AN ANALYSIS OF THE PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES’ RIGHTS ON THE RIGHTS OF WOMEN IN AFRICA: A CASE OF WOMEN’S PROPERTY RIGHTS IN GHANA

BY

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LEGON

JULY 2015
DECLARATION

I hereby declare that, except for references to other authors which have been duly acknowledged, this dissertation is the result of an original work conducted by me under the supervision of Dr. Peace Medie. I further declare that no part of this work has been submitted anywhere else for any other purpose.

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DATE: ........................................
DEDICATION

This study is dedicated to Mr. Ekow Dennis, the staff of Initiative for Gender Equality and Development in Africa (IGED-Africa) and all who are working towards implementing the Maputo Protocol in Ghana.
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<tr>
<td>ACHPR</td>
<td>African Commission on Human and Peoples’ Rights</td>
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<td>African Charter</td>
<td>African Charter on Human and Peoples’ Rights</td>
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<td>AIDS</td>
<td>Acquired Immune Deficiency Syndrome</td>
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<td>CEDAW</td>
<td>Convention on the Elimination of All Forms of Discrimination against Women</td>
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<td>CHRAJ</td>
<td>Commission on Human Rights and Administrative Justice</td>
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<td>COHRE</td>
<td>Centre for Housing Rights and Evictions</td>
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<td>DOVVSU</td>
<td>Domestic Violence and Victims Support Unit</td>
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<td>DOW</td>
<td>Department of Women</td>
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<td>FAO</td>
<td>Food and Agriculture Organization</td>
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<td>GCWA</td>
<td>Global Coalition on Women and AIDS</td>
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<td>HRAC</td>
<td>Human Rights Advocacy Centre</td>
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<td>HIV</td>
<td>Human Immunodeficiency Virus</td>
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<td>ICESCR</td>
<td>International Covenant on Economic, Social and Cultural Rights</td>
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<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
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<td>ICRW</td>
<td>International Center for Research on Women</td>
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<td>IGED-Africa</td>
<td>Initiative for Gender Equality and Development in Africa</td>
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<tr>
<td>LAWAN</td>
<td>Leadership and Advocacy for Women in Africa</td>
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<td>Maputo Protocol</td>
<td>Protocol to the African Charter on Human and Peoples’ Rights</td>
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<tr>
<td>Acronym</td>
<td>Description</td>
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<tr>
<td>MCA</td>
<td>Matrimonial Causes Act</td>
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<td>MOWAC</td>
<td>Ministry of Women and Children</td>
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<td>MoGCSP</td>
<td>Ministry of Gender, Children and Social Protection</td>
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<tr>
<td>NGO</td>
<td>Non-Governmental Organization</td>
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<td>OAU</td>
<td>Organization of African Unity</td>
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<tr>
<td>OHCHR</td>
<td>Office of the High Commissioner for Human Rights</td>
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<td>OP-CEDAW</td>
<td>Optional Protocol to the Convention of all forms of Discrimination against Women</td>
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<td>PNDC LAW 111</td>
<td>Intestate Succession Law 1985</td>
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<td>UDHR</td>
<td>Universal Declaration of Human Rights</td>
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<td>UNCEW</td>
<td>United Nations on the Elimination of Women</td>
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<td>WILDAF</td>
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ABSTRACT

In Ghana, as in many African countries, women’s right to access, own and control property is fundamental to their economic survival and empowerment. Yet, women’s rights to property have become particularly challenging. This has made women’s right to property firmly recognized in various international and regional human rights instruments. At the regional level, the Maputo Protocol clearly protects women against discrimination and seeks to change discriminatory practices that deny women secure rights to property and other productive resources. To this end, Ghana ratified the Maputo Protocol in 2007. This study identifies that despite the legal provisions that protect women’s property rights in Ghana, women are still denied secure rights to property. Towards this end, the study seeks to assess the extent to which Ghana has implemented the Maputo Protocol and identified some of the hindrances to the realization of women’s property rights in Ghana. Data were obtained from primary and secondary sources for analysis, guided by qualitative research methodology. The study revealed that, even though Ghana has made progress towards creating a favourable legal environment and institutions to promote women’s property rights, however, there is a gap between theory and the realization of women’s property rights. The study identified lack of awareness of the Maputo Protocol as a major impediment to its implementation which hinders women’s property rights in Ghana. Therefore, this study concludes that a lack of awareness of the Maputo Protocol among government officials and the general public impede the implementation of this Protocol in Ghana. In this vein, the study proposes effective mechanisms that would enhance the implementation of Article 7(d) and 21(1) of the Maputo Protocol towards the realization of women’s property rights in Ghana.
CHAPTER ONE

RESEARCH DESIGN

1.0 Background to the Research Problem

Human rights are applicable to everyone regardless of gender, race, religion, nationality and any other status. These include the right to acquire, control, own and inherit property. Globally, ownership of property (land and housing) is a means of livelihood and a measure of wealth for both men and women. According to the Food and Agriculture Organization (FAO), ownership of property provides several benefits to people in various ways, particularly, land and housing. One of such benefits is a secure place to live. Women’s property rights are also essential to their economic security, physical safety and survival. This is so because women generate income from this property and the realization that they have rights empower them to make claims when needed. Thus, property remains a vital source of livelihood in developing countries and Ghana is not an exception.

