

**OWNERSHIP OF PROPERTY AND GENDER BASED VIOLENCE IN IGANGA  
DISTRICT; A CRITIQUE OF THE CURRENT REGIME  
CASE STUDY: IGANGA DISTRICT**

**BY  
BALISANYUKA BABRA  
LLB/34805/113/DU**

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### DECLARATION

I, **BALISANYUKA BABRA**, hereby declare that this dissertation is original and has never been presented in any other institution. I also declare that any secondary information used has been fully acknowledged in this dissertation.

Students Name: BALISANYUKA BABRA

Reg. No. LB/34305/113/DU


Signature:  Date: 22nd July, 2015

## APPROVAL

This is to certify that this dissertation has been done under my supervision and subsequently approved by me as a University Lecturer and Supervisor.

Signature

Date



22/7/2015

MADAM ARYANYIJUKA ANNET WINFRED

## DEDICATION

I dedicate this report to the families of Mr. Devon Searchwell , Uncle Lufafa David and uncle Damba Milton , The family of the Late Mr. Damba Stephen, My fiancé Mr. Mukasa Charles , my sister Mirembe Hellen and my friends Musoke Deo and Kasana Ritah for their great and extra efforts put in through out my studies and May the Almighty God bless you abundantly.

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## LIST OF STATUTES

1. The Constitution of the Republic of Uganda 1995.
2. The Domestic Violence Act 2010. (Uganda).
3. The Penal Code Act Cap.120
4. The Children Act Cap 59
5. The Land Act Cap 227
6. Succession Act Cap 160

## LIST OF CASES

1. Law and Advocacy for Women in Uganda v Attorney General (2006)
2. Ugandan Association of Women Lawyers (FIDA-U) v Attorney General (2003) Constitutional Court Petition Number 16 of 2011
3. Miller v R court
4. Uganda v Jenina Kyanda
5. Julius Rwabinumi v Hope Bahimbisome
6. Musinguzi v Musinguzi

## ACRONYMS

DRB	-	Domestic Relations Bill
NGO	-	Non Government Organisation
EOC	-	Equal Opportunities Commission
PRB	-	Population Reference Bureau
WHO	-	The World Health Organization
ACHPR	-	African Charter on Human and Peoples' Rights
CEDAW	-	The Convention on the Elimination of all forms of Discrimination against Women
CPR	-	Civil and Political Rights

## ABSTRACT

This research is based in Iganga district, a place found in Eastern Uganda comprising of Bantu speaking people particularly the Basoga who speak Lusoga language.

Ownership of property and Gender-based violence occurs in all societies of the world, within the home or in the wider community and it affects all persons that is to say male, female and children however in relation to denial of property ownership, the most marginalised group is the women and girls because land is more associated with culture and customs. The intended research identified the root cause of an equal distribution of property between men and women, how property is generally owned among the Basoga and how property distribution causes gender based violence, the other causes of gender based violence other than an equal distribution of property, the international and national legal frame work on property ownership and gender based violence, the effect of an equal distribution of property, legal effectiveness and the likely legal dangers associated.

The findings will help to educate Ugandans on the laws available to protect victims of gender based discrimination in Uganda, their effectiveness and the likely crimes that the public must realise before falling victims. It also suggests what social studies curriculum should contain so as to solve the problems of gender-based violence in the society.

## CHAPTER ONE

### 1.0 Introduction

Recalling the cultural and traditional background of the Uganda's societies, women have been a marginalised group for many generations if not since time in memorial.

Iganga district which is found in Eastern Uganda boarded by Jinja District in the west, Bugiri District in the East, Kamuli District in the North and Mayuge District in the South as attached in appendix C, it comprises of Bantu speaking people particularly the Basoga who speak Lusoga and due to the language spoken the place is referred to as Busoga region. Busoga is one of the communities in Uganda with primitive ideologies that property belongs to only men and Iganga District is one of the leading places in isolating women when it comes to property ownership. This has for a long period denied women the opportunity to have property of their own. This gender inequality has existed for a long period of time and still rooted in the minds of both men and women despite the drafting of many laws to the contrally. Some individuals in Busoga associate it with divine law of God With the coming into force of the Constitution of the Republic of Uganda<sup>1</sup> women were emancipated to the levels of being accorded full and equal dignity of the person with men. The constitution puts it clear that women should have the same treatment with men and have the right to equal opportunities in political, economic and all social activities.<sup>2</sup> The package also contained among others the right to own property as an individual or in association with others.<sup>3</sup> The Parliament enacted several other laws on property which are aimed at enforcing the Constitutional provisions on property, which include among others; The Land Act, Registration of Titles Act, Divorce Act, Employment Act and the Mortgage Act.

The equitation of women to men and the current legal system have opened a new window of cases on property. Ownership of property has impacted on the increasing gender based violence in Uganda and Particularly in Iganga District.

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<sup>1</sup> 1995 of the Constitution of the Republic of Uganda 1995

<sup>2</sup> Artic 33 ibid

<sup>3</sup> Artic 26 ibid

## **1.1 Back ground of the study**

Property ownership is of right and it is reorganised internationally, it also extends to most of the growing counties Uganda inclusive. Article 26<sup>4</sup> provides for the right to own property and this right extends to all persons regardless of gender among others. However, women in Uganda are still deprived of this right and as such have been also prevented from inheriting property.

Iganga Districts one of the places which have fallen victim of women deprivation of property rights and gender based violence, hence this research. The high level of illiteracy and ignorance among the women and high level of deaths has impacted much on the deprivation of women's right to own property. The leading culprits of gender based violence are; husbands, parents, in-laws, and relatives of these women and this is based on the presumption that property is only owned by men and the cultural belief among the Basoga that women do not own property land.

Today women are increasingly becoming the bread winners of most of their families and are in critical need to own land and property for economic security. This has been either caused by loss of their loved ones, the polygamous marriages, men abandoning their responsibilities among others.

Despite this need, threats of all kinds have continuously been employed by the infringing parties with the aim of silencing the victims. Ignorance of the law, the myth of witch craft among the Basoga and illiteracy amongst women seem to be some of the root causes of this problem in Iganga. This has therefore triggered the need to carry out a thorough research on the actual root causes of the increasing gender based violence associated to property. The research has therefore come to final finding and proper suggestions to solve the problem.

## **1.2 Statement of the problem**

Ugandans are still unfamiliar with the existing laws which are intended to ensure enjoyment of equal rights as far as ownership of property is concerned in Uganda, these laws includes among others The Constitution of the Republic of Uganda 1995, The Domestic Violence Act 2010. (Uganda), The Penal Code Act Cap.120, The Children Act Cap 59, The Land Act Cap 227, Succession Act Cap 160 and it also seem that the implementation of such laws is also relaxed.

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<sup>4</sup> The constitution of the Republic of Uganda 1995

Despite the laws relating to property and equality of all persons Article 26<sup>5</sup>, women are still victims of several injustices characterised by violence. The offenders also seem to be comfortable with their approach of property grabbing as if they are unaware of any law. Even if women own property and have title in hand, they were not likely to exercise their rights and leave a risky situation if they feared repercussions from their intimate partner and if they had no support from their extended family.

Gender based violence is committed by both men and women, although the findings show that the most marginalised group is women or females. The anomaly of gender based violence is that the culprits have in most cases gone untouched yet their actions are unlawful. Fear is manifested in most of the female victims and this has prevented them from reporting such abuse to authorities. This is due to a promise of more violent attacks from their spouses and fear of family break ups in case victims lodge complaints to the authorities. The primitive male supremacy ideology has an upper hand in aiding the continued gender based violence, hence women being more victimised.

The enforcement bodies also appear to be corrupt or careless basing on the way they handle cases when reported. Women who endeavour to report cases of gender based violence end up being exploited by these enforcement bodies through soliciting money from them before they can offer them any help. Others bodies do not act at all where they discover that the victims are very poor.

### **1.3 General objectives of the study**

The general objective of the study was to examine the role of denial of property in causing gender based violence in Iganga district.

### **1.4 Specific Objectives**

The research examined women's property rights in Uganda as provided for by 1995 constitution of the Republic of Uganda and the subordinate laws thereto.

The research explored the major causes of gender based violence resulting from property ownership in Iganga district.

The research formulated strategies aimed at deepening the women's understanding of the legal, cultural, and economic consequences of their oppression as regards the rights to property ownership.

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<sup>5</sup>Supra 4

The research identified the obstacles women face due to property ownership as provided for under the constitution, subsidiary laws, and suggests possible solutions to such obstacles.

### **1.5 Research Assumptions**

Denial of property ownership to women in Iganga is a direct consequence of gender based violence.

The rigidity and primitive customs and traditions of the Basoga is the reason behind the increasing levels of gender Based violence in Iganga district.

The abuse of women's right to own Property and Gender Based violence have retard economic growth in Iganga District.

Government's failure to sensitize society on the equal rights of men and women to own property is the root cause of gender based violence.

### **1.6 Research questions**

Does Denial of property ownership to women in Iganga a direct consequence of gender based violence?

Does the rigidity and primitive customs and traditions of the Basoga the reason behind increasing levels of gender based violence in Iganga district?

Does abuse of women's right to own Property and Gender Based violence retard economic growth in Iganga District?

Does the weakness of law enforcement result into gender inequalities in Iganga?

Does Government's failure to sensitize society on equal rights of men and women to own property the root cause of gender based violence?

### **1.7 Demarcation of the study**

The geographical study covers areas of Iganga District which is found in Eastern Uganda, this place is comprised of Bantu speaking people in Uganda and the basic language that is spoken is Lusoga and thus the people are referred to as Basoga. The a Basoga are social people who are basically united by their culture, they believe in polygamous marriages and they are basically farmers so the level of illiterates is very high, disease and ignorance which factors have influenced gender violence and denial of property. The areas of concern in



Iganga district in regard to this research include in particular Igamba, Bikadho Zone, Kasolo, Kasokoso and Nabukoone. The areas of interest are; the Police Station of the areas, the local authorities and the residents of these areas. The selected places gave the researcher a fair sample basing on the fact that these areas are located in Iganga Municipality and are densely populated

### **1.8 Limitations**

The researcher was limited by time; time problem was as a result of the fact that the researcher is a student and the research being a partial requirement to finalise the bachelor's degree hence making the research limited as per the university curriculum.

The researcher was meeting strangers and as such their reaction was unpredictable that's to say some were tough, violent, and others were unable to respond.

Financial hardship was a very big hindrance of the process as the researcher is a student and unemployed and the distance between the university and the place of research is a three hour drive costing the researcher 50,000 Uganda shillings to and fro.

Lack of electricity in most of the specified research areas was one of the biggest challenges the researcher faced as the laptop which is the major weapon that has been used could not operate without power.

