population had been identified. However, these referral services were available in subsequent survey rounds.

4.1 Results

Male against female domestic violence

Overall, 40.1% of women had ever experienced verbal abuse verbal threats, shouting or yelling from their current male partner and 30.4% of women had ever experienced physical threats or violence (Table 1). Physical threats and physical violence were both common during the previous 12 months.

The most common form of lifetime violence was the male partner pushing, slapping or holding down the female respondent (23.1%) (Table 2). Smaller but significant proportions of respondents reported physical threats or violence during the previous 12 months than lifetime physical threats or violence.

Fig. 1 shows the frequency of specific acts of violence among women who reported experiencing recent physical threats or violence. For almost all specific acts of violence, most women reported multiple incidences of violence during the preceding 12 months. The percentage of women reporting three or more incidents of specific physical threats or violence during the preceding 12 months ranged from 53.2% for threatening gestures to 20% for women who reported having been burned or scalded. A significant proportion of women who experienced violence reported six or more occurrences during the preceding 12 months this ranged from 13.4% for being pushed, slapped or held down to 30.4% for threatening gestures.

Although the overall number of episodes of violence cannot be estimated from our data,^a it is notable that 60% of women who reported violence during the preceding year reported three or more specific violent acts during this period.

The most commonly cited reason for physical assault by the male partner during the past year was the wife's neglect of household chores; this was cited by 28.8% of women reporting recent physical threats or violence (Table 3). Other commonly cited reasons were the woman disobeying the husband or family elders (24%), the woman's refusal to have sex (17%), arguments over money (14%) and suspected infidelity by the woman (13%). The woman's insistence on the use of condoms, use of contraception without permission or suspected HIV-positive status were less frequently cited reasons for violence (each <1%). Overall, 44% of women who reported domestic violence (either threats or physical violence) during the previous

Table 1. Frequency of lifetime and recent male against female domestic violence, Kampala District, Uganda, 2015–16 violence

Type of domestic	% reported	
	Ever (n = 4996) ^a	In last 12 months (n = 5107) ^a
Verbal abuse	40.1	31.3
Physical threats or violence	30.4	19.9
Physical threats	20.1	13.3
Physical violence	24.8	15.1

^a ¹²⁰ Excludes “don't know” responses.

¹²⁰ The wording of this question left open the possibility that multiple violent acts could have taken place within the same episode of violence.

Table 2. Frequency of specific lifetime and recent male against female domestic violence, Kampala District, Uganda, 2015–16

Type of domestic violence	Women reporting violence (%)	
	Ever (n = 4996) ^a	In last 12 months (n = 5107) ^a
Physical threats		
Threatening gestures	13.6	9.6
Threats with stick or weapon	14.7	8.7
Physical violence		
Pushed, slapped, held down	23.1	14.0
Punched, beat, kicked	9.0	5.1
Hit with stick or weapon	6.2	3.3
Burned or scalded	0.3	0.2
Other	0.6	0.5
Either physical threats or violence	30.4	19.9

^a Excludes “don’t know” responses.

Table 3. Primary reasons for assault among 1014 women reporting recent male against female domestic violence, Kampala District, Uganda, 2015–16

Reasons cited for violence	Women reporting violence (%)
Woman neglected household chores	28.8
Woman disobeyed husband/elders	24.3
Woman’s refusal of sex	17.4
Arguments over money	13.5
Suspected infidelity by woman	13.4
Women’s insistence on use of condom	0.7
Woman used contraception without permission	0.6
Woman suspected to be HIV positive	0.3

12 months suffered related injuries (Table 4). The most common injury was pain lasting more than one day (39.9%); this was followed by sprains, bruises or cuts (18.4%). Other injuries (such as broken bones and loss of consciousness) were much less common, but they did occur. In total, 21.5% of women required medical attention for their injuries at least once during the 12 months before the survey.

Female against male domestic violence Respondents were also questioned about the occurrence of female against male domestic violence during the past 12 months. Overall, 19.8% of women reported verbally abusing, physically threatening or physically abusing their current male partner during the previous year (Table 5). Such behaviour primarily involved verbal threats, yelling or shouting (18.7%), but 5.4% of women reported actions constituting physical threats or violence, and 3% reported actual physical violence. It is noteworthy that roughly four out of five women who reported recent female against male domestic violence also reported recent male against female violence.

Risk factors for male against female domestic violence

The main aim of our study was to gain a better understanding of the potential risk factors associated with domestic violence in this population. To investigate this issue, we used a multivariate logistic regression analysis; our dichotomous dependent variable was defined as 0 = no episodes of physical threats or violence from the current male partner during the preceding 12 months and 1 = one or more episodes of physical threats or violence during this period. Coefficients are expressed as odds ratios relative to the omitted reference category.

Most socio-demographic variables had a limited explanatory contribution towards predicting the risk of recent domestic violence (Table 6). Age of woman, pregnancy status, use of modern contraception, religion and occupation of the male partner all failed to attain statistical significance as predictors of violence. An exception was women's education: women with secondary schooling experience (58 years) had significantly lower risks of violence (odds ratio 0.66) than those in the reference category (no education). Women with a large number of living

children (56) also had significantly lower risks of violence (odds ratio 0.64) than the reference group.