In Ghana, as in many African countries, the role women play in the sustenance of their families and communities is important to the development of their nation. For instance, within the agricultural sector, they perform most of the farming, processing and distribution activities, within the industrial sector, they perform manufacturing activities and within the services sector, they perform wholesale and retail trade activities. A study conducted by the International Centre for Research on Women (ICRW) shows that in developing countries, women produce half of the world’s food. That is, they perform about 50 percent of the world’s food production and between 60 and 80 percent of food production in developing countries.
However, a major hindrance to women’s human rights in Africa is the pervasive denial of their rights to control and inherit property. Women face several challenges with respect to ownership and inheritance of property. This undermines their right to livelihood, economic security, and independence, making them vulnerable in such communities. Therefore, the need to guarantee women’s human rights has been emphasised. To this effect, the international community has realized the need for countries to guarantee women’s property rights as a major step towards achieving women’s human rights and empowerment as stipulated in several human rights instruments.

Women’s property rights, therefore, are human rights and have been given meaning by a growing number of international and regional instruments that recognize women’s property rights as human rights. These include: the Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), the African Charter on Human and Peoples’ Rights (Banjul Charter). The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol) recognizes women’s rights to an equitable share of property between spouses in cases of divorce, separation & annulment Article 7(d) and for widows Article 21 (1). Ghana has ratified the Maputo Protocol, which was adopted in Maputo, Mozambique, July 2003. The Maputo Protocol recognizes that women’s rights are inextricably connected to other rights like land and housing rights. This means the violation of one set of right, can lead to violation of other rights. Ghana has made progressive efforts towards implementing laws that promote women’s property rights. These efforts include provisions for women’s property rights in the 1992 Constitution of Ghana that provide for every person, the
right to own property, either alone or in association with others (Article 18). The Constitution again requires parliament to regulate equal access to property jointly acquired during marriages, between spouses and upon dissolution of the marriage (Article 22). Further, The Intestate Succession Law, 1985 (PNDC LAW 111), was designed to eliminate all forms of discrimination in the distribution of property upon intestacy by granting equal rights of succession to all spouses and children of the intestate, irrespective of their race, ethnic group or age. Notwithstanding the provisions in the legal instruments above, studies have shown that, in Ghana, women are denied their rights to property.

1.1 Statement of the research Problem

Ghana is a party to numerous international human rights treaties, including the Maputo Protocol, which has provisions that protect women’s property rights. Apart from ratification, Ghana has gone a step further to pass the Intestate Succession Law in 1985 (PNDC LAW 111) and further translate these provisions into the 1992 Constitution which transformed the system of property distribution legally in Ghana.

Despite these progressive efforts by the government of Ghana at the legal front, in practice, Ghanaian women are still facing challenges in realising their property rights. These women experience denial of property ownership and inheritance. A study conducted by the Centre for Housing Rights and Evictions (COHRE) shows that in Ghana women contribute highly to the economic wellbeing of their families such as; they cultivate over 40 percent of farmland, but they exercise little or no independent control over the land. In this regard, they do not enjoy any economic independence, safety and survival. Most women face challenges in the realization of their right to property as a result of various discriminatory practices they are made to go through during marriage, at the dissolution of marriage and during the death of their
spouse. For example; widows often suffer “property grabbing” following the death of their spouse and this makes them homeless and destitute.  

A study conducted by the International Centre for Research on Women (ICRW) shows that, women do not enjoy their rights to property because of the existence of customary law in many developing countries. Another study conducted by COHRE also shows that, Ghanaian women continue to suffer discrimination from ownership and inheritance of property due to the customs and traditions that discriminate against them.

Furthermore, a study of women’s inheritance rights in Africa by Richardson Abby shows that, in Ghana, despite the legal provisions that protect women’s property rights, there are also persistent customary laws that hinder women from inheriting property. He concluded that one major impediment to the implementation of the law is the lack of public education. Scholars have critically captured the extent to which customary practices have limited international and regional instruments and domestic laws from protecting women’s property rights in Ghana. However, Ghana is widely seen as a leader in establishing inheritance rights in Africa because it has made progress in integrating international human rights laws and standards. In this vein, review of literature has shown that customary laws hinder women from realizing their rights to property, which can impede the implementing of Article 7(d) and 21(1) by the government of Ghana. Thus, there is a need to examine the extent to which the government of Ghana has implemented Article 7(d) and Article 21(1) of the Maputo Protocol. Articles 7d and 21 (1) have been chosen because they explain the importance of women’s property rights and the need for the government of Ghana to implement these articles to enhance women’s property rights, which is the focus of this study.
1.2 Research questions

a) What are the impediments to the implementation of Art 7(d) of the Maputo Protocol?

b) Are women aware of the legal provisions that protect their rights to property in Ghana?

c) To what extent has the government of Ghana implemented Article 7(d) and 21(1) of the Maputo Protocol?