### **1.9 Solutions to the problems**

In solving the problem of meeting strangers, the researcher used to first approach the area authorities who could at times first introduce the researcher to the residents, they were very helpful in mobilising and uniting residents hence enabling the researcher to get the information. The ability to speak and communicate in "Lusoga" which is the native language has also been helpful to the researcher in effective communication with the residents and in gathering enough information.

In solving the problem of limited finances the researcher successful solicited funds from her parents, friends and relatives hence achieving the intended mission.

The problem of Electricity was smartly solved by devising other methods of noting down the data that's to say gathered information in a note book then typing it on the laptop and also recording some responses on the researcher's telephone since it has a power bank.

### **1.10 Significance of the study**

The research is aiming at adding on the already existing literature on gender based violence and denial of property ownership. Being in a democratic and civilised error issues relating to gender based violence must come to an end, and this is only possible through creating better channels to address the problem.

The research is also aiming at creating awareness of the existence of gender based violence and deprivation of women's right to own property.

Publication of all the forms of gender violence, this is because some individuals are victims and offenders basically because they are ignorant about it. Therefore publication will cause an effect in preventing gender based violence and denial of property.

The research is also analysing both the legal and institutional frame works available, to find out where exactly the problem is. This also extends to the enforcement of the existing laws if any, and the research has come up with a rich finding, hence making proper suggestions and recommendations.

### **1.11 Scope of the study**

The scope is covering the subject matter of the study, the time the research took and the geographical area it covered.

The subject matter of this research is the role of property ownership in enhancing gender based violence in Iganga District. The research addressing all the different forms of gender based violence relating to property ownership.

The research is also briefly tackling on other causes of gender based violence. A general assessment of the legal implication is then following to reflect on its impact on society. A critical look at the institutional and legal frame work has also been evolved to ensure a non-biased research.

The research is covering a period of three month and it has been effective during day time to evening hours since this time is convenient for interviewing the respondents basing on the fact that they are farmers so in the morning hours they are in gardens and after noon preparing their lunch so in the evening they are free and can give the researcher attention. Two days a week (Saturday & Sunday) were dedicated for field research while the rest of the time was available for compiling of the research obtained and attending to lectures.

The geographical study covers areas of Iganga District and in particular; Igamba, Bikadho Zone, Kasolo, Kasokoso and Nabukoone. My areas of interest were the Police Station of the areas, the local authorities and the residents of those areas. The selected places have effectively given the researcher a fair sample basing on the fact that they are located in Iganga Municipality and are densely populated. The area also has the leading cases of gender based violence in Iganga hence a proper location.

The researcher believes that the subject matter of this research has been strongly covered basing on the time scope that has been available, the area of coverage and the fact that the researcher is certain of the areas where the research is focused.

### **1.12 Methodology**

This research paper has drawn qualitative information, which is analysing secondary sources of information which include an examination of recent academic writings on domestic violence and property ownership, gender development, public literature, International Non-Governmental Organisations (INGOs) such as Oxfam, Action Aid, Concern Worldwide and specialist reports on human rights watch and journals.

**Qualitative research** is a general term for investigative methodologies described as ethnographic, anthropological and participant observer. The researcher looks at the variables in the natural setting in which they are found, the researcher has been interviewing the victims (female), area authorities and the offenders (husbands, in-laws and relatives) where possible thus the researcher makes a finding on the knowledge of laws relating to gender based violence and property from the respondents.

When conducting qualitative research the researcher focuses at a complete picture. According to stainback and stainback (1988), a holistic description of events, procedure and philosophies occurring is natural setting and often needed to make accurate situational decisions. This differs from quantitative research in which selected pre- defined variables are studied<sup>6</sup>. Here the researcher has considered the already existing work and literature which she compared with the findings.

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<sup>6</sup>Merriam, S.B (1988) San Francisco Jossey

## **Advantages of Qualitative research**

It produces more in depth, comprehensive information. It uses subjective information and participant information and observation to describe the context, or natural setting of the variables under consideration thus it will seek a wider understanding of the variables.

The reason for this method is its appropriateness in conducting a social research.

## **Disadvantages of Qualitative research**

Since the method by its nature is subjective to Inquiry it leads to difficulties in establishing the reliability and validity of the approaches and information.

It will be very difficult to protect or detect the researcher's bias and its scope is limited due to the in-depth and comprehensive data gathering approaches required.

## **Interviews**

This type of methodology involves a one on one interview where by the research asks a series of questions as part of the research project and the individuals responded. This has been effective as the researcher got more information from the respondents from both literates and illiterates through free interaction.

The researcher also interviewed people in authority to give their view on rights to property and gender based violence in their areas of residence through interaction.

The researcher has also grouped respondent basing on sex and age and interviews them to get their opinion on the right to own property as attached in appendix B.

## **Structured interview**

That is, questionnaires that have already been used and shown to measure what they say they do, which can also be administered as part of an interview, are highly respected for their reliability.

## **Less structured and in-depth interviews**

This allows more exploration and understanding of responses (they are more likely to elicit valid responses). With a skilled interviewer more open and honest answers can be forthcoming in unstructured interviews, in comparison with structured interviews or postal

questionnaires. Structured interviews are generally easier to analyse than in-depth and unstructured interviews.

### **Advantages of interviews**

Easy correction of speech: Any misunderstanding and mistakes were rectified easily in an interview because the interviewer and interviewee were physically present before the interview board this is because the researcher could realise that there is a misunderstanding.

Development of relationship: Relation between the interviewer and the interviewee has been developing through an interview; this has been so helpful to the researcher as it increases mutual understanding and co-operation between the parties. This was possible because the researcher knew the language of the respondents.

Collection of primary information: the Interviews have been helpful to the researcher in collecting fresh, new and primary information as needed.

Sufficient information: there has been collection of sufficient information by the researcher through the interview process. Because the interviewer can ask any question to the interviewee and it flexible.

### **Disadvantages of interviews**

Incomplete process and no record; Suitable candidate cannot be selected by interview only. The written test is more important than the interview, In the case of the interview some confusion may be raised in the future as, there is no evidence actually that have been discussed at interview.

Time consuming: Time constrain is one of the major limitations of the interview process. Preparation for the interview, taking interviews and interpretation of the responses required much time which makes the interview method time consuming.

Inefficiency of the interviewer: Interview is a systematic process of data collection. The success of an interview depends on the efficiency of the interviewer. This inefficiency of an interviewer can lead to misleading results and not suitable for personal matters: Personal matters may not be revealed by interview method.

## **Questionnaires**

Questionnaires are effective mechanisms for efficient collection of certain kinds of information. They are not, however, a comprehensive means of evaluation and should be used to support and supplement other procedures for evaluating and improving teaching.

### **Advantages of questionnaires**

It is Practical, this is because the respondents have been victims of the gender based violence and at the same time the offenders.

Large amounts of information can be collected from a large number of people in a short period of time and in a relatively cost effective way thus can be carried out by the researcher or by any number of people with limited affect to its validity and reliability

The results of the questionnaires can usually be quickly and easily quantified by either a researcher or through the use of a software package

When data has been quantified, it can be used to compare and contrast other research and may be used to measure change and Positivists believe that quantitative data can be used to create new theories and test existing hypotheses

Uniformity each respondent receives the identical set of questions. With closed-form questions, responses are standardized, which can assist in interpreting from large numbers of respondents and it can address a large number of issues and questions of concern in a relatively efficient way, with the possibility of a high response rate.

### **The disadvantages of questionnaires**

It is argued to be inadequate to understand some forms of information - i.e. changes of emotions, behaviour and feelings.

The respondent may be forgetful or not thinking within the full context of the situation

People may read differently into each question and therefore reply based on their own interpretation of the question - i.e. what is 'good' to someone may be 'poor' to someone else therefore, there is a level of subjectivity that is not acknowledged

It may be difficult to obtain a good response rate. Often there is no strong motivation for respondents to respond and Quality of data is probably not as high as with alternative methods of data collection, such as personal interviewing.

## How the researcher made the questionnaire

Making a questionnaire can seem very straightforward, but unless it is designed properly, the intended result cannot be obtained and the researcher solved this problem by doing the following;

The researcher decided what ask from the questionnaire. This helped the researcher to come up with questions to ask and the order in which to ask them.

The researcher started with writing out questions that helped to reach the goals. The questions and answers were made simple by use of few words. The questions were made careful not to lead the respondents into choosing an answer that doesn't truly match up with their beliefs.

Closed ended questions were used by giving a list of possible answers; for example, "Strongly agree, Agree, Disagree, Not sure."

The researcher asked questions that were very similar but worded differently. This helped in preventing the respondents from being biased hence giving a better chance at finding the person's true opinion on a given topic.

The questionnaire were first tested by the researcher before surveying people, they were tested on friends .Changes were made and others were elicited to help the researcher reach the end goal and these are reflected in appendix A.

### 1.13 Literature Review

**Winrock International, Kyiv, Ukraine**, in the Article, *Prevention of Domestic Violence and Trafficking in Human Beings, Training Manual*, 2001 referred to Gender-based violence to include physical, sexual and psychological violence such as domestic violence, sexual abuse, including rape and sexual abuse of children by family members, forced pregnancy, sexual slavery, traditional practices harmful to women, such as honour killings, burning or acid throwing, female genital mutilation, dowry-related violence, violence in armed conflict, such as murder and rape and emotional abuse, such as coercion and abusive language.

The article is credited for pointing out the different forms of gender based violence, but the article did not address on property the area of concern in this research, hence a need for a better and detailed research.

**Rosemary Ofei-Aboagye**1994 published an American journal of gender and law and wrote one of the first studies of domestic violence in Ghana. The researcher begins by simply documenting the incidence of domestic violence among women seeking assistance from a legal aid office in Accra, seeing this documentation of the problem as an essential first step in dealing with it. But Ofei-Aboagye's analysis of the women's comments leads her to attribute domestic violence in large part to the subordinate position, passivity, and economic dependence of married women in her society.

The researcher concludes that although there is no one answer to this dilemma, changing the social order which teaches a woman that she is incapable of even small decisions and confines her to waiting for her husband to lead the way in all that she does, must be our primary focus. In short, the struggle against domestic violence is clearly seen as just one part of a much broader context, the struggle for gender equality.

This is so much credited but unfortunately does not address the problem in Uganda specifically Iganga district which area the researcher intend to address which has different social, political and economic factors from those of Ghana.

**The constitution of the republic of Uganda**<sup>7</sup> and other legal systems follow Western models based upon individual rights, and Uganda has ratified numerous international covenants that either explicitly or implicitly interprets gender based violence basing on property ownership to be a violation of human rights. Despite this fact, theories about gender violence based on the assertion of individual human rights are not frequent in the African literature. For example, under the of customary law, women have no right to inherit from their husbands, are not regarded as sharing ownership of marital property, are excluded from ownership of land, and are almost without remedy upon divorce.