The second major constellation of risk factors pertains to aspects of the current sexual partnership. Women in consensual unions — that is, not legally or formally married — faced significantly higher risks of violence (odds ratio 1.32) than those in the reference group (married women) and women whose partners were classified as boyfriends or other relationships (e.g., casual friends, fellow students or employees, visitors, strangers, relatives) faced significantly lower risks of violence (odds ratio 0.41). The length of the current partnership was inversely related with violence: relationships of shorter (<5 years) and intermediate (5–9 years) durations were associated with significantly higher risks of violence (odds ratios 1.52 and 1.30, respectively) than longer relationships (10+ years). No systematic relation was evident for the age difference between partners and the risk of domestic violence.

The final constellation of variables considered was selected risk behaviours by women or their male partners (as reported by women). The strength of the association between alcohol consumption and domestic violence was particularly noteworthy. Women whose partner frequently or always consumed alcohol before sex faced risks of domestic violence almost five times higher than those whose partners never drank before sex (odds ratio 4.62). The risk of violence to women whose partners “sometimes” consumed alcohol before sex was also significantly higher than those with partners in the non-drinking reference group (odds ratio 1.62). Women’s own consumption of alcohol before sex was also modestly, but significantly, related to the risk of violence (odds ratio 1.22).

The association between the woman’s perception of her male partner’s HIV risk and domestic violence was also considered. Women who perceived their partner as “somewhat likely” to have been exposed to HIV were significantly more likely to report domestic violence than those in the reference category (“not at all or unlikely”) (odds ratio 1.84). Particularly striking was the subgroup of women who believed that it was “very likely” that their partner was at risk of acquiring HIV.

These women experienced risks of violence almost four times higher than those in the perceived low-risk reference group (odds ratio 3.72). The risk of domestic violence for women with no knowledge of their partner's risk of HIV was not significantly different for those in the reference group.

Women's age at first intercourse was also significantly associated with the risk of violence: women who became sexually active very early (<15 years of age) experienced risks of recent violence almost twice as high as women who became sexually active at or older than 18 years (odds ratio 1.93). Women who became sexually active at 15–17 years also faced significantly higher risks of violence than those in the reference group (odds ratio 1.58). An association between the male partner's other recent relationships and domestic violence was not significant.

Attitudes toward domestic violence

Two main findings emerged from the analysis of data on men's and women's views about circumstances in which beating of the female partner would be justified. Firstly, the proportion of respondents who believed that such a beating was justified varied considerably and depended on the specific behaviour in question.

Secondly, for almost all behaviours cited, a higher percentage of women than men believed beating to be justifiable: 16% of men and 28% of women believed beatings to be justified when a woman refused to have sex with her partner, and 22% of men and 27% of women when a woman adopted contraception without the permission of her partner.

Attitudes toward infidelity by the female partner were at the other extreme: 60% of men and a striking 87% of women believed that beating was justified if the woman was unfaithful.

For all situations considered, 70% of men and 90% of women believed that beating was justifiable for one or more of the situations cited (54% of men and 65% of women when infidelity by the female partner was excluded). A somewhat surprising finding was that attitudes condoning domestic violence were more common among younger men and women. For example, 66% of men aged <25 years and 43% of men aged 35 years viewed beating of the female partner as justifiable for one or more reasons (other than infidelity); comparable figures for younger and older women were 73% and 55%, respectively (data not shown).

Table 4. Injuries to 1014 women resulting from domestic violence in past 12 months, Kamapala District, Uganda, 2015–16

Type of injury	Women reporting injury (%)
Any injury	44.4
Physical pain lasting more than one day	39.9
Sprain, bruise or cut	18.5
Broken bone	1.4
Other	8.8
Required medical attention	21.5

Table 5. Frequency and type of recent female against male domestic violence Kampala, Uganda, 2015–16

Type of domestic violence	Men reporting violence (%)
Verbal abuse ^a	18.7
Physical threats or violence	5.4
Physical threats ^b	3.2
Physical violence ^c	3.0
Other	0.5
Any of above	19.8

a Includes verbally threatened, shouted, or yelled at male partner.

b Includes threatening gestures or threats with a stick or weapon.

c Includes pushed, slapped, held down, punched, beat, kicked, hit with an object or weapon, burned or scalded.

4.2 Discussion

Our study had two potential limitations. Firstly, the prevalence of domestic violence may have been underestimated. This is partly because of the omission of questions on sexual violence in the survey, although other studies suggest significant overlap between the occurrence of physical

and sexual violence¹²¹. A more fundamental concern is the possible under-reporting of violence by respondents, given the culturally sensitive nature of this behaviour and the possible reluctance of many respondents to acknowledge its occurrence. However, several features of the Kampala Project are likely to have increased the validity of such reporting, including the close and long-standing interaction and rapport between interviewers and respondents, the demonstrated expertise of interviewers in eliciting sensitive information and the extensive efforts undertaken to ensure privacy and protect the confidentiality of responses.