1.3 Objectives of the study

a) To find out the impediments to the implementation of Art 7(d) of the Maputo Protocol.

b) To find out women’s awareness of the legal provisions protecting their rights to property in Ghana.

c) To find out the extent to which the government of Ghana has implemented Article 7 (d) and 21(1) of the Maputo Protocol.

1.4 Rationale of the Study

The rights of women have been a subject of debate not only at the national level, but also at a number of international fora. Women’s right to property, therefore, has been given prominence in legal instruments such as the Maputo Protocol. Despite these legal attempts to enhance women’s right, there appears to be a challenge to the implementation of the provisions of this treaty in Ghana. Thus, women face discrimination and denial of their property rights. The implementation of the Maputo Protocol by the government of Ghana require critical assessment in order to devise appropriate measures to enhance women’s right to property. This study seeks to add to the body of knowledge of existing literature on advancing women’s property rights and how it can enhance the lives of most Ghanaian women. This study also proposes effective and appropriate mechanisms that would help to enhance women’s right to property in Ghana.
1.5 Scope of the Study

Ghana ratified the Maputo Protocol which has provisions that explicitly provide for the equal rights of women to land and property in marriage. In that regard, this study was limited to analysis of Article 7(d) of the Maputo Protocol which requires “States to ensure that in case of separation, divorce or annulment women and men shall have the right to an equitable sharing of the joint property deriving from the marriage” and Art 21(1) which states that; “a widow shall have the right to an equitable share in the inheritance of the property of her husband. A widow shall have the right to continue to live in the matrimonial house. In case of remarriage, she shall retain this right if the house belongs to her or she has inherited”. To this effect, Article 7(d) and 21(1) of the Maputo Protocol are directed towards addressing the challenges women face in pursuing their right to property (housing and land among others) during divorce, separation, annulment or after the death of their spouse as relevant to this study. The study also covered women’s property rights in Ghana within the timeframe of 2007 to 2015. This timeframe helped to analyse the implementation of the Maputo Protocol by Ghana after its ratification in 2007.

1.6 Hypothesis

Domestic implementation of the Maputo Protocol can contribute to the realization of women’s property rights in Ghana.

1.7 Theoretical framework

Liberal feminism is a form of feminism that argues that equality for women can be achieved through legal and social reforms. Liberal feminists perceive women’s rights to property as the ability of women to benefit fully or equitably from their labour on ‘land and acquisition of property.’ Liberal feminists argue that, women’s right to property is threatened because the man who is the landowner does not only determine how the land would be used but also manages
products and labour of the land or property. Liberal feminists accept the public sphere as it is and seek to bring women into it on the same terms as men. This has to do with the concern to grant women legal rights to be educated, to vote and to own and transfer property.\textsuperscript{17}

It is important to note that, liberal feminism theory is relevant to the understanding of the rights that exist to promote gender equality and to protect women’s rights. Liberal feminists assert that the government of every country has the obligation to implement the provisions of human rights treaties. However, the realization of women’s right to property requires the participation of and commitment from government and civil society. Liberal feminists, therefore, identifies that women can better realize and enjoy their rights if the appropriate mechanisms are put in place to ensure implementation of women’s rights treaties at the international, regional and domestic level. They, therefore, strive to change laws that discriminate against women’s right to property and adjust marriage laws that subject wives to their husbands.\textsuperscript{18} Liberal feminists have always promoted equality of legal rights for women.\textsuperscript{19} However, liberal feminists have been criticized by other feminists such as black feminists and postcolonial feminists. They assert that mainstream liberal feminism reflects only the values of middle-class white women and has largely ignored women of different races, cultures or classes.\textsuperscript{20} These critiques add that, liberal feminism focuses too much on women becoming like men and unnecessarily denigrates the importance of traditional female roles. Other feminists also question liberal feminism’s focus on the individual and not on the community. Authors associated with this liberal theory include Mary Wollenstonecraft, John Stuart Mill and Betty Friedan.

Liberal feminism is significant to the study because liberal feminists promote the quality of legal rights for women and asserts that the government of every country has the obligation to
implement the provisions of human rights treaties. This would help to identify the impediments to implementing the Maputo Protocol in Ghana.

1.8 Literature Review

The study reviews available scholarly work from different sources such as books and journal articles. It further provides an in-depth analysis of the implementation of women’s human rights instruments on the continent. This review is based on the following themes: (1) International human rights (2) Women’s human rights in Africa (3) Women’s access to human rights.