Alice Armstrong carried out one study of domestic violence in Zimbabwe, which involved interviewing twenty-five male abusers and seventy-five female victims of spousal abuse in the Shona-speaking region. Her findings can be interpreted to support the role of cultural factors as causative of domestic violence among the Shona, but more complex interpretations also emerge from them. Armstrong reports that violence arises most frequently in Zimbabwe out of quarrels over money and jealousy. This literature is so much credited however the contribution of property ownership in causing gender violence was not specifically brought out and basically this is theme of my research.

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<sup>7</sup> The 1995 constitution of the republic of Uganda



According to Robert 2002; Family physicians are of paramount importance on matters related to domestic violence. The role played here is to install a sense of confidence in every other member of a family on their rights and on the importance of information on abuses inflicted on them. They offer advice, moral support and empower individuals, through education, and thus help in reducing cases of abuses.

### **The Kalema Commission Report 1964<sup>8</sup>**

This was perhaps the earliest attempt to examine the situation of women as far as inheritance, marriage and property is concerned. However the commission was more concerned with inheritance under customary practices other than examining the law on gender based violence and ownership of property in Uganda. Therefore it is important that a research be carried out specifically in regard to gender violence and property ownership in Uganda.

Furthermore, Kalema's report was specifically dealing with the rights of widows to inherit and not addressing rights to property as a whole and its resultant to violence and as such the researcher intend to address property of all women wit out discrimination of their status that's to say marriage, divorced, widows, and unmarried women.

### **Land law and women's property rights in land in Uganda 1999<sup>9</sup>**

The researcher denotes one chapter on women's land rights and the law of succession and examined women's customary land rights in six different districts and then comes out with general findings that the injustices related to land ownership is associated with unfair system of inheritance the researcher here did not make a concrete analysis of the complex issue of property ownership and its contributions to domestic gender based violence.

### **In the succession law and status of women inUganda1999**

Where the author emphasises much on the women's right to succession of women in nine districts in more regard to land succession as right granted by the constitution to women. Although this thesis will lay special emphasis on land which is real property and the thesis being very helpful to this particular research paper, the right to land ownership was basically

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<sup>8</sup> The kalema commission Report on Marriages Divorce and Status of Women, 1964

<sup>9</sup>Naigaayebazibwe, a thesis 1999 makerere university

on the basis of succession yet in this study the researcher intends to look at women's property right as generally to women without discrimination.

**The Convention on the Elimination of all Forms of Discrimination against Women.<sup>10</sup>**  
(CEDAW) 1981

Under this gender discrimination is defined to 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 political, economic, social, and any other field. Well this is so much credited but this research was so general and yet the research intends to address property and how it specifically causes gender based violence and the way forward.

**The secretary general of UN quoted 2007<sup>11</sup> Kofi Annan**

There is no tool for development than empowering women. No other policy is as likely to raise economic productivity or to reduce child and maternal mortality. No other policy is as sure to improve nutrition and promote health including the prevention of HIV/AIDS. That's why discrimination against women of all ages is unjust. This report measurably emphasises the capacities of women as the ground for equality and the fact that the violence which is resulting from property is not addressed the research intends to complement and make a full research on gender and property as the topic suggests.

**The world health organisation (WHO) 2010<sup>12</sup>**

In their application noted that intimate partner and sexual violence affect a large population and the majority of those falling victim are women and the majority offenders being men. The harm they cause can last a life time and span generations with serious adverse effect on health, education and employment. The primary prevention of these acts will therefore save life and money

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<sup>10</sup> CEDAW 1998 ARTICLE 1

<sup>11</sup> UNICEF's Report on the state of the World's women and children 2007

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## 1.14 Synopsis

This part covers the content likely to contain in each of the chapters of the research and the number of chapters of the dissertation.

This research has been divided into five chapters and these are classified as follows;

**Chapter one** generally contains the introductory part of the dissertation, the background of the study, statement of the problem, the significances of the study, a review on the available literature and methods to be applied in carrying out this research among others.

**Chapter two** This chapter basically discusses GBV and the back ground of property ownership in Uganda in reference to the existing literature, it further examines the forms of GBV, denial of property ownership as a basic cause of gender based violence, the other causes of gender based violence and its effect.

**Chapter three** This chapter covers an over view of the legislations, institutions and policies on property ownership and GBV in Uganda to major their effectiveness in securing and administering justice to the victims and how the law deals with perpetrators of GBV. The chapter also analysis the national and international legal frame work and it also describes and accredits the available institutions that deal with cases of Denial of property basing one one's gender, their strength and their weaknesses.

**Chapter four** This chapter analyses the data obtained from the interviews, from the various respondents and records obtained from Iganga Central Police Station. Through the information gathered from the raw data, the researcher discusses various issues related to Gender Based Violence due to denial of property ownership. The data is represented into two categories, those that were captured direct from the respondents and the data captured from the institutions that deals with domestic violence like RDC's office of Iganga district, and the Family Division of Iganga Central Police Station.

**Chapter five** consists of the recommendations to the problem, problems encountered during the research and the final submissions that the researcher may deem fit to be addressed.

## CHAPTER TWO

### 2.0 Introduction

This chapter basically discusses GBV and the back ground of property ownership in Uganda in reference to the existing literature; it further examines the forms of GBV, denial of property ownership as a basic cause of gender based violence, the other causes of gender based violence and its effect.

2.1 Domestic Violence Act of 2010 defines Gender-based violence as any act or omission of a perpetrator which includes;

- a) Harms, injuries and endangers the health, safety, life, limb or well-being, whether mental or physical, of the victim or tends to do so and causes physical abuse, sexual abuse, emotional, verbal and psychological abuse and economic abuse.
- b) Harasses harm, injures or endangers the victims with the view to coercing him or her or any other person related to him or her to meet any unlawful demand for any property or available security.
- c) Has the effect of threatening the victim or any other person related to the victim by any conduct mentioned in paragraph (a) or (b); or
- d) Otherwise injures or causes harm, whether physical or mental or the victim.<sup>13</sup>

Domestic Violence Act includes acts of violence in the form of physical, psychological or sexual violence against a person specifically because of his or her gender<sup>14</sup>, it encompasses an extensive assortment of human rights violations, including sexual exploitation of children, rape, home brutality, sexual battering and harassment, trafficking of women and girls and numerous detrimental customary practices.

Any one of these abuses can leave profound mental scars, damage the wellbeing of women and girls in common, including their reproductive and sexual health, and in some instances, results in death. Violence against women has been called "the most insidious yet slightest renowned human rights oppression in the globe, and is a demonstration of historically uneven supremacy dealings between men and women, which have led to dominance over and inequity against women by men and to the hindrance of the complete progression of "

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<sup>13</sup> The Domestic Violence Act 2010

<sup>14</sup> Sixteen Days of Action Against Gender Based Violence.

women, that cruelty against women is one of the critical social mechanisms by which women are compelled into a subsidiary position compared with men. Gender violence is abusive behaviours conducted by either one or both partners involved in an intimate relationship.

The UN Assembly defines violence against women under the UN Declaration on the Elimination of Violence Against Women (DEVAW)<sup>15</sup> 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 (girls) including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

DEVAW<sup>16</sup> also provides that state parties should condemn violence against women and should not invoke any customs, traditions and religious considerations to avoid their obligation with respect to its elimination.

Gender based violence is also defined as the act carried out with the intention or perceived intention of physically hurting another person basically because of that person's gender that's to say "to a woman because of the fact that she is a woman"<sup>17</sup>.

Thus in the case of **Miller V R court**<sup>18</sup> stated that where a husband physically assaults his wife in order to have sexual intercourse with her, then he is liable and guilty of domestic violence.

According to the constitution<sup>19</sup> guarantees freedom of expression, provides for gender equality and affirmative action for women and outlaws discrimination based on sex. In spite of this enactment of laws to make the 1995 constitution fully operational is moving slowly, especially for gender specific laws. For instance the Domestic Relations Bill (DRB) whose process started in the 1960s but up to date its enactment by parliament has failed and the Equal Opportunities Commission (EOC), is the only commission that has never been set up since the promulgation of the new constitution over twenty years ago.

Therefore, the fact that women have been accorded the right by the current law in Uganda to own property on their names, many types of violence have resulted due to different reasons like cultural, economic, social and political spheres.

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<sup>15</sup> Article 2 of DEVAW

<sup>16</sup> Article 4 *ibid*

<sup>17</sup> Magretschuler in violence against women

<sup>18</sup> [1954] ALL ER 529

<sup>19</sup> The Constitution of the Republic of Uganda 1995

## 2.2 Historical Background of land ownership in Uganda

The advent of colonialism left a historical legacy structured around land relations and management. Initially, colonialists introduced individualised ownership of property rights in land previously held either communally by many people or on the basis of sovereign trustees like kings or chiefs<sup>20</sup>.

The modern history of Uganda's land tenure systems can be traced back to 1888 when a British Royal charter assigned East Africa as a 'sphere of interest' to the Imperial British East Africa Company (London Gazette, 1888). Before this time, only a system of customs and traditions was in place in 1894. The first major implication for land took place in 1900, when the Buganda Agreement was signed.

In this respect, McAuslan (2003) states: "Relations between landlord and tenant within Buganda have always been fraught with tension. Landlords have been reluctant to accept that the restrictions of customary relationships should limit their absolute ownership of land, and tenants have refused to accept that they have no rights in land that they regard as being theirs by virtue of customary law."

In 1962, Uganda declared its independence. The Public Lands Ordinance of 1962, enacted just before independence, transformed all land formerly held by the British Crown (and therefore called Crown Land) into Public Land, to be managed by a Land Commission. However, Crown Land in the Buganda Kingdom was to be managed by the Buganda Land Board. This situation did not last a long time.

During this politically troublesome time, lots of changes have been made to various laws and policies. This also had a large effect on land ownership. During Amin's reign (1971 – 1979), laws concerning land were changed radically:

"A major land reform in Uganda was attempted in 1975, when the Government of President Idi Amin issued a decree called 'The Land Reform Decree' which declared all land to be public land and vested the same in the State to be held in trust for the people of Uganda and to be administered by the Uganda Land Commission. The decree abolished all freehold interests in land except where these were vested in the State in which case these were

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<sup>20</sup> The Uganda Land policy by Jane Mugala 2014

transferred to the McAuslan (2003) states that “The chaos on the ground led to a multiplicity of land disputes, lack of security of tenure for those occupying land under customary tenure, the exclusion of women from land utilization decisions, widespread degradation of land due to unsustainable methods of resource use and encroachment into protected areas.”