A second limitation of our study concerns gaps in the set of variables considered as potential risk factors for domestic violence. Important explanatory variables such as intergenerational exposure to violence, poverty, and gender roles and attitudes were not collected in the Kampala survey. Attitudes toward wife beating, although collected, were not included as potential risk factors in our analysis because of uncertainty over the direction of causality between domestic violence attitudes and behaviour.¹²²

These limitations notwithstanding, our results provide some of the most comprehensive information to date on the prevalence and nature of domestic violence among a large, representative sample of women in sub-Saharan Africa. Our results underscore the magnitude of the problem of domestic violence in this rural Ugandan setting and show that episodes of violence are neither infrequent nor isolated events.

Comparisons with other studies. Although differing somewhat in terms of timeframes and definitions, it is interesting to compare our results with those from other population-based studies of domestic violence in Africa. Two studies reported somewhat higher levels of violence 43% of women in Zimbabwe reported experiencing physical violence in adulthood (15) and 40% of women in another Ugandan study experienced physical harm from their husband or partner¹²³. In contrast, somewhat lower rates of domestic violence were reported in two other studies 25% of South African women reported physical violence from a current or past husband or partner

¹²¹ Ellsberg M, Pena R, Herrera A, Liljestrand J, Winkvist A. Candies in hell: women's experiences of violence in Nicaragua. *Social Science and Medicine* 2000;51:1595-610.

¹²² Do attitudes condoning violence lead to an increased likelihood of domestic violence or does the occurrence of domestic violence lead to the increased legitimization of such violence among both men and women?

¹²³ Blanc AB, Wolff B, Gage AJ, Ezech AC, Neema S, Ssekamatte-Ssebuliba J. *Negotiating reproductive outcomes in Uganda*. Calverton, Maryland: Macro International Inc. and Institute of Statistics and Applied Economics [Uganda], 1996.

(10% during the past year)¹²⁴ and 20% of Rwandan women reported having ever been beaten by their current partner ¹²⁵.

Risk factors associated with domestic violence

In terms of associated risk factors, domestic violence was largely unrelated to most socioeconomic and demographic variables. An important exception was women's education: women with secondary school education or higher faced significantly lower risks of violence. Some of the most systematic associations to emerge from our study were between indicators of risk behaviour and domestic violence.

Onset of sexual relations

We found a significant link between the onset of sexual relations among women and the risk of recent domestic violence: women who become sexually active younger than 15 years faced almost twice the risks of recent violence as those who became sexually active at or after 18 years. The current data cannot answer whether women who become sexually active early are self-selected for subsequent abusive relationships or whether, as a result of early sexual activity, they may be less empowered to protect themselves against subsequent violence. Further research is clearly warranted on the specific mechanisms that place women who become sexually active early at higher risk of violence.

Alcohol consumption

The important role of alcohol consumption in domestic violence also emerged in our study. Women whose partners often drink before sex experience risks of violence almost five times higher than women with non-drinking partners. It is possible that alcohol consumption and domestic violence are two largely independent risk behaviours that characterize certain relationships. That 52% and 27% of women who reported recent domestic violence reported that their partner had consumed alcohol or had frequently consumed alcohol, respectively, supports the conclusion that alcohol may play a direct precipitating role in such violence. The link

¹²⁴ Jewkes R, Penn-Kekana L, Levin J, Ratsaka M, Schrieber M. Prevalence of emotional, physical, and sexual abuse of women in three South African provinces. *South African Medical Journal* 2001;91:421-8.

¹²⁵ van der Straten A, King R, Grinstead O, Vittinghoff E, Serufilira A, Allen S. Sexual coercion, physical violence, and HIV infection among women in steady relationships in Kigali, Rwanda. *AIDS and Behavior* 1998;2:61-73.

between alcohol consumption and domestic violence and their joint and independent roles in HIV transmission are a focus of current research within the Kampala Project.

Perception of HIV risk

The strong association between women's perceptions of their male partner's HIV risk and the women's risk of domestic violence is also of interest. Women who believe it very likely that their partner is at high risk of HIV face risks of violence almost three times higher than those who perceive their partners to be at very low risk. A plausible explanation is that women who perceive their male partner to be at significant risk of HIV infection may be reluctant to engage in sexual relations with this partner; this resistance may be met, in turn, with physical violence or coercion into sex by the male partner.

Results from a previous study in Kampala, which showed a strong association between perceptions of the partner's perceived HIV risks and sexual coercion, provide indirect support for this hypothesis¹²⁶. Further support comes from the finding that refusal of sex by the wife was one of the most commonly cited reasons for physical violence. In addition, women who perceived their partner as at high risk of HIV were more than four times as likely to report refusal of sex as a primary reason for domestic violence than those who believed their partner to be at low risk.¹²⁷ The inter-relationships between perceived HIV status, sexual coercion and physical violence appear to be closely linked, and they require further elucidation through additional quantitative and qualitative studies.