In a study by Chimere Obodo, he highlighted the emergence of international human rights instruments. This was adopted from the Universal Declaration of Human Rights (UDHR) which facilitated the creation of regional human rights instruments to tackle all human rights issues in the African region.21

In another study by Thomas Risse and Kathryn Sikkink that examined socialization of international human rights norms into domestic practice, they emphasized certain provisions in the UDHR that have been accepted as universal rights and not simply associated with a particular political system. They established that, the process of internalization and domestic implementation of international norms can be understood from the process of socialization. They indicated that these international norms should be adopted by states, translated into domestic laws and the appropriate platforms created for nationals to gain knowledge on these laws and understand their application.22 The researchers also explained the link between human rights norms and domestic practices. In this regard, they recognized that international human rights norms, regimes and principles are implemented at the domestic level, which ultimately affect the political transformation of states. However, they argue that these international norms should not be studied in isolation without examining their impact on domestic politics. They describe some
countries with cases of human rights violations such as Guatemala, Kenya, Uganda, Morocco, Tunisia and Indonesia. According to Risse, and Sikkink, these cases are suitable for explaining the conditions in which domestic practices could change as a result of influence from international human rights norms, different cultures, institutions and the varying effects of norms across states.\(^{23}\) In this regard, one can identify that, the protection and promotion of human rights is a global concern. Oji Umozurike however, pointed out that, in 1970, human rights in Africa had been far less developed.\(^ {24}\) George Mugwanya also acknowledged that Africa experiences the highest human rights violations than the developed world like Europe and America.\(^ {25}\) This means Africa has not made much progress with respect to the protection of human rights in the region.

Esther Kisaakye identified culture as a key obstacle to the enjoyment of women’s human rights in Africa. She asserted that there is tension between women’s human rights and culture. This tension impedes the implementation of human rights treaties. She discussed the implementation of the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) and the Maputo Protocol which were the basis of her argument. That notwithstanding, she also noted that, there has been progress in the efforts to deal with discriminatory practices at various levels in some countries, yet the level of change in the various communities is questionable.\(^ {26}\) Angela Banks also identified the application of customary law as the significant blockade to changing the practices that do not conform to the provisions of the CEDAW.\(^ {27}\) The above mentioned authors recognized application of discriminatory practices and customary legal rules as the impediments to the realization of women rights.

Similarly, Angela Banks in her study examined human rights treaty compliance using international and regional human rights instruments with a focus on human rights enforcement in Sub-Saharan Africa. She explored married women’s access to property in Uganda and Rwanda
with a focus on the CEDAW Committee jurisprudence and its enforcement in Sub-Saharan Africa. The Ugandan experience provides a background to the problems faced by other countries in Sub-Saharan Africa. Like most African countries, most women depend on property, particularly land, for their livelihood. The land is usually passed on to these women through inheritance. In this regard, the lack of access to property subjects these women to unfair treatments by their husbands or relatives. This has therefore influenced women’s organizations in Uganda to embark on advocacy to protect women’s access to property.

Banks used women’s property ownership in Uganda as a case study to explain major obstacles in the enforcement of international human rights instruments in Sub-Saharan Africa. This article is relevant to this study because it gives a background to the challenges women in Uganda face in the realization of their property rights. However, it fails to discuss the hindrances to realising women’s rights to property in Ghana.

Obodo established that, the impediments to human rights implementation in Africa by most governments has to do with the lack of domestic enforcement mechanisms. These mechanisms are legal norms establishing the parameters of human rights, government institutions monitoring, publicizing, enforcing human rights standards and non-governmental groups pressuring government to advance the cause of human rights. Michael Haas further pointed out three challenges that states face in the promotion of human rights. These are standard setting, information dissemination and implementation.

Risse and Sikkink’s found that another obstacle to the implementation of human rights treaties stem from the fact that some governments usually change their human rights practices in order to protect their image. Thus, they sign on without the intention to implement these human rights treaties. Rather, to redeem their image in the international sphere.
In Eric Neumayer’s study of how international human rights treaties improve respect for human rights, he asserts that the ratification of a treaty is linked to the existence of a strong civil society in a state. He explains that existence of a strong civil society therefore, is more likely to have an effect in a democratic state. Neumayer identified from his work that, a state with a weak civil society is less likely to experience protection of human rights as there are records of most cases where violations of human rights increase in these countries.

Neumayer asserts that in order for a state to improve its human rights situation, ratification of human rights treaties alone does not guarantee this goal. Banks calls on states to pay full attention to domestic enforcement by putting legal, social and economic mechanisms in place to enable them fulfill their obligations effectively. Banda agrees with Banks and calls on the governments of every state to ensure that there are mechanisms in place to address the cultural issues that impede the implementation of the human rights treaty, since it is the obligation of the government to protect the human rights of their nationals. Her argument is based on the fact that culture in itself has both positive and negative components and in the case of these discriminatory practices, there are several strong arguments in some countries that support their continual performance. Although such discriminatory practices may be fought through constitutional protection and legislative intervention, this does not reflect the reality on the ground.