After ruling the country for almost ten years, president Museveni introduced the latest Constitution of Uganda in 1995. The constitution abolished the Land Reform Decree of 1975, declared that land belonged to the people (‘Land in Uganda belongs to the citizens of Uganda and shall vest in them in accordance with the land tenure systems provided for in Article 237<sup>21</sup>, and created the four tenure systems Uganda has today: customary land tenure, freehold tenure, leasehold tenure, and Mailo tenure. It also installed Land Boards in every district, which were to operate independently from the re-introduced Land Commission.

McAuslan 2003 states three critical shortcomings of the constitution and the Land Act that followed it in 1998: “First, the feudal system of land tenure remained a feature of land relations; secondly, customary land tenure systems remained unregulated and completely outside the statutory framework of land law of the country and, thirdly, the system of land administration was in no way integrated into the land tenure framework of the country.

The newly introduced system of property ownership was super-imposed to either supersede existing indigenous land rights systems or formally confirm pre-existing customary arrangements as the case for kingdom areas like Busoga (Iganga district). In other parts of Iganga district, customary tenure was left to continue existing with moderation but without a chance to evolve.

In Busoga (Iganga District), customary land tenure systems was broadly under two systems namely communal or tribal tenure and clan tenure. Ownership of land was vested in the rulers, either as owner or trustee.

Although cultivated fields and homesteads were owned corporately under the tribal and clan tenure systems, individuals enjoyed specific rights. Such rights include individual rights to fields, agricultural products, trees, trappings it and homesteads. The clan or tribe however communally owned some resources, namely; grazing lands, forests and virgin uncultivated grasslands within the clan or tribal boundaries, no specific rights, estates or interests were vested in the individual members for such resources. The quantum and nature of control exercised by the clan was defined by cultural practices and customs.

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<sup>21</sup> The constitution supra

The head of the clan naturally became the land controlling authority through this person, the clan exercised rights over the land and their obligations to look after it. The clan head normally had the authority to allow members, both from within and occasionally from without, of the clan to occupy and use unused land; allocate unused land; settled disputes; and arrange customary procedures at specific times like sowing or harvesting. Traditionally, men had an absolute inheritable right to the use and possess and under their effective occupation. After fulfilling minor pre-emptive customary obligations, the individual had an absolute right over the products of the land he occupied or cultivated and the

The legal systems uphold patrilineal ideologies; and provide that a wife may claim 15% of the husband's estate<sup>22</sup>, whereas when a woman dies, her husband becomes automatically the owner of everything he possessed. This bias inheritance has recently been addressed in a constitutional court in the case of **Law and Advocacy for Women in Uganda v Attorney General**<sup>23</sup> which was filed by Women Activists organization, when the High Court declared that the provisions of the Succession Act and Penal Code discriminatory on women's inheritance on grounds of sex which is contrary to the fundamental principles and human rights enshrined in Uganda's Constitution; thus struck them off the statute books and ordered Parliament to draft new laws.

Customary tenure referred to as clan or as family land in Iganga has developed sub regimes such as clan land, family land and individualized customary locally referred to as "kibanja" in the rural areas, the specific distinction between the sub regimes is ambiguous and often reference to each of the sub tenures is not easily distinguishable or clearly distinct in the rural areas. While a limited amount of land in urban is gazetted and appropriated held under formal title either as leasehold or freehold is only 1.6% of all the parcels subsisting in the district, because of the smallness of urban parcels they are called plots.

### 2.3 Forms of Violence;

**Violence within the Home:** domestic violence is the most prevalent form of gender-based violence. It typically occurs when a man beats his female partner. Psychological abuse always accompanies physical abuse and majority of women abused by their partners are abused many times. Physical, sexual and psychological violence against women within a couple and in the family consists of battery, sexual abuse, female genital mutilation and

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<sup>22</sup> S.23 of the succession Act cap

<sup>23</sup> Law and Advocacy for Women in Uganda v Attorney General (2006)



other traditional practices harmful to women and girls, marital rape, dowry-related violence, incest, non-spousal violence like a son's violence against his mother and violence related to exploitation and deprivation of freedom. Population Reference Bureau<sup>24</sup> reported In spite of these available data on gender-based violence, there is no accurate information on gender-based violence in some countries. A culture of silence surrounds cases of violence against women in most countries like Uganda, making it difficult to get a true picture of its extent. Some of the reasons why it is difficult to get an accurate account is that most of the gender-based violence occurs in the private sphere – within families, inside homes, and out of sight.

**Violence Against Women within the General Community:** Physical, sexual and psychological violence occurring within the general community include battery, rape, sexual assault, sexual harassment and intimidation in school or work, forced treatments and abusive medication, the exploitation and commercialization of women's bodies which is related to increased poverty that is mainly a result of unbridled economic liberalism. These types of violence occurring within the general community also include contraception imposed on women by constraints or force, forced sterilization or abortions, selective abortion of female foetuses and female infanticide.

**Violence against Women Perpetrated by the State:** Physical, sexual and psychological violence are too often perpetrated or tolerated by states that priorities custom or tradition over the respect of fundamental freedom. In some Uganda, the rise of religious fundamentalism is extremely disturbing as regards women's right to their economic autonomy and their freedom of choice. The social exclusion of women is so great that it constitutes a new form of apartheid. Women are considered second class beings, of lesser value, deprived of their fundamental rights. Violence against women is also exercised as a weapon of war in situations of armed conflict. It has many forms including murder, rape, sexual slavery, hostage taking and forced pregnancy, identified some additional violations of human rights and fundamental freedoms such as the trafficking in women and girls for sex trade, forced prostitution, rape, sexual abuse and sex tourism that have become the focus of internationally organized crimes.

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<sup>24</sup>[PRB], 2000

## 2.4 Causes of Gender Based Violence.

Gender-based violence occurs in all societies of the world, within the home or in the wider community and it affects women and girls regardless of the age range. This research attempts to discuss some of the causes of gender-based violence especially on the females thus Gender based violence in Iganga district has been caused by many different factors of which some are social, political, economic, psychological, physical and cultural factors, Bitangaro<sup>25</sup> had summarised the causes of violence against women as being deeply rooted in the way society is set up-cultural beliefs, power relations, economic power imbalances, and the masculine idea of male dominance as discussed below;

### **Denial of property ownership to women**

Property referred to in this case is immovable property that's to say land, it was unanimous by the researcher and amongst respondents that property is considered to be "an item immovable that can readily be converted into cash, transferred as gift or given out in a will".

Patrilineal kinship is the basis of property ownership and justifies the ideology of male superiority and female inferiority. The key power holders of property in homes include; the male partner the patriarch (the father in law) and the clan or extended family.

The status of a woman in the pre- colonial Uganda was of no means equal to that of a man and basically shows how women were a marginalised group at the superiority of the men, basically the system was patriarchy where men held dominant powers more specifically oppress and exploit women, and at this time women were more comfortable with their status,

However by the coming into place of The Constitution<sup>26</sup> which clearly provides for the right to own property by all persons women inclusive, many women have raised up, to advocate for their rights in land which in cultures like that of Busoga look at it as an abomination and in need to stop it many forms of gender based violence have resulted.

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<sup>25</sup>(1999:9)

<sup>26</sup>Articl 26 supra

By 1977, the High court of Uganda recognized the fact that women can own property regardless of their marital status' as it was decided in the case of **Uganda vs Jenina Kyanda**<sup>27</sup> The practical experiences of individual women and community's view of women's property rights as opposed to the bundle of legally defined rights in law are dealt with by the existing laws on property; this is in recognition of the legal dualism that defines the operations of statutory law and customary law practices applied concurrently with regard to woman's property and inheritance rights in Uganda. The current community practices and accepted norms and how this affects relations between intimate partners at house hold level.

In the case of **Julius Rwabinumi VS Hope Bahimbisome**<sup>28</sup> It was stated that a woman was regarded as a property of the man and totally incapable of holding property of her own independently of man. As a result, the earlier court decisions held that women in a matrimonial relationship could not acquire and hold real property. Later on, the decisions started recognising the right of women to hold property in their own right. As I understand it, where the contribution of spouses to matrimonial property is substantial, and then there is an inference that the spouses created a trust in the property whether it is in the name of the husband or wife. The spouses own the property equally.

This is a clear indication that the right of women to own property has been shifted from the traditional understanding to the legal perspective as to fit the standards of the constitution of Uganda.

Therefore this is an important issue for women in Iganga who may be both victims and perpetrators such as in forceful property appropriation and in relations between married women and the others of their husbands, or house wives and housemaids.

**Traditional attitudes;** the traditional attitude towards women has been a very strong factor in causing violence towards women in Iganga district. The Stereotypical roles in which women are seen as subordinate to men, the traditions of Iganga (Busoga) require a woman to kneel down while talking to a man or greeting him and also it's the women's responsibility to care for the children and to do all the house work and domestic work. And as such men have taken an opportunity out of this inferiority belief of women to do a lot of violence against women including physical and sexual abuses and due to this many families have denied the women a right to own property.

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<sup>27</sup>Uganda v Jenina kyanda 1977

<sup>28</sup>The High Court of Uganda 2006 in Divorce Cause No.4 of 2004)

It is estimated that at least one in every five of the world's female population has been physically or sexually abused at some time<sup>29</sup>. Gender-based violence arises from the patriarchal system which since time immemorial, has exerted control over women's lives (Gender-based violence affects both the physical and psychological integrity of women. However subtle the violence may be in form, it has no less devastating effect. Gender-based violence can affect the female psychologically, cognitively and inter-personally.

Culture and tradition put specific forms of behaviours in place which behaviours could be destructive to certain groups of people tradition adds a unique contribution of values and norms that with rare exceptions to home tradition, religion beliefs, myths and folks do manifest in homes. Culture sets man at a higher status than women and children thus being subjected to sexual violence.

**Poverty;** The research also examined the relationship between denial of property ownership, poverty and GBV, regularly men have been at stake as they tend to fear financial defeat from their wives and as such men in Iganga district have denied their wives opportunity to work and getting employed. Many kinds of gender based violence like torture have resulted where a woman insists on being employed at work where she earns more than the husband. And in situations where they are working men influence them to co-own property but in most cases title to that property is in the husband's names hence depriving women the right to own property.

According to Ostia<sup>30</sup> culture in Uganda as regards to women and children as property therefore denies them access to productive assets, which would reduce on their levels of poverty. Poverty in homes results into denial of children's rights to education they are deprived of medical care and overworked when the children complain to their elders they are beaten.