4.3 Statistics on and attitudes toward domestic violence

In August 2015, the Uganda Bureau of Statistics published a report indicating that 68 percent of ever-married women aged 15 to 49 years had experienced some form of violence inflicted by their spouse or intimate partner (Uganda Aug. 2015, 293-294). A 2016 study by the Uganda Law Reform Commission yielded similar data, indicating that 66 percent of both men and women respondents had experienced domestic violence (CEDOVIP 2016). The United States (US)

¹²⁶ Koenig MA, Lutalo T, Zhao F, Nalugoda F, Kiwanuka N, Wabwire-Mangen F, et al. Coercive sex in rural Uganda: prevalence and associated risk factors. *Social Science and Medicine* (forthcoming).

¹²⁷ Among women who perceived their partner as "very likely" to be at risk of HIV, 7.6% cited refusal of sex as a primary reason for violence during the previous year compared with 1.8% of women who perceived their partner to be "not at risk" of HIV.

Department of State reports in its *Country Reports on Human Rights Practices for 2007* that a 2006 survey indicated that 70 percent of women had been physically or sexually abused (US 11 Mar. 2016, Sec. 5). This survey also found that 60 percent of men and 70 percent of women in Uganda condone "wife beating" (ibid.). This attitude reflects statistics published by the United Nations Children's Fund (UNICEF) in its 2016 report, which indicates that 77 percent of women aged 15 to 49 years feel that spousal violence is justified for a variety of reasons, such as if the woman burns food or refuses sexual relations (UN Dec. 2016, 147; see also *The New Vision* 28 Sept. 2016). According to the 2006 Uganda Law Reform Commission study, domestic violence is most common in northern Uganda, where it is reported to have occurred in 78 percent of homes (CEDOVIP 2016).

4.4 Protection and Resources Available

Most women do not report cases of domestic violence to authorities (*The New Vision* 28 Sept. 2016; Freedom House 2016) and police rarely intervene or investigate (ibid.; US 11 Mar. 2008, Sec. 5). *Country Reports 2016* indicates that many law enforcement officials consider spousal battery "a husband's prerogative" (ibid.). Other reported reasons for women's reluctance to file a complaint include fear of reprisal, embarrassment, poverty, ignorance of the law and lack of information on where to make a report (*The New Vision* 28 Sept. 2016).

A report released by AI in 2016 indicates that women living in the north have limited access to protection from any form of violence because "police posts and stations are few and far between" (AI 30 Nov. 2016, Sec. 1), and because it is normal practice for police to demand money to take action on any complaints (ibid. Sec. 5.1.2). In cases of domestic violence, AI notes that victims often do not complain to police because they depend on their partners for financial support (ibid. Sec. 4). Another option for victims of spousal abuse is a traditional familial reconciliation process, which may involve a form of paid compensation to the victim called *luk* (ibid.). Women interviewed by AI indicated that the informal process was ineffective as husbands would not pay *luk* and would often continue to abuse their wives (ibid.).

In an attempt to address the problem of domestic violence, the Uganda Police Force established a Gender Desk in 1986, which became the Child and Family Protection Unit (CFPU) in 1989 (CEDOVIP 2016). The Uganda Police Force has also developed a handbook in cooperation with

the Center for Domestic Violence Prevention (CEDOVIP) (ibid.), an NGO based in Kawempe that collaborates with other stakeholders in the community to advocate for changes in attitudes and behaviour toward domestic violence (ibid. n.d.). In June 2007, the handbook entitled *Responding to Domestic Violence* was published to assist the community and police in handling such cases (US 11 Mar. 2016, Sec. 5). CEDOVIP is also working with Raising Voices in implementing the National Domestic Violence Prevention Initiative, a training program being offered to ten organizations located throughout Uganda (Raising Voices n.d.c). The program is aimed at enhancing community-based prevention efforts (ibid. n.d.c).

In February 2016, *The Monitor*, a Kampala-based daily newspaper, reported that a home had been constructed in the Kayunga District to accommodate fifty victims of domestic violence (4 Feb. 2016). Police statistics reportedly indicate that at least one woman is killed in Kayunga as result of domestic violence every two months (*The Monitor* 1 May 2016). Further information on the existence of shelters for victims of domestic abuse elsewhere in Uganda could not be found among the sources consulted by Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

4.5 Interview from different people

It is a few hours into the night. A young girl's wail pierces through the dark, silent and scary night.

On her return from the market, the 10-year-old girl has just stumbled into a pool of blood, oozing out of her mother, who was hacked a few minutes back, by her own father.

Samson Musana of Nakibora in Mukono, hid near a path, pounced on his wife Nayiga and hacked her to death. He accused her of selling his bicycle and mattress. This is just one of the thousands of domestic violence cases, where women suffer physical, sexual and psychological coercion by their intimate partner.

According to the Human Rights Watch boss, domestic violence is a global phenomenon and one of the leading causes of female injuries in almost every country in the world.