Banks adds that states are not only required to harmonize their existing traditions and customary practices with their human rights instruments. They are required also to ensure domestic enforcement of these international legal instruments irrespective of their cultural relativism which poses a barrier to the effective implementation of these international human rights laws. According to Banks, two key components explained what a successful domestic
enforcement entails. These components are; adaptation and adoption. The former has to do with the unification of international legal instruments into domestic legal systems by states. In this case, the domestic laws of the state are amended to reflect the particular human rights instrument that has been ratified. The adaptation concept therefore, has to do with the efforts by states to create awareness and ensure that nationals gained full knowledge of the various international and human rights treaties that they ratify.37 She argued that this aspect of domestic enforcement by states can be achieved through collaboration with human rights organizations to educate their nationals on the human rights instruments ratified by the state and how it can be useful to their nationals.38 Banks and other scholars explain that states easily commit to human rights treaties but will fail to fulfill their obligations or adjust their practices in accordance with the treaty. She added that, a state that has what it takes to enforce its human rights obligations in the domestic sphere is likely to experience less violations, since they are rectified with time.39 One can establish from this literature that, the human rights provisions that establish the rights of women are explicitly spelt in the various human rights treaties out and once ratified must be respected and promoted accordingly. This article is therefore significant to the study because it recognizes that, human rights treaties cover a comprehensive set of goals that is focused on protecting, promoting and respecting specific rights such as women’s property rights among others and can be effectively implemented at the domestic level. The literature, however, fails to highlight the major challenges that impede the implementation of the Maputo Protocol by the government of Ghana.

Mugwanya in his study analysed the role and effectiveness of regional human rights mechanisms for the implementation of universal human rights norms. He evaluates the African human rights system and suggests strategies towards its transformation.40 George provides an
overview of the role of regional systems established in Europe, America and Africa for a better appraisal of their effectiveness. He argued that, regional systems are more effective when it comes to the application of human rights norms than the systems with universal scope. He based his arguments on the fact that, regional systems are flexible and adapt to change easily as a response from the domestic level. Mugwanya took a regional approach to the African Charter to suggest that through institutional and normative reforms, the African human rights system will become better. To that effect, he suggests the adoption of an additional protocol to achieve this. Notably, the writer argues that states are obligated to protect categories of rights, regardless of the implementation mechanisms these rights require. However, he failed to highlight the specific challenges that Ghana is facing in the implementation of the Maputo Protocol (a regional human rights treaty, after ratification. This is the gap this study aims to fill.

Further, Banda acknowledges that, African states have made progressive efforts towards ratification of human rights instruments, but there are still challenges at the level of regional legislation. She therefore highlights the provisions of the Maputo Protocol and explains that the protocol recognizes the impediments of accessing rights in Africa. Thus influenced the call to states parties to work towards implementing and enforcing the rights found within the protocol. This article is significant to the study because it recognizes the Maputo Protocol as a progressive step towards addressing the violations of women’s rights in Africa and the need for the government of Ghana to implement this treaty.

Noting the literature that has been reviewed on the implementation of human rights instruments, the objective of the study is to identify the impediments to the implementation of the Maputo Protocol in Ghana and how they can be addressed to ensure the promotion and protection of women’s property rights in Ghana.
1.9 Sources of Data and Methodology

This study employed primary and secondary data for analysis. Data gathering and analysis were guided by qualitative research methodology. Primary sources of data were gathered through semi-structured interviews discussed with government officials and non-governmental organisations with the mandate to protect and promote women’s property rights such as the project, monitoring and evaluation officer from the Department of Women (Ministry of Gender, Children and Social Protection), the women’s rights coordinator of the Commission on Human Rights and Administrative Justice, three women’s department officers of Domestic Violence and Victims Support Unit (DOVSSU) and a registrar and two mediators of the Family Tribunal in Accra. The officials in charge of women’s property rights in the above mentioned organisations are all women. These women were selected, through purposive sampling because this sampling method relies on the judgment of the researcher in selecting units required for this study. For the purpose of this study the officials selected for the interviews from the governmental agencies were those who have been charged with the mandate to facilitate the enforcement of women’s rights as well as property rights. The officials of non-governmental organisations that were selected for the interview were also those who work on women’s property rights such as the Executive Director of Women in Law and Development in Africa (WiLDAF) and the Women’s Empowerment Coordinator of Initiative for Gender Equality and Development in Africa (IGED-Africa). Purposive sampling also helped to select the population that would enable the researcher to answer questions that the study seeks to answer.