According to UNICEF report<sup>31</sup> poverty has also been noted to make women and girls depend on men (and to accept violence) basing on while it also exposes many girls to sexual exploitation It is stated that if a man cannot establish his authority intellectually or economically, he would tend to do so physically. Another cause is the image created by the society which portrays a man to be viewed as being strong, educated, creative, and clever while a woman is the opposite of all these traits, the way parents bring up their children, which create disparity between boys and girls, also is a source of gender-based violence in later life<sup>32</sup>.

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<sup>29</sup> The World Health Organization (World March of Women, 2000)

<sup>30</sup> (1999)

<sup>31</sup> to UNICEF report of 2000

<sup>32</sup> Njenga (1999:6)

**Alcohol and drug use,** some men who use drugs and those who drink alcohol may sometimes sexually violate their women under the influence of drugs they may not know at that particular time what they are doing and abuse their wives or someone close to them. Drugs like Viagra increases sexual urge of a man coupled with other factors may influence a man to commit sexual violence

According to Canadian Panel<sup>33</sup> recent study has shown that there are many drugs involved in cases of substance-related sexual assault. In Canada the largest the of drug samples contained alcohol and almost 40% contained multiple substances like marijuana, cocaine, GHB (gamma hydroxybutyrate, a central nervous system depressant that is manufactured in the U.S) which influence people to sexually abuse their victims.

### **Childhood history and witness of sexual violence**

Child sexual abuse is fundamentally an act of violation, power and domination. The sexual abuser's power, knowledge and resources are far greater than those of the child and the abuser exploits this power difference to take advantage of the child. Children are dependent upon adults, for their survival and for affection and understanding of the world. **According to**<sup>34</sup> states that Every time a child is sexually abused there is coercion. Children who have experienced childhood history of sexual and physical abuse and those who have witnessed family violence as a child will too be perpetrators of sexual violence because they have seen it happen to their mothers, sisters or relatives so will also practice sexual violence and those who have been violated will also violate others sometimes due to revenge or may think women have no rights to refuse sexual acts (UNICEF, 2000).

### **Unemployment**

Lack of employment opportunities for the women normally puts them at the risk of being exposed to sexual violence since women depend on their husbands for finance and survival needs so it makes them submissive to their husbands for fear of repercussions and so exposed to sexual violence. Some people believe unemployment or loss of jobs is major cause of Sexual violence, especially in homes. Lack or loss of a job means a man has no income to properly look after the family. Many women have been beaten, killed or maimed for demanding household provision from husbands who are unable to provide for their families.

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<sup>33</sup> on Violence against Women, 1993

<sup>34</sup> Sexual Assault Protocol 1997

### **Lack of institutional support from police, judicial system and lack of awareness of such law**

Law documents are written and explained in English, which language is used by the elite. The non-educated are not able to access such laws, understand them and put them in practice yet they are the majority. This has caused lawlessness and it results from living in an environment where there is a composition of varying behaviours like sexual harassment alcoholism, drug abuse and wife battery.

Norvak and Harlow<sup>35</sup> observed that at home social isolation seem to produce permanent deficit in social behaviour. They affirmed that women and children suffer sexual violence silently because they are ignorant about the law. Majority of people do not know their rights and obligation.

In Uganda inadequacy of police services compound the problem. Often, there are no police officers to report cases to. Police stations are few and far between in some parts of Iganga district. Furthermore, police demand money to investigate cases and arrest and transport suspects. Victims are often asked to pay costs such as providing lunch for police during the investigation.

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<sup>35</sup> (1975)

## CHAPTER THREE

### 3.0 Introduction

This chapter covers an over view of the legislations, institutions and policies on property ownership and GBV in Uganda to major their effectiveness in securing and administering justice to the victims and how the law deals with perpetrators of GBV. The chapter also analysis the national and international legal frame work and it also describes and accredits the available institutions that deal with cases of Denial of property basing one one's gender, their strength and their weaknesses.

### 3.1 National legal frame work.

Article 20 of the constitution<sup>36</sup> as amended provides that Fundamental rights and freedoms of the individual are inherent and not granted by the State and the rights and freedoms of the individual and groups enshrined in the constitution shall be respected, upheld and promoted by all organs and agencies of Government and by all persons.

In the case of Uganda, the subordinated status of women in non war situations was aggravated during armed conflict by their extreme vulnerability, compounded by the general confusion, lack of social control mechanisms, poverty and poor access to resources which reign in conflict settings. Moreover more women compared to men remain unarmed and unprotected at a time when traditional forms of moral, community and institutional safeguards have disintegrated and weapons have proliferated, making them particularly vulnerable to all kinds of violations. Women and girls in Iganga district have accrued gender based violence in several ways. They have been exposed to rape and defilement, have experienced physical and psycho social injury, and have been exploited and denied resources. In cases of dire desperation women and girls have had to succumb to selling their bodies for their survival and that of their families.

From a gender perspective, the 1995 Constitution of the Republic of Uganda is acclaimed as being one of the only two gender sensitive constitutions in Africa. The Constitution of the Republic of Uganda has provided leverage in sustaining this campaign. This is based on a number of articles which provide among many the following; equal treatment in all spheres of life under the law regardless of sex, protection of all persons from deprivation of property; entitlement of both women and men to equal rights during and after marriage, the state is

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<sup>36</sup>1995 constitution of Uganda

mandated to take affirmative action in favour of groups marginalized on the basis of gender or any other reason created by history, tradition or custom;

Further the constitution avers that the state shall provide facilities and opportunities necessary to enhance the welfare of women to enable them realize their full potential and advancement; women are also accorded affirmative action for purposes of redressing the imbalances created by history, tradition or custom and the Constitution also mandates parliament, among other things, to make laws for the establishing of an Equal Opportunities Commission (EOC) for the purpose of giving effect to constitutional mandates expressed therein.

Under statutory law of Uganda, the Penal Code Act Cap 120, some acts of sexual violence against women in Uganda is legally viewed as crimes against morality. Section 123 and 124 of the<sup>37</sup> states that Any person who has unlawful carnal knowledge of a woman or girl, without her consent, or with her consent, if the consent is obtained by force or by means of threats or intimidation of any kind or by fear of bodily harm, or by means of false representations as to the nature of the act, or in the case of a married woman, by personating her husband, commits the felony termed rape and A person convicted of rape is liable to suffer death.

Section 129 of the<sup>38</sup> stipulates for defilement that Any person who unlawfully has sexual intercourse with a girl under the age of eighteen years commits an offence and is liable to suffer death and Any person who attempts to have unlawful sexual intercourse with a girl under the age of eighteen years commits an offence and is liable to imprisonment for eighteen years, with or without corporal punishment.

Prostitution and other sexual offences fall under the offences against morality section of the Penal Code Act and not as crimes against the physical and mental integrity of women and girls. This has been criticized by some feminist who urge for the inclusion of this crimes under crimes against a person; by referring to them as crimes against minority implies that women are given limited value as persons/human beings.

In addition the Act under Chapter 23 of the penal code Act Cap 120 provides punishment for common assault and grievous bodily harm as a misdemeanour liable to imprisonment for five years; these criminal acts too are involved in GBV. Uganda amended its Penal Code Act

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<sup>37</sup> penal code Act cap 120

<sup>38</sup> Penal Code Act Cap 120



in 2007, expanding the definition of defilement. Section 129 provides the death penalty for the offence of aggravated defilement for example if the offender is infected with the Human Immunodeficiency Virus (HIV) and if found guilty the punishment is a death sentence.

The Children Act also protects the children from abuse, including the girl children from GBV. In December 2009, the Parliament of Uganda passed the Female Genital Mutilation (FGM) Act, which prohibits Female Genital Mutilation (FGM). It provides for a prison term not exceeding 10 years for those who perform any FGM and imprisonment of up to five years for those who participate in or aid the process. However if the victim dies, suffers a disability or is infected with HIV during the procedure, the sentence is life imprisonment.

The Domestic Violence Act<sup>39</sup> provides for the protection and relief of victims of domestic violence; to provide for the punishment of perpetrators of domestic violence; to provide for the procedure and guidelines to be followed by the court in relation to the protection and compensation of victims of domestic violence; to provide for the jurisdiction of court; to provide for the enforcement of orders made by court; to empower the family and children court to handle cases of domestic violence and for related matters. The Act prohibits domestic violence, it makes it an offence to engage in domestic violence and anyone who commits it is liable to an imprisonment not exceeding 2 years and to a fine of 960,000 Ug. Shs and court may order the offender to compensate the victim.

It is also worth noting that there are pending bills in parliament that are of relevance to GBV; before it was withdrawn and split into the Marriage and Divorce Bill, and the Administration of Muslim Personal Law in 2008, the Domestic relations Bill sought to address socially sanctioned practices responsible for much violence against women in the home, including by outlawing polygamy and wife inheritance. The Sexual Offences (Miscellaneous Amendments) <sup>40</sup> which is also pending in parliament not only recognizes marital rape as a crime but also provides that a person convicted of marital rape shall, in addition to a sentence of imprisonment or a fine, be ordered to compensate a victim.

Uganda, as a state party to the CEDAW, is bound by provisions that place obligations on governments to ensure that private citizens and enterprises do not abuse women's rights. Article 2 of CEDAW sets out these obligations: "States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a

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<sup>39</sup> passed by parliament in November 2009 and assented to by the president on 17<sup>th</sup> March, 2010

<sup>40</sup> Bill 2004,

policy of eliminating discrimination against women” Ugandan government and the civil society have therefore developed and adopted some of the policies related to the prevention of GBV against women and they include; The National Gender Policy (NGP) which is a policy document that outlines the legitimacy of gender equality as a fundamental value that should be reflected in Uganda’s development choices, poverty reduction strategies and institutional practices; the National Health Policy which is to the effect that “Sexuality and sexually related behaviour and gender relations including child sexual abuse, violence against women, genital mutilation and other harmful practices shall routinely be taken into consideration and addressed in collaboration with the relevant stakeholders”.

Areas of priority include the Uganda National Minimum Health Care Package that mentions reduction of GBV as one of its objectives; the National AIDS Policy which also provides for Gender-based HIV vulnerability and all aspects of cultural attitudes and practices regarding sex and sexuality that put women at risk; the National Policy Guidelines and Service Standards for Reproductive Health (2001), its relevant areas include post-abortion care, adolescent sexual and reproductive health, STIs/HIV/AIDS, gender practices and it also recognizes the gender dimension of GBV and states it as a national priority; other policies include, The Social Development Plan; the National Equal Opportunities Policy and Action Plan; and the National HIV/AIDS Strategic Plan.