For many women in Uganda, as in many other countries, domestic violence is not an isolated and abnormal act, but arises from and forms part of the context of their lives.

According to the Uganda Demographic and Health Survey 2016, more than two thirds of Ugandan women experience violence from their partners. Sixty eight percent had been harassed or beaten by their partners during the 12 months preceding the survey. Methods used included beating, pushing, dragging, forced sex, arm twisting, threatening, insulting and choking. Rural women suffered more violence than urban women. Likewise, uneducated women suffered more than their educated colleagues.

The survey also shows that seven in 10 women agreed that it was justified for women to be beaten.

This indicates that women in Uganda generally accept violence as part of male-female relationships, which is not surprising because traditional norms teach women to accept, tolerate and even rationalise battery.

The most accepted reasons for wife beating, according to the findings, are neglecting children (56%) and going out without informing the husband (52%). Four in 10 women think that arguing with a husband justifies wife beating and 31% and 23% of women, respectively, feel that denying a husband sex and burning food are justifications for wife beating.

Acceptance of wife beating is generally lower among women in urban areas, those residing in Kampala, those in highest wealth bracket, women with higher or secondary education and women who are employed.

On the other hand, women in rural areas, those living in eastern and West Nile regions, less educated and the employed but with no cash payment are more likely to agree to being beaten.

Dr. Lydia Mungherera, the founder of Mama's Club, says as long as women are poor and uneducated, it will be hard for them to resist domestic violence.

She says: "If girls are not educated, there is likely to be more domestic violence, which is dangerous to our community."

Most women are dependent on the spouse for economic well being. Having children to take care of, should she leave the marriage, it will increase the financial burden and make it difficult for her to resort to divorce.

Dependency means that women have fewer options and few resources to help them.

Wife harassment is also associated with both alcohol consumption, according to a study conducted in Kampala district by researchers from the Johns Hopkins Bloomberg School of Public Health. They surveyed 5,109 women and 3,881 men living in Kampala.

They were asked detailed questions about their experiences and attitudes to domestic violence and sexual relationships.

A separate study conducted by the Ministry of Health in northern Uganda last month established that drunkenness accounted for more than 80% of domestic violence.

Other causes were disagreements over money, unfaithfulness, leaving children to cry and denying him sex.

A respondent in Arute camp, Lira, said: "My husband sometimes insults me for not working hard enough to look for food for the family. At one time he lamented, 'I'm tired of feeding you and your children'. This usually happens when he returns from my co-wife's place, who at times gives him money, which I cannot afford."

Another one said: "He likes sex when I do not feel like, he forces me. He reasons that I might be seeing someone else" However, most of the affected women did not report cases of domestic violence. Most of them feared reprisals from their men. Others feared embarrassment. Other reasons for not reporting were poverty, ignorance of the law and not knowing where to report.

When one hears about domestic violence, it seem to be brutality and beatings; But did you know that domestic violence involves psychological, emotional and economic violence. Though most definitions of Domestic violence calls it spousal abuse that occurs when one person in an intimate relationship or marriage tries to dominate and control the other person, this is not always the case. Children and people who are not related to one another also face domestic violence. The sad part of it is that the vice is always overlooked, excused, or denied. This is especially true when the abuse is psychological, emotional and economical rather than physical.

Traditionally, domestic violence (DV) was mostly associated with physical violence. For instance, according to the Merriam-Webster dictionary definition, domestic violence is: "the inflicting of physical injury by one family or household member on another; also: a repeated / habitual pattern of such behavior." In 1993, The United Nations Declaration on the Elimination of Violence against Women identified domestic violence as one of three contexts in which violence against women occurs.

In Africa most Physical abuse was seen as the man's responsibility over his wife and children. This often resulted into injuries on victims, sometimes miscarriages as well or death at delivery. As the world developed Physical assault or battering became a crime, whether it occurred inside or outside of the family .

The Uganda Domestic Violence Act, No. 17 of 2010 puts in place stringent protections against domestic violence. It defines domestic violence broadly to include physical, sexual, emotional, verbal, psychological, and economic abuse of a victim or anyone related to him/her.

Domestic violence Act no 2. Explains further that harassing, harming, injuring or endangering the victim or anyone related to the victim for the purpose of coercing them into complying with "any unlawful demand for any property or valuable security" are also considered domestic violence.

In addition Ugandan constitution chapter four talks about Human rights are inherent no one should be subjected to cruel or discrimination based on gender, sex, age and religious belonging among others. It also emphasizes that every person is equal before the law. The fact however remains Domestic Violence victims are out there silent. An example, is the 2013 Uganda Bureau of Statistics, reported that close to 70% of "ever-married women aged 15 to 49 had experienced some form of violence" at the hands of their partner.

In Africa Domestic violence originated from, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women. In recent years "Child maltreatment, sometimes referred to as child abuse and neglect, has become a common phenomenon. It included physical and emotional ill-treatment, sexual abuse, neglect, and

exploitation, child sacrifice that results in actual death potential harm to the child's health , There is also elderly abuse.