The interviews were conducted with ten women recommended by women’s rights workers from three different settings within Accra, such as Old Fadama, Nima and Abelemkpe. Ten women from Patrilineal and Matrilineal family groups were available and considered for the
interview because these women were the only ones willing and comfortable to share their experience and to provide adequate information to help achieve the objectives of the study. A semi structured interview guide was used to interview the respondents because it allows the researcher to ask the relevant questions and any extra question that would arise from the interview. Due to language preferences, interviews conducted with the women were translated to three local dialects (Ewe, Twi and Ga). Participants were comfortable with being recorded but asked that their details be kept confidential.

Secondary sources of data were books, journal articles and project reports and the Maputo Protocol manual.

1.10 Arrangement of chapters

This work would be organized into 4 chapters;

Chapter 1: The research design which entails background of the research question, statement of the problem, research questions, objectives of the study, rationale and scope of the study.

Chapter 2: An overview of Maputo Protocol and women’s property rights in Africa.

Chapter 3: Analysis of data gathered from the interview, explaining the situation of women’s rights to property in Ghana.

Chapter 4: Summary of findings, conclusion and recommendations.
Endnotes

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CHAPTER TWO
OVERVIEW OF WOMEN’S PROPERTY RIGHTS AND RELEVANT HUMAN RIGHTS INSTRUMENTS

2.0 Introduction

Considerable amounts of literature bearing on women’s rights and instruments have been discussed by most writers and activists.

Gender as defined by Kevane Michael refers to the constellation of rules and identities that prescribe and proscribe behaviour for persons, in their social roles as men and women. These rules and identities may be deliberate or unintended, explicit or implicit, conscious or unconscious. Gender roles are applicable to all societies of the world, irrespective of their race, culture, status among others. There is a need for gender analyses to be conducted in all societies, since the outcome of gendering social activity revolves around unequal and inefficient distribution between men and women. Based on the argument on equitable distribution of property between men and women in the society, influenced by gender roles, it is important to understand what property means, in the context of this study.

Property has been defined as “that sole and despotic dominion which one man claims and exercises over the external things of the world, in total exclusion of the right of any other individual in the universe.” In this regard, property can be described as anything that can be owned or controlled. Properties are either movable or immovable. Immovable properties include land, housing among others and the movable properties include livestock, items that one could start a business with among others.
As recognized internationally, human beings are relatively entitled to fundamental rights and freedom by nature or due to the fact that they are humane. These innate rights that all human beings are entitled to are referred to as human rights. According to the Office of the United Nations High Commissioner for Human Rights (OHCHR), the principal United Nations office for human rights: “Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible”. Human rights are supposed to be universal and inalienable. The focus of international human rights laws is its universality, meaning that it must be applicable to everyone without limitation. Human rights are also supposed to be equal and non-discriminatory. This means that human rights must be treated or applied to all persons without any discrimination on any basis, because “all human beings are born free and equal in dignity and rights”. Finally human rights are supposed to be both rights and obligations. In this regard, individuals have the right to enjoy all their rights and also the obligation to respect the human rights of others, whereas states are under an obligation to respect, protect and fulfill human rights.

From this definition, one can establish that these principles or standards apply to each and every human being irrespective of existing cultures and customs. Universally, human rights laws are guaranteed through various human rights instruments such as treaties, customary international law, general principles and customs. It has been established at the 1993 Vienna World Conference of Human Rights that, it is the responsibility of states to protect and promote all human rights and fundamental freedom irrespective of their political, economic and cultural structures. In this case, as stipulated in human rights treaties, states have the primary
responsibility to protect and promote women’s property rights which forms part of women’s human rights and freedoms. This means, once a state ratifies a human rights treaty, it agrees to be legally bound by the terms of the treaty. Hence it has the obligation to promote the rights or provisions the treaty describes. Regardless of the numerous international and regional human rights instruments, human rights systems in Africa are considered ineffective.8

Women's rights are therefore “the rights and entitlements claimed for women and girls of many societies worldwide.”9 These rights are established by law, supported by local custom and behaviour in some communities. On the contrary, in other communities, these rights are disregarded and violated.10 To clearly understand the meaning and nature of women’s property rights, the concept of property and women’s rights has to be viewed from a human rights perspective. From this view, human rights apply to everyone regardless of race, sex and economic position among others. On this note, women’s property rights can be described as the freedom and entitlement that is supported by law and allocated to women to own, acquire (through purchase, gift or inheritance) have access, control, sell and transfer any property, manage, administer, enjoy and dispose of tangible and intangible property as a fulfilment of their human rights. This means all women and men have the same human rights, whether African or American, educated or uneducated, married or single, rich or poor. Significantly, as stated in most international human rights law, women and men are entitled to equal legal protection of their property rights.