The goal of these policies is gender equality and justice, women’s empowerment and the elimination of discrimination. As far as conflict and war affected areas are concerned: the Uganda’s National Policy for IDPs (2004) commits government to guarantee the IDPs’ rights during displacement and promote durable solutions by facilitating voluntary return, resettlement, integration and re-integration and this guarantee protects IDPs from GBV;

Article 21 of<sup>41</sup> as amended provides that All persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law. Without prejudice to clause (1) of this article, a person shall not be discriminated against on the ground of sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability.

Despite the adoption of a gender-sensitive Constitution in 1995, legislative provisions that discriminate against women continue to exist in Uganda. Domestic legislation has not been consistently harmonized with constitutional principles relating to non-discrimination and

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<sup>41</sup>1995 constitution of Uganda

equality between women and men, particularly Articles 21, 31 and 33 of the Constitution. There are some examples of discriminatory laws against women in Uganda on the basis of sex. Without providing an exhaustive overview of all such laws there are main legislations for example those in areas of divorce, criminal definition of adultery, succession and polygamous marriages in which there are clear de jure discrimination.

Uganda's Constitutional Court has confronted some of these discriminatory laws against women. Two significant cases (both brought, inter alia, by women organizations) have so far been decided by the Constitutional Court involving discriminatory laws against women in Uganda. **The first case, Uganda Association of Women Lawyers and 5 others v The Attorney General** sought a declaration that sections 4(1) and (2), 5, 21, 22, 23, 24 and 26 of the Divorce Act Cap 249 that set stricter evidentiary standards for women, when seeking a divorce; women had to show that their husbands had not only committed adultery, but also provide evidence for additional grounds for divorce such as bigamy, sodomy, rape and desertion, discriminated on the basis of sex and contravened the Constitution and thus were held null and void.

The decided case of **Law and Advocacy for Women in Uganda v. Attorney General of Uganda**, sought a declaration that section 154 of the Penal Code Act which in effect made it lawful for a married man to have an affair with an unmarried woman but unlawful for a married woman to have an affair with an unmarried man and some provisions of the Succession Act were inconsistent with Articles 20(1) (2) (3), 24, 31(1) and 33(6) of the Constitution and infringed the international conventions that Uganda is a signatory to, court struck down these discriminatory provisions.

It is notable from the foregoing that de jure inequality has been, and remains in some respects, a major impediment to the enjoyment of human rights of women in Uganda and has greatly contributed to GBV against them despite the fact that the Constitution and some statutes guarantees equality of men and women and prohibits discrimination.

Analytically the guarantee of non-discrimination and equal treatment in relation to all human rights under international and domestic law is an obligation of immediate effect. However, it remains a myth in Uganda due to the resilience of the structures of patriarchy, tradition and entrenched practice of discrimination and violence against women and girls. Discrimination and violence against certain groups still exists in practice, particularly with regard to girls, women, children with disabilities, women refugees, women infected with HIV/AIDS etc.

Wide-ranging measures are thus required to combat all forms of discrimination and violence against women in Uganda including through the enactment and implementation of more laws and policies which confront discrimination in the public and private sectors. However it is apparent that there has been a lack of political will to enact laws to give practical effect to the constitutional guarantees of equality of men and women as reflected in the reluctance to repeal the discriminatory laws or the unwillingness that was exhibited to enact the Domestic Relations Bill 2003 (DRB) into law.

Conclusively When considering Uganda's state reports in May 2009, the CEDAW Committee expressed concern at the slowness of the law reform process, given the Constitutional provisions that promote equality between women and men and prohibit discrimination on the grounds of sex.

Physical violence against women is the most prevalent. Women especially the married ones were subjected to kicking, beatings, maiming and sometimes killings and in this contexts it is their husbands that were perpetrators. Women also were denied and deprived of their land by some community members and their in-laws; after the war all returnees were affected with land wrangles and because of their statuses, women were the most affected. In relation to the young girls, defilement and child neglect was still a very big challenge. It was noted that cases of GBV are more than the known ones because many victims in most cases did not report the cases due to many reasons including fear for their lives.

Every person irrespective of their sex can be affected by GBV because the research noted that even men and young boys faced some forms of GBV. Some women were engaged in beating their husbands, cheating on them while others would take away family property with them and the boys too faced child neglect and forced labour. It is worth noting that however much men and young boys faced GBV, women and young girls in return areas were the most affected. Because of their weak statuses and positions, their roles that are embodied in the private realm and the general bias against women and girls as per different traditions and cultures, women and girls continued to face violence more than the men. The married women are the most affected women because it is usually presumed that at marriage, their husbands legally have absolute control over them including subjecting them to violence.

GBV against women is mostly perpetrated by the men. 100 per cent of the interviewed respondents admitted that the men were the most perpetrators. Young boys are mainly involved in issues like defiling, beating and verbally abusing young girls where as married

men are the most perpetrators of physical assaults, marital rape, early marriages etc. In particular the drunkards take precedent over all kinds of male perpetrators.

Over consumption of alcohol in return areas is a very big challenge and whenever men got engaged in the act they resorted to raping women and selling off family produce in search for money to buy alcohol. The community in one way or another has been found to have perpetrated GBV against women. In return areas the community has been held responsible for ensuring women are prevented from owning land and in most cases they have prevented the victims especially the rape victims from reporting to police because of the negative attitude it gives such victims.

### 3.2 International frame work

Violence against women is a manifestation of the 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 women's full advancement. Violence against women throughout the life cycle derives essentially from cultural patterns, in particular the harmful effects of certain traditional or customary practices and all acts of extremism linked to race, sex, language or religion that perpetuate the lower status accorded to women in the family, the work place, the community and society.

Violence against women is exacerbated by social pressures; notably the shame of denouncing certain acts that have been perpetrated against women; women's lack of access to legal information, aid or protection; the lack of laws that effectively prohibit violence against women; failure to reform existing laws; inadequate efforts on the part of public authorities to promote awareness of and enforce existing laws; and the absence of educational and other means to address the causes and consequences of violence.

Images in the media of violence against women, in particular those that depict rape or sexual slavery as well as the use of women and girls as sex objects, including pornography are factors contributing to the continued prevalence of such violence, adversely influencing the community at large, in particular children and young people.

Uganda ratified the **Convention on the Elimination of All Forms of Discrimination against Women**<sup>42</sup> without reservations. Uganda has also ratified several other United Nations human rights conventions relevant to the rights of women, including the International

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<sup>42</sup> (CEDAW) in 1985,

Covenant to Economic, Social and Cultural Rights in 1987 and the International Covenant on human rights.

**Declaration on the Elimination of Discrimination against Women (1967)** stated in 1967 that "discrimination against women, denying or limiting as it does their equality of rights with men, is fundamentally unjust and constitutes an offence against human dignity". The Convention on the Elimination of All Forms of Discrimination against Women (1979) <sup>43</sup> has its origin in the International Bill of Human Rights. The documents incorporate The Universal Declaration of Human Rights,

**The ICCPR**<sup>43</sup> entered into force in 1976 and states that human rights contained in the document pertain to women and men equally. The International Covenant on Civil and Political Rights guarantees women the right to life, the right to be free from torture and cruel, inhuman or degrading treatment, and the right to security of person. The treaty also sets forth a woman's right to a legal remedy if her human rights are violated. The International Covenant on Civil and Political Rights also creates the UN Human Rights Committee, which monitors compliance with the treaty and which considers complaints of human rights violations submitted by individuals. <sup>44</sup>

**The ICESCR**<sup>44</sup> entered into force in 1976 and provides such basic guarantees as the right to an adequate standard of living (including food, clothing and housing), the right to the highest attainable standard of physical and mental health, the right to education and the equal opportunity to earn a living by work. The International Covenant on Economic, Social and Cultural Rights establishes the **Economic and Social Council, (ECOSOC)** which monitors compliance with the covenant and can submit recommendations to the Commission on Human Rights. Together, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights create a framework for a woman's full enjoyment of her rights. <sup>45</sup>

The <sup>45</sup> (CAT) entered into force in 1987 and prohibits torture. The convention defines torture as "any act by which severe pain or suffering, whether physical or mental is intentionally inflicted on a person . . . for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity." Women's rights advocates have

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<sup>43</sup>(International Covenant on Civil and Political Rights)

<sup>44</sup>(International Covenant on Economic, Social and Cultural Rights)

<sup>45</sup>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

argued that violence against women, such as domestic violence, contravenes the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment when the government fails to prevent such violence from taking place and does not prosecute or punish perpetrators of the violence. The convention also creates the Committee against Torture, a UN monitoring body that also receives complaints from private individuals.

**United Nations World Conference On Human Rights In Vienna in (1993)** ingenerated a platform for women via the Global Campaign for Human Rights - which resulted in the Vienna Declaration and Programme of Action which state that women's rights are human rights.

### **Rome Statue of the International Criminal Court (1998)**

Article 7<sup>46</sup> setting up the International Criminal Court (1998), declares that "rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, and other forms of sexual violence of comparative gravity" are to be considered as war crimes. If these acts are knowingly committed as part of a widespread or systematic attack on a civilian population they constitute "crimes against humanity". It includes gender-sensitive definitions of crimes, and progressive provisions relating to the protection of victims and witnesses during trial, as well as reparation for victims.

### **1995 Fourth World Conference on Women, Beijing**

Beijing Declaration and Platform for Action stipulated that "Sexual and gender-based violence, including physical and psychological abuse, trafficking in women and girls, and other forms of abuse and sexual exploitation place girls and women at high risk of physical and mental trauma, disease and unwanted pregnancy. Such situations often deter women from using health and other services."

Paragraph 112 of the declaration states that, "Violence against women is an obstacle to the achievement of the objectives of equality, development and peace. Violence against women both violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms. The long-standing failure to protect and promote those rights and freedoms in the case of violence against women is a matter of concern to all States and should be addressed. Knowledge about its causes and consequences, as well as its incidence and measures to combat it, has been greatly expanded since the Nairobi Conference. In all

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<sup>46</sup> Rome Statute

societies, to a greater or lesser degree, women and girls are subjected to physical, sexual and psychological abuse that cuts across lines of income, class and culture. The low social and economic status of women can be both a cause and a consequence of violence against women.”

Conclusively, it can be held that to the contrast of the provisions of the international and national policies denial of property ownership and all the forms of gender based violence in Iganga district are mainly directed towards women and young girl (female). This strongly illustrates the societal set up of return areas which are characterized by a patriarchal system that promotes oppression of women and the dominance by the men. Gender based violence can thus lead to life-threatening outcomes and has to be addressed; it also has as serious physical and mental outcomes on women, especially in the long-term



## CHAPTER FOUR

### DATA ANALYSIS, PRESENTATION AND DISCUSSION

#### 4.0 Introduction

This chapter analyses the data obtained from the various respondents and records obtained from Iganga Central Police Station. Through the information gathered from the raw data, the researcher discusses various issues related to Gender Based Violence due to denial of property ownership. The data is represented into two categories, those that were captured direct from the respondents and the data captured from the institutions that deals with domestic violence like RDC's office of Iganga district, and the Family Division of Iganga Central Police Station.