World Health Organization (WHO) states that globally, about 38% of murders of women are committed by an intimate partner. In 2011, the National Crime Records Bureau reported 8,618 dowry deaths in India, but unofficial figures currently estimate that there are at least three times more dowry deaths that previously thought.

The new Vision of June 18, 2013 reported that there was 2,461 victims and 1,339 cases of domestic violence reported by April 2013 in Uganda.

Also the deputy IGP Mr. Ochola reported that there were 9,278 victims and 2,793 cases of domestic violence in 2012. Ochola added that they planned to elevate the Child and Family Protection department of the police to a directorate to handle the rising cases decisively.

As I moved out of the library having looked at the historical back ground and the legal frame works of domestic violence; I encountered a student whose name was Rose? We immediately started the conversation of which she narrated to me that even students do face domestic violence. Those who pay for some of 'us' our school fees are not our parents. They are" Uncles" Narrated a somber Rose. Those people demand sex whenever they feel like and sometimes they don't want to give liquid money but deliver what you ask for. Many students you see hear are psychologically, emotionally and economically tormented because of that.

Recent findings that leaders have limited knowledge of the domestic violence law raises great concern as far as implementation of the law and fighting domestic violence is concerned. A meeting organised for Nakasongola District leaders by the Uganda Parliamentary Association, the findings of which this newspaper published last week, found that the Domestic Violence Act (DVA), 2010, passed four years ago, has made no impact on reducing cases of domestic violence because the leaders who are supposed to enforce the law are ignorant about it, thus not applying any of its provisions.

The limited awareness about this important law is a setback to efforts aimed at ending violence in homes. On June 18, 2013, a group of female judges in Uganda expressed concern over the increase in gender-based domestic violence and abuse in the country.

The president of the National Association of Women Judges-Uganda, Ms Stella Arach Amoko, attributed this in part to the fact that the Domestic Violence Act is not widely known among legal professionals, law enforcement officials and victims. She noted that some judges and magistrates do not even have copies of the Act.

With most leaders, including law enforcers and magistrates, being ignorant about a law enacted to bring perpetrators of a widespread vice to justice, it is crucial that all Ugandans are educated about this law. Statistics from Uganda police reinforce this.

In an interview with the police officer in charge of domestic violence at Kampala Central police station, he noted that in 2012, police registered 9,278 victims of domestic violence. In the first quarter of 2013, there were 2,500 victims and 72 deaths were reported.

Other surveys on violence in homes are equally telling. A 2015 study by the Uganda Bureau of Statistics notes that about 70 per cent of “ever-married women aged 15 to 49 had experienced some form of violence” at the hands of their partners.

The same report observes that 60 per cent of women aged 15 and above experienced physical violence, 15 per cent of women face violence during pregnancy, and 24 per cent report that their first sexual encounter was a forced one.

The fact that leaders are ignorant about the law feeds into the general apathy by many members of the Ugandan society who consider gender-based violence as a family affair where outsiders such as neighbours are not supposed to intervene.

Ignorance about the law and figures on domestic violence send a clear message: Government must prioritise the implementation of the Domestic Violence Act, 2010 by carrying out awareness campaigns countrywide and strengthening the capacity of leaders to handle family conflicts.

CHAPTER FIVE

CONCLUSIONS AND RECOMMENDATIONS

5.0 Introduction

This chapter will highlight the conclusions and recommendation on the study.

5.1 Conclusions

There is a substantial body of literature on how services respond to violence against women and men. However, there is a significant quantitative difference between research which focuses on domestic abuse and that which considers other aspects of violence against women. In part, it must be acknowledged that this is reflective of the much greater numbers of women reporting domestic abuse, compared with other crimes of violence against women. It may also reflect the greater impact which domestic abuse has on service provision, since a wider group of service providers have a statutory responsibility to respond to domestic abuse than, for example, to rape or sexual assault. This is not to say that the needs of survivors of rape or sexual assault, or survivors of child sexual abuse, are necessarily seen as less valid than survivors of domestic abuse.

In theory, it should be possible to adapt responses to women who have experienced domestic abuse to meet the needs of survivors of other forms of male violence. However, the possibility of adapting and replicating interventions is rarely addressed in the literature, and only one research study was identified which attempted to evaluate the use of the same intervention with survivors of different types of violence.

The results of our study have potentially important implications for programmes aimed at preventing violence and HIV.

Our findings show that interventions aimed at reducing alcohol consumption are likely to have important corollary benefits in terms of reducing levels of violence between intimate partners.

They also provide indirect evidence that domestic violence may represent a significant factor in women's vulnerability to HIV acquisition in settings such as Uganda; this raises the possibility that current programmes to prevent HIV may be overlooking a key behavioural dimension of HIV transmission (12).

Our results also suggest that little progress in reducing levels of domestic violence is likely to be achieved without significant changes in prevailing individual and community attitudes toward domestic violence. At the same time, our findings underscore the challenges associated with changing attitudes toward violence, given that highest levels of support for such violence were found among women and younger adults. At a more immediate level, findings from the present survey have led the Kampala Project to expand its agenda on HIV research to investigate the potential contributing roles of physical and sexual violence and to plan a programme to prevent violence within project communities.