2.1 Global overview of women’s property rights

Globally, the role women play in the sustenance of their families and communities is important to the development of their nation. For instance, within the agricultural sector, they perform most of the farming, processing and distribution activities, within the industrial sector, they perform
manufacturing activities and within the services sector, they perform wholesale and retail trade activities. Women’s rights to property increase their autonomy and reduce their dependence on men. To this effect, a study by the Global Coalition on Women and Aids (GCWA) suggests that women who have secure access to and control over property are better able to avoid and manage Humane Immunodeficiency Virus/Acquired Immune Deficiency Syndrome (HIV/AIDS). Despite women’s right to own property and their efforts towards providing for their families, communities and nation, they are excluded from accessing and owning property. A study by Marjolein Benschop shows that, “Globally, an estimated forty one percent of women headed households live below the locally defined poverty line, with one-third of the world’s women either homeless or living in inadequate housing facilities”. It is worth noting that in addition to increasing vulnerability and reducing status, women’s lack of access to property has contributed to a decrease in food security and development. However, women’s property rights in developing countries may vary from developed countries.

Women’s property rights in developed countries vary from developing countries. In England and America, during the second half of the nineteenth century, women gained economic rights related to property, child custody, and divorce. It was during the nineteenth century that women in America and England lost their legal rights in the sense that, they were not allowed to own property or sign wills and contracts related to property ownership. However, a significant development in the history of America in the area of reform was the marital property law. In 1844, Maine emerged the first state to pass a law to allow married women to own separate property in their name. To this effect, all American women had access to some aspect of property and earnings protection. In the case of England, the Married Women’s Property Act was passed in 1870, which gave English women the right to own property. This Act greatly expanded
women’s control over personal property within marriage. According to scholars, by 1900, women in England and America had the full benefit of their economic rights.\textsuperscript{17}

The Federal Uniform Marriage and Divorce Act introduced in 1970 provided guidelines to enable women to gain a larger share of property in divorce settlements by way of adopting equitable share of property.\textsuperscript{18} It is evident that, granting property rights to women increases the scope for investment in women’s human capital, making them economically independent. Also, between 1850 and 1920, the relative investment in the human capital of women increased in states where women had gained property and earning rights.\textsuperscript{19}

2.1.1 Women’s property rights in Africa

Property rights have been identified as challenging, particularly in developing countries. More than 80 percent of the global population lacks even the most basic legal documentation of their property rights. However, the situation is most challenging for the latter; principally single mothers, widows, and elderly and disabled women in most part of developing countries.\textsuperscript{20} In developing countries, women’s right to property, especially, land and housing, is critical to their economic security and survival.\textsuperscript{21} This access to and control over property serves as one of the determinants of women’s overall economic wellbeing and empowerment in the sense that, it is the basic access to wealth for women in most Sub-Saharan countries like Ghana, Botswana, Ethiopia, Rwanda, Senegal, Swaziland, South Africa, Zambia, Zimbabwe among others. In these countries, according to Scholz, Birte and Mayra Gomez, some women can receive rents, wages and other income that is generated from the management of their property towards the development of their communities and nation. Based on the role women play in food production and provision, one can establish that women’s rights or control over the land and property increases agriculture production and improves food security in their communities and nation as a
whole. Although all these women in the developing countries depend on lands and other property to perform their roles in the families, communities and nations, they do not have secure access to property.\textsuperscript{22}

According to the Beijing +5 review process, the implementation of the Beijing platform Action in Africa has not been effective. One major factor has been economic status and decline in Africa.\textsuperscript{23} Approximately 44\% of Africa’s population, the majority of whom are women, are currently living below the poverty line of US$39 (per capita) per month.\textsuperscript{24} Women continue to lack access to resources such as property (land), capital, water and adequate food. The majority of women in Africa continue to live in economic underdevelopment and social marginalisation. In many parts of Africa, women’s rights to property are systematically denied. This is due to the existence of laws and discriminatory practices that give women fewer or less secure rights than men. Thus, undermining them and leaving most of them marginalized and destitute. Most African countries are mostly patriarchal societies. For that matter, the registration of lands and the acquisition of movable and immovable property are usually done in a man’s name (the husband or father). In this case, women cannot confidently acquire property single handedly or jointly with their spouses because some statutory and patriarchal laws that regulate property gives priority to men and allow them to own the property, hence discrimination against women’s rights to property.\textsuperscript{25} Women and girls are the most disadvantaged in Africa, as far as property distribution is concerned.\textsuperscript{26} Women’s right to property therefore is a challenge that is central to women’s struggle for equality in Africa and Ghana is not an exception. It can be identified that most women in developing countries face numerous challenges with respect to their rights to property as compared to the developed countries.
2.1.2 Women’s Property Rights in Ghana

One of the major resources or property in Ghana is land and women play vital roles in the acquisition of this property. A study conducted by Jeanmarie Fenrich shows that, in most communities in Ghana, women contribute most towards the acquisition of property, particularly, land and they do most of the jobs on these lands. For example; women perform 40 percent of land cultivation, which is an average of about half of what men cultivate, but men tend to have authority over the proceeds of the land as farm managers. One of the challenges that most Ghanaian women face is limited right to property either through inheritance, transfer or joint acquisition. Some women in Ghana are denied their rights to property, making these women homeless and poor. According to Fenrich, the restrictions posed by the traditional or customary institutions that regulate the inheritance of women in Ghana hamper efforts to the realization of women’s property rights. As a result of cultural practices, widows are denied the right to inherit jointly acquired property with their spouses.