The study was meant to establish Gender Based Violence due to denial of property to women and to examine the effect of gender based violence on women. The study findings were presented as deducted from the questionnaires and the interview guides from the key informants, the Police records of Family Division Iganga Central Police station and such data has been analyzed according to the set objectives of this study,

A total of 24 guided questionnaires were issued out and guided interviews were conducted in the villages of Igamba, Kasokoso, Kasolo and Nabukoone while interviews with the Local Council (LC) Chairman of Igamba village was carried out to ascertain those who reported the cases of gender based violence to him and he noted that some of these cases were as a result of denial of property ownership, and on the issue of what has been done by his office, he informed the researcher that on several attempts he has tried to mediate and encouraged reconciliation of the parties to the conflict and on the way forward as he noted that there is a need for a massive sensitisation of the masses about the law governing ownership of property in the country.

#### 4.1. Responses analyzed according to age.

**Table 1: The profile of respondents according to the age**

Respondents Age	Frequency	Percentage
18 - 30	9	50%
31 - 50	5	30%
51 – 70	2	15%
70 + above	1	5%

Table 1 above presents data according to the ages of the respondents and also reveals that 50% of the total respondents are between the age of 18 – 30 years and are said to be in young marriage, followed by those in the age range of 31 – 50 years in the second rank with 30%, those between 51 – 70 years of age bracket were the third in responding and those of 70 and above only 5% in each group responded.

As Hester (2005)<sup>47</sup> puts it that although domestic violence can begin at any time during a relationship, violence tends to start as early as once a relationship has become formalized through a couple living together or through marriage. The above table shows that the majority age that suffers gender based violence is that in early twenties which means that they are in the age of married couples. On this point it was discovered that conflicts related to property ownership is more found among the early marriages as compared to the marriages of couples between the age of 50 years and above and as a result high rates of gender based violence connected to property ownership is more in the younger marriages.

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<sup>47</sup> Marianne Hester (2005), Making an Impact: Children and Domestic Violence: 2<sup>nd</sup> edition, University of Bristol

#### 4.2. Responses analyzed according to respondents' level of education

**Table 2: Shows the level of education attained by the respondents**

Education levels	Frequency	Percentage
Never been in any school	3	28%
Primary education	13	32.5%
Secondary education	15	37.5%
College/Tertiary education	10	20%
University	4	8%

Most of the respondents were the secondary level education leavers with 37.5%, followed by the primary education leavers with 32.5%, college diploma holders with 25%, the university graduates comprised of 8% and lastly those who never went to school 2%.

From the above information therefore it is important to note that the information gathered was from relatively from the informed about gender based violence and causes of property conflicts in families, it can as well be said that its worth to be relied on.

#### 4.3. Kasolo Village LCI Interviews

**Table 3: Summary of the responses from Kasolo LC1 chairperson in regard for the period of February – May 2014**

Reported cases of GBV	No	Insults	Quarrels	Beaten	Locked out	Denied food	Denied land
Men	5	4	3	2	5	3	1
Women	37	15	20	25	20	32	70

The local council chairperson of Kasolo through an interview informed the researcher that he usually receives more women complaining about the gender based violence than men. Even

the few men who report those cases do not give the details how they are suffering the violence.

Most men are not willing to reveal what they go through in their homes. Out of 42 people who registered complaints at his office from the period of February 2014 to May 2014 only five were men while 37 were women. The worst was that men did not want other people to know what they go through and therefore would at times demand out of camera/public proceedings while their counter parts the women were free to hold their cases in public.

Just as the chairman noted that the conflict stemmed majorly from the husbands desire to deal with family property without the involvement of their wives and children, other members of the community whom the researcher approached had the same view and noted that it is this factor which forces the wives and children to try to protect their interests in such property and as a result they end up into scuffles leading to GBV.

The researcher was informed that nothing much is giving rise to these conflicts but the growing desire of house wives and children to deliberate themselves from the deeply rooted primitive customs and traditions practices of most Basoga men who thinks that they are the only one with the power to decide on matters of property ownership in families hence, it can be said that some customs which are inconsistent with the constitution<sup>48</sup> are still practiced and there is a need to be declared null and void.<sup>49</sup>

#### 4.4. Analysis of data collected from RDC's office

**Table 4: Shows Data collected from the RDC's office covering period of January – May 2015**

	No	Battered	Chased out of the home	Threats to life	Destruction of property
Men	3	2	3	2	3
Women	47	40	32	16	8

<sup>48</sup> Article 26 and 34 Of the constitution

<sup>49</sup> Ibid Article 2

From the RDC's office, records between the months of January – May 2015, 50 of the complainants related their violence to denial of property ownership and 6% were men compared with their female counterparts making it 94%.

From the above data, all women in the complaint book complained of having been chased out of their homes, their personal property destroyed, while others complained of facing threats to their lives or being assaulted or beaten.

From the interview with the RDC's office and Iganga Central police station Family division, he raised the challenge that where as women after rising the complaints and the offenders(male) are arrested, women either disappear or refuse to go to court to testify against the offenders hence making it difficult to pursue the issues before court. Other women come back pleading not to go to court since they have no body to look after the children hence, disposing a challenge in protecting and ensuring justice to the victims of GBV IN Iganga district which leaves many members of the marginalised group with no secured right to property.

From the informers experience, the researcher concluded that 80% of the victims of denial of property and gender based violence are female and the male formed only 20%.

#### 4.5. Responses to the causes of gender based violence

**Table 5: The causes of gender based violence**

Respondent	Denial of property	Drunkenness	Poverty	Education	Peer	Customs
Village responses	45%	30%	70%	40%	60%	35%
LCs	40%	70%	60%	50%	35%	50%
Police	50%	75%	65%	40%	15%	45%
RDCs	45%	80%	60%	45%	20%	50%

From the above table, many respondents agreed that they suffer gender based violence as a result of denial of property ownership and poverty because they cannot afford to buy

domestic basics and essential needs, and the small land they own is being deprived of them by their spouses.

Emancipation of women was also cited by the respondents that to be one of the causes of GBV, That's to say that most educated women undermines their husbands since they are able to look after themselves even without the husbands and this has been said to be an unaccepted practice by men leading to family conflicts and so family break ups which leaves many with no property owned by themselves.

The respondents also revealed that at times they suffer gender based violence when their spouses suspect that they are in another relationship with another partner and because they are jealousy they start abusing or at times fighting with them.

The interviews carried out with the Local Council Chairperson of Igamba Village and other executive members revealed that 70% of the women who have suffered gender based violence are drunkards who spend most of their income in bars and their husbands cannot tolerate it. Other women suffer domestic violence as a result of poverty, whereby 60% of women who are not working are either abused, insulted and at times battered by their spouses. Most educated working men are chaotic and some are quarrelsome in their homes.

Records from police and the interviews with the office-in-charge of Family Division Igamba Central Police station reveals that from their interrogation of the spouses who were accused of gender based violence showed that the most causes of domestic violence is drunkenness. 75% of most men spend most of their time in bars and failure to look after their families.

The data collected from the RDC's office reveal that 80% of the complaints who complaint of domestic violence were men who spent most of their times in bars. Who had abandoned their responsibilities at home and wanted to be respected and be given food they did not buy they also grab land from their wives, 65% of those suffering from domestic violence were poor and not working.

**Table 6: This table represents responses to the interviews administered in the search for information on ownership of property in relation to gender based violence analysed according to the levels of education in percentages**

Education	Total respondents	A	B	C	D	E	F	G
No education	15	30%	70%	60%	40%	66%	41%	43%
Primary	30	15%	23%	38%	46%	46%	38%	32%
Secondary	35	20%	26%	33%	53%	46%	32%	30%
Tertiary	15	20%	40%	30%	50%	30%	40%	20%
University	5	25%	25%	50%	75%	25%	60%	12%
Averages	25	22%	36.8%	42.2%	52.8%	25%	42.2%	27.2%

**A** =Violence as a result of drunkard ness

**B**=Poverty

**C**= Rigid and primitive customs

**D**= Denial of property ownership

**F**=**G**=weaknesses of the law enforcement bodies

From the above findings, it is very clear that denial of property ownership to women resulting into gender based violence has greatly retard economic growth in Iganga (52.8%). And this is followed by the rigid and primitive customs of the Basoga where they regard sex superiority in favour of male persons at the detriment of women (42.2%). The same findings discovered that 42% of the respondents were of the view that the weaknesses in law enforcement by the responsible authorities like police and LCs against perpetrators of gender based violence has contributed to gender inequalities. The researcher went ahead to inquire into those who reported the cases of gender violence and came up with a conclusion that most of the cases are reported by women and on rare occasions men report cases GBV to authorities and statistic indicated that only 42% reported GBV to the authorities, the researcher also noted that from the findings the number that was complaining of

Government's failure to sensitize society on the equal rights of men and women to own property as a root cause of gender based violence is very low to the percentage of 272%. "

#### **4.6 Conclusion**

The data analysis involved critically analyzing the data collected from the interviews by placing the information into themes or areas of knowledge, classifying the data according to the age and education in order to relate the findings back to the literature, research theories to enable the research questions to be answered. The views and practices of the respondents were not discredited at any point nor were other literally piece. All of them have been compared and contrasted to create a creditworthy discussion. The guided questionnaires helped the researcher to limit the scope of research and clarify the exactly what the study is concerned. Gender based violence in relation to denial of property ownership is a sensitive " area of study hence extra care was taken not to cause harm to others neither to embarrass the respondent. Debriefing of the participants occurred after filling the questionnaire had been concluded where confidentiality was reiterated and affirming the respondent that the purpose of the study was for academic purposes and that it can only be further used to lobby the legislators to put mechanism in place to help the victims. The participants were passionate in declaring that government and all other civil societies have not been of any help



## **CHAPTER FIVE:**

### **RECOMMENDATIONS AND CONCLUSIONS**

#### **5.1 Introduction**

The study aimed at establishing the factors influencing denial of property ownership to women and gender based violence against women in Eastern region of Uganda particularly Iganga district putting into consideration the socio- demographic and economic characteristics of the respondents the following are the settled recommendations and conclusions made by the researcher.

#### **5.2 Summary**

The study used was the Uganda Demographic Health Survey data of 2006. The study population were women in reproductive ages, 18 – 70 years. Analysis was done at 3 levels, univariate, bivariate and multivariate. At bivariate analysis the study established that, a woman's education level and frequency of partner getting drunk had a significant association with spousal sexual violence among women of Eastern Uganda particularly Iganga district. Multivariate analysis showed that of the 2 variables that showed significant association at bivariate level (frequency of partner getting drunk and the woman's education level) showed a significant association with spousal sexual violence in Iganga district.