Research on interventions with rape survivors is primarily focussed on medico-legal responses, with some literature on therapeutic interventions, but little on interventions by primary care workers. Although there have been recent improvements in the treatment of rape and sexual assault complainers there are still areas of concern, particularly in relation to conviction rates. Rape crisis provision is still poor across Scotland, and there is a lack of independent evaluation of the approach. There is a similar lack of evaluation of sexual assault referral centres (SARCs), although a forthcoming report from the Home Office should address this.

There are different degrees of understanding or acceptance of prostitution as 'violence against women'. Some would make a distinction between 'forced prostitution', including trafficking, and prostitution as an active choice by women. Others assert that the harm caused to women by prostitution should define it as a form of violence against women. Much of the literature on women working in prostitution is taken up with questions of definition and agency, and in this, it reflects early debates about how far women 'choose' to stay with violent partners. There is also a significant body of literature which considers crime management interventions. There is little on interventions which support women abused in prostitution, or assist them in leaving.

Research on interventions with adult survivors of childhood sexual abuse is primarily found in the mental health literature. Cognitive behavioural therapy (CBT) appears to achieve the most consistent outcomes. However, this may be partly due to the relative ease with which a CBT approach can be measured, compared with other therapies. Research with survivors of childhood sexual abuse suggests that what they value above all is the warmth and empathy displayed by practitioners, and that they are less concerned with the particular therapeutic approach being

used. Survivors of childhood sexual abuse also praised the service provided by voluntary sector support organisations. It is acknowledged that this type of service provision is poorly distributed across Scotland, and that there is a lack of evaluative research.

Although some work has been carried out which explores the links between childhood sexual abuse and chronic physical health problems, no research was identified which addressed how healthcare staff should acknowledge this or respond to it. No research into the criminal justice response to adult survivors of childhood sexual abuse was identified.

By comparison, research on interventions with domestic abuse survivors cuts across several sectors, including criminal justice, acute and primary care health services, social work services and outreach and advocacy services.

Research on the justice system response to domestic abuse suggests that pro-arrest and pro-prosecution policies give a clear message that domestic abuse is a criminal act, and this has some impact on reducing recidivism. However, the overall tenor of the literature is that these shifts in policy are most effective when located in the context of a coordinated justice system response to domestic abuse.

Evaluation of support and advocacy services for domestic abuse survivors is limited, but the research which has been done shows that such services are much valued by women, and that they may have a significant role in improving women's safety.

Despite the acknowledged impact of domestic abuse on women's physical and mental health, research into healthcare responses to domestic abuse has not gone much beyond issues of identification and assessment. The literature on screening or routine enquiry for domestic abuse is contentious. There is an emerging consensus among health researchers in Uganda that there is limited evidence as yet to support a routine enquiry approach; this is at odds with the position in Uganda where screening is well established and supported by all the major professional bodies.

The scarcity of research on interventions for black and minority ethnic women, women with disabilities, lesbian women, and older women affected by male violence against women is perhaps a reflection of the dearth of services for these groups.

Across all of the literature, across all aspects of violence against women, there is a noticeable absence of attempts to engage women survivors of violence in the development, design or evaluation of services or policy initiatives.

5.2 Recommendations

“Appropriate means” to be adopted by state parties as mentioned in Article 2 should also address all aspects of their general obligation under CEDAW to respect, promote and fulfill women’s rights to non discrimination and to the enjoyment of equality with men

- In all circumstances the state party that ratified or acceded to CEDAW remains responsible for ensuring full implementation throughout territories under its jurisdiction
- Effective implementation means that a state party be accountable to its citizens and other members of its community at both national and international level

Asserted unequivocally that violence against women constitutes a form of gender-based discrimination and that discrimination is a major cause of such violence

Policy and legislative frameworks play a significant role in determining the focus of responses to women working in prostitution. In Scotland, the focus of the criminal justice system has been largely reactive, working from a 'crime management' perspective which defines women in prostitution as offenders, more likely to be arrested than the men who buy sex from them. The imposition of fines adds to the debt many women are working to repay, they may then be jailed for non-payment of fines, and the debt problems are then exacerbated. In the meantime, women who are assaulted while working in prostitution may be reluctant to report assaults to the police because they can then be arrested on outstanding warrants. Thus women's experiences as victims of male violence remain largely invisible (Women's Support Project, 2002).

Women make connections between the different forms of violence they have experienced. They also make connections between the violence they experience and the way they are treated in other areas of their life. Most of the policy, research and practice reviewed takes a more compartmentalised approach, dealing with discrete aspects of violence against women. Promotion of an integrated response to violence against women should be considered as a priority.