#### **5.3 Conclusions**

The study was set out to establish the factors influencing gender based violence against women in Iganga and property holdings as a cause of gender based violence. The findings in this study showed that a woman's education level and frequency of partner getting drunk have a net effect on sexual violence against women in Iganga part of Eastern Uganda. Therefore it should be concluded that gender based violence in Iganga District is influenced by a women's education level, coupled with spouses' engagement in alcohol misuse or abuse.

#### **Women's Land Rights in Uganda**

The tenure, ownership, and management of land, and to improve the delivery of land services to the population by decentralizing land administration. During the period leading up to the passing of the Land Act, women's rights activists lobbied Parliament for the inclusion of women-friendly provisions in the Act. The impetus to raise women's concerns arose in part from the Constitution itself, which is a progressive and gender-sensitive

document that recognizes women's rights generally and the rights of all Ugandan citizens to land ownership. The women- friendly provisions incorporated in the Land Act include the following:

Section 40 of the Land Act as amended requires the prior written consent of both spouses in transactions involving family holdings, defined as land on which the family ordinarily resides and from which they derive sustenance.

Section 28 of the Land Act as amended prohibits decisions affecting customary land that deny women access to ownership, occupation or use of any land, as well as decisions that impose conditions violating constitutional provisions protecting women.

#### **5.4. Recommendations**

From the study and analysis it has been observed that to address spousal sexual violence, there is need for people to know their human rights issues which affect everyone, irrespective of economic status. Prevention should start with every individual and need to differentiate modes of socialisation. The messages they give young people as they grow up in the home, community, church and school should be positive and based on moral teachings. The bible and Koran are good because they teach between good and bad.

From the findings of the study strategies aimed at promoting education of the girl-child and literacy programmes for women are likely to be beneficial in the prevention of intimate gender based violence.

Economic empowerment of women is critical; girls should be trained to be self-reliant to be able to say no. This should be done through improving on the well-being of vulnerable women in Iganga and Eastern Uganda at large so that they are employed. It will help the women educate their children so that they can grow to cater for their basic needs of life. This will help eradicate sexual violence which has existed among the poor women all over the world and the solution is to empower women and reduce their dependence on their partners. This can be done through availing credit to women at lower interest rates through micro-finance institutions.

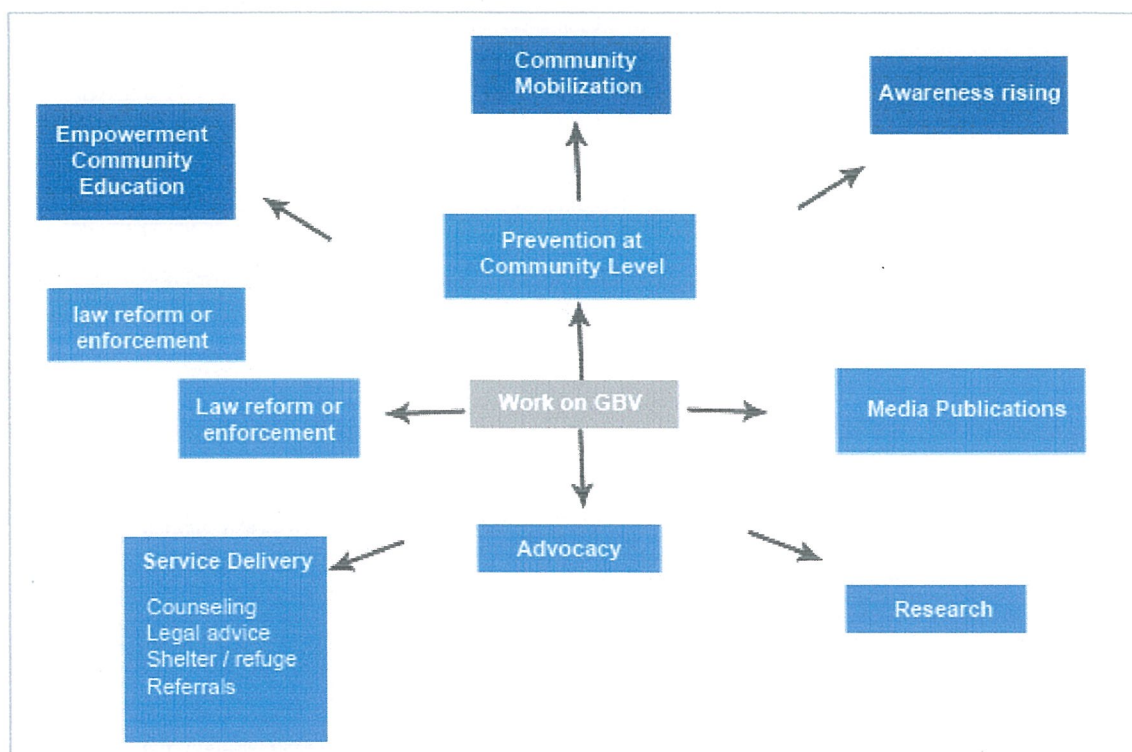
There is also need to address poverty which draws people into alcoholism, the main driver to spousal sexual violence. Therefore is an urgent need to regulate alcohol consumption in the regions, where men have resorted to alcohol abuse by taking it in early mornings however, it should be noted that many do it out of lack of employment, or it is cultural therefore

regulation on alcohol consumption should be followed with drastic measures like increasing taxes and prices of local brew.

The communities in the regions should be told about the dangers of gender based violence. Men should be educated about the means with which to avoid such dangerous acts which has various consequences if it is not mitigated such as family breakdown and other issues like murder and long term prison sentences.

The country needs strong bodies and judiciary so that victims are handled professionally, if someone is convicted, let that conviction stand but if they are found innocent let it not be due to technicalities. There is also need to train and mobilise the police so that they can enforce the law effectively, currently the Domestic violence Act of 2010 was passed by the legislature to curb the gender based violence in the country.

The above recommendation should be the responsibility of the central government, local government and local council I, II and other related public/ private agencies. It can also be the responsibility of the local and international non- governmental organizations (NGO's) and other important actors who can prevail against this vice in society. Programmes for the prevention of gender based violence and intimate partner violence need to target these underlying factors as a way of combating the high levels and increasing gender based violence in Iganga district, eastern Uganda and Uganda at large.



## ADVOCACY STRATEGIES

Women's rights activists and women's rights groups have continued to lobby for the inclusion of the co-ownership clause in the present Land Act. They have employed several strategies, including the following;

Under the leadership of two main umbrella groups, the **Uganda Women's Network (UWONET)** and the **Uganda Land Alliance (ULA)**, several sectors of the women's movement have combined their expertise and resources to pressure Parliament to pass the co-ownership clause. Through networking, the two groups have been able to set up meetings with key policy-makers, and have organized public forums to discuss the matter. One major outcome of the collaboration was the realization that the co-ownership clause alone would have little effect if family laws remained discriminatory against women. Since co-ownership was intended to raise the stakes of women in the home, legislation governing domestic relations needed to be passed to further cement women's rights.

Conclusively, the above findings, recommendation and conclusion are based on evaluated and analysed facts on matters of fact like women activists groups, Non – governmental organizations and legal principles in the laws of Uganda fully assented to by the president like the Land Act, the Domestic violence Act of 2010 among others as clearly discussed, analysed, researched and recommended.

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## APPENDIES

### APPENDIX A

#### RESEARCH QUESTIONNAIRES

##### General Respondents

Dear Respondents

I am BALISANYUKA BABRA a fourth year students of Kampala International University pursuing a Bachelor's Degree of Law (LLB). Am carrying out my research on ownership of property and gender based violence in Iganga district. I humbly request you to fill these questionnaires with all honest. This research is purely for academic purposes and all information given will be treated with utmost faith, confidentiality, privacy and protection of dignity of my respondents.

Please Tick in the box where provided



1. Sex                      Male                      ☐                      Female                      ☐

2. Age bracket

A) 18-30                      ☐                      B) 31-50                      ☐                      B) 51-70                      ☐                      C) above 70                      ☐

3. Level of education

a) 0-P7                      ☐                      b) S1-S6                      ☐                      c) Tertiary-University                      ☐

4. Occupation

.....

5. Religious affiliation

.....

6. Marital status    a) single                      ☐                      b) married                      ☐                      c) divorced                      ☐                      d)                      ☐  
widowed

7. If married how long have you been married?

.....

8. Have you ever been a victim of denial of property ownership and domestic abuse?

Yes ☐

No. ☐

9. What was the nature of abuse? (Please mark boxes relevant)

a) Physical ☐

b) Mental ☐

c) Financial ☐

d) Sexual Other ☐

10. Who was the perpetrator? ☐ Male ☐ Female

11. How long did the abuse last for? a) Just for hours ☐ b) 1Day ☐ c) A Week ☐  
d) A Month ☐ e) More than a month ☐

12. Where did you report the abuse?

a) Friend ☐

b) Family ☐

c) Religious Leader ☐

d) LC, Police or

any other area authority ☐

13. If you reported the abuse to police or LCs did they believe you?

a) Yes ☐

b) No ☐

c) Not sure ☐

14. If you reported the abuse to LCs or police or any other authority how did they treat you?

.....

.....

15. Did the LCs or police that other authority take action upon the perpetrator? Yes

No ☐

☐

If yes give details of the action taken

.....

16. Were you satisfied with the action taken a) yes ☐ b) no ☐ c) not sure ☐

17. Were you ever blamed (by LCs or police) to be the perpetrator

a) Yes ☐

b) No ☐

c) Not Sure ☐

18. Did you have to leave the family home or attempt to leave home as a result of that violence?

a) Yes ☐

b) No ☐



19. In case you and your partner have children, usually what happens to the children during such violence or abuse?

.....

20. Was your case investigated/prosecuted? (Please Give Details)

.....

21. If you didn't report the abuse could you give reasons as to why?

.....

22. Do you think male victims of denial of land ownership and gender based violence abuse are getting enough attention?

a) Yes ☐                      b) No ☐                      c) I don't know ☐

23. Do you think there is enough publicity about do denial of land ownership and gender based abuse?

a) Yes ☐                      b) No ☐                      c) I don't know ☐

24. If not, what more could be done to help victims of domestic violence?

.....

.....

## APPENDIX B

### FEMALE RESPONDENTS BEING INTERVIEWED IN A GROUP DISCUSSION, IGANGA DISTRICT (NABUKOONE VILLAGE)



## APPENDIX C

### A MAP OF IGANGA DISTRICT