Working on this review has provided a timely reminder that, although there is much still to be done, a lot has changed in the last 30 years. It has also been telling to note that, although there is a lot of good work happening in Scotland, it is largely undocumented. Some of this is undoubtedly tied to under-resourcing, some of it to the undeniable need to focus on the provision of the service. Building the capacity of frontline organisations to document the work being done would not only be useful for literature reviewers. Sharing examples of good practice would also save some duplication of effort - how many local partnerships have spent time working out the best way to produce and disseminate information resources for women?

The lack of evaluative research has been a theme throughout this review. There are many interventions, but not many assessments of how effective they are. Although no-one disputes the need for service developments to be evaluated, in practice evaluation tends to be done in-house, with a focus on process rather than outcome. Few services have the resources to commission independent evaluation.

Increasing collaboration between researchers, practitioners and policy makers might go some way to ensuring that services remain effective and responsive, and that research on violence against women is beneficial to service users and service providers. The 'Alliance of Five Research Centres on Violence' has provided a valuable focus for the development of research on violence against women in Canada, and this model would bear exploration to see how it could be developed in a Scottish context. The Centre for Research on Families and Relationships has gone some way down this route, and the proposed Scottish Centre for Criminal Justice Research will make use of a 'virtual department' model to improve the co-ordination and development of

research on justice issues in Scotland. Both of these initiatives promote closer working links between academic researchers, policy makers and practitioners/service providers.

Supporting any research programme or service development programme, there is a need to address the collection and collation of data in relation to all forms of violence against women. In order to assess the effectiveness of any work we undertake to improve the situation of a particular group in the population, it is necessary that we are first of all able to 'see' that group in official statistics. Some of the issues which seem specific to violence against women are in fact cross cutting. Gender disaggregation would help to provide the baseline statistics which are crucial to evaluating the work being undertaken to challenge violence against women, but would also support more general work undertaken to reduce inequality. Concerns about data sharing and data protection are common across all areas of work which involve an interagency response, including homelessness, child protection and substance misuse. Sharing best practice in data collection across sectors might have other benefits, given the links between violence against women and, for example, homelessness.

In relation to service provision, the development of the National Strategy to Address Domestic Abuse, backed by the establishment of the Domestic Abuse Service Development Fund (DASDF), has ensured that the "patchy and inconsistent" services identified in the Henderson report of 1997 are beginning to be more consistent and a little less piecemeal. The role of the DASDF in supporting the work of local domestic abuse partnerships should not be underestimated. Alongside this, there has been an unprecedented development of refuge provision, and the national helpline has increased its hours year on year since its inception. Awareness of the prevalence and effects of domestic abuse is increasing in all public sector agencies, and most local partnerships have already begun to develop local training strategies. Work is also underway to improve criminal and civil justice system responses to domestic abuse, and to increase legal protection for women and children.

Across the other aspects of violence against women, the picture is still somewhat "patchy and inconsistent". The recent allocations of funding by the Scottish Executive will go some way towards improving service provision, particularly in relation to rape and sexual assault.

However, there is a need to develop more stable and consistent approaches to funding services which respond to all forms of violence against women, nationally and locally.

The development of a funding strategy should be located within a broader strategic framework on violence against women. The National Strategy to Address Domestic Abuse in Scotland is due for review. The basic principles of the current strategy are applicable across all forms of violence against women. It would seem an appropriate opportunity to expand the terms of reference of the strategy and incorporate broader aspects of violence against women. Specific work would seem to be indicated in relation to sexual violence.

Broadening the strategic framework on violence against women might include consideration of the types of services on offer to women, and how to ensure that they reflect what women are looking for from services. Research has indicated, for example, that women value a more proactive approach to follow-up support and advocacy. A review of the mechanics of multiagency partnerships might also be worth some consideration. Some of the themes identified by Dutton and Cavanagh in relation to multiagency responses to sexual violence would bear further exploration, as more partnerships begin to develop in response to sexual violence.

Many women disclose in the first instance to people they know - family, friends, workmates - and so more attention should be paid to the development of information and support for the general public. Providing information and support through workplace campaigns, awareness raising programmes in schools and general public education campaigns could greatly enhance the level and quality of informal support available to women from those closest to them.

There are significant gaps in the research literature. Research which addresses the experiences and needs of black and minority ethnic women experiencing violence is scarce, perhaps reflecting the dearth of services for this group of women. There is a similar lack of understanding of the needs of women with disabilities and of lesbian women. There is little assessment of effective interventions for children and young people who have experienced violence themselves, or who have witnessed violence against women. Dedicated literature reviews may be required in each of these areas.

Finally, but most importantly, the views of women themselves should be sought. There is an absence of consultative mechanisms which enable women to input directly to the development of services which might meet their needs. This is a gap which should be filled as a priority before very much more work is developed.

“Gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men”

Such rights of women include:

“(a)The right to life;

(b) The right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment;

(c) The right to equal protection according to humanitarian norms in time of international or internal armed conflict;

(d) The right to liberty and security of person;

(e) The right to equal protection under the law;

(f) The right to equality in the family;

(g) The right to the highest standard attainable of physical and mental health;

(h) The right to just and favorable conditions of work”

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