2.2 Women’s property rights and human rights instruments

There are various international and regional human rights instruments that give meaning to women’s property rights during marriage, at its dissolution and upon the death of their spouses. At the international level, the human right standards adopted are highlighted below:

The Universal Declaration of Human Rights (UDHR)

The UDHR sets the principle of non-discrimination on the ideal standard on which each and every individual must fully enjoy his or her fundamental human rights and freedoms without anyone trampling on the rights of another, recognizes every person’s right to own property alone as well as in association with others and stipulates that “no one shall be arbitrarily deprived of his property” (Article 17).

International Covenant on Economic, Social and Cultural Rights (ICESCR)
Article 3 of the ICESCR calls on states to “undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth the present Covenant” and prohibits discrimination.\textsuperscript{26}

\textbf{International Covenant on Civil and Political Rights (ICCPR)}

Article 26 of the ICCPR enshrines equality before the law, and can be applied to defend women’s right to non-discrimination and equality, not only with respect to civil and political rights but also with economic and social rights.\textsuperscript{32}

\textbf{Convention on the Elimination of All Forms of Discrimination (CEDAW)}

The CEDAW calls on states to take appropriate measures to eliminate discrimination in laws, policies, and practices and in areas of economic life and accord to women before the law, equal rights to administer property and conclude contracts as well as equal treatment in court procedures. (Article 13-16). The United Nations Committee on the Elimination of Women (UNCEW) specifically recognizes that “the right to own, manage, enjoy and dispose of property is central to a woman’s right to enjoy financial independence and in many countries will be critical to her ability to earn a livelihood”.\textsuperscript{33}

\textbf{Optional Protocol to the Convention on the Elimination of all forms Discrimination against Women (OP-CEDAW)}

The OP-CEDAW was adopted by the United Nations General Assembly on 6 October 1999 and entered into force on 22 December 2000 after its ratification by the tenth state party to the Convention to;“reaffirm the determination of States Parties which adopt the protocol to ensure the full and equal enjoyment by women of all human rights and fundamental freedoms and to take effective action to prevent violations of these rights and freedom.” It also provides for women to enjoy their human rights.\textsuperscript{34}

The African Charter is a regional human right instrument. Member states of the Organization of African Unity (OAU), after considering the importance attached to human rights in Africa adopted the African Charter on Human and Peoples’ Rights on 27 June 1981. Although the African Charter was mandated to protect and promote human rights, its provisions are highly inadequate. Thus, non-governmental organizations (NGOs) in Africa advocated for an additional instrument that would strengthen the African Charter’s provision on women’s equality by adding rights that would protect among others, women’s property rights. This led to the development of the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol) in July 2003. Article 2 of the African Charter states that, “every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind, such as race, ethnic group, colour, sex, language, religion, political, or any other opinion, national and social origin, fortune birth or other status.”

### 2.2.1 Overview of the Maputo Protocol

At the regional level, the Maputo Protocol was created to outline a clear foundation for women’s property rights. It is the backbone of the African human rights system and a vital step towards raising the status of women. The Maputo Protocol was adopted in Maputo, Mozambique on 11 July 2003, to give support to the African Charter and entered into force on 25 November 2005 after securing 15 ratifications. It has been signed by heads of states of 46 countries out of the 53 member countries of the African Union. The Protocol had been ratified by 30 countries. These include: Algeria, Angola, Benin, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Côte D’ivoire, Comoros, Congo, Djibouti, Democratic Republic of the Congo, Equatorial

The adoption of the Protocol was inspired by a recognized need to compensate for the inadequate protection afforded to women by the African Charter. This means, the African Charter does not articulate specific violations of women’s rights which results from discrimination. The Maputo Protocol is comprehensive with its inclusion of civil and political, economic, social and cultural rights. Furthermore, the Maputo Protocol clearly protects women against discrimination and stipulates that women have a right to inherit equitable shares of property from their husbands and parents as well as buy and manage their own property. It also seeks to change discriminatory policies and practices which deny women secure rights to property and other productive resources. This is because when women are deprived of their right to property, their health, food security, economic empowerment and survival are negatively affected. For example, when women lose access to their homes and farmlands, their children and their communities are affected as well.  

The Maputo protocol is the first international human rights treaty to explicitly refer to provisions that address violence against women in relation to harmful traditional practices, child marriage, polygamy, property rights, inheritance, economic empowerment, political participation, education, and women in armed conflict. women in Africa experience greater persistent discriminatory practices, which in effect disadvantage most of them from owning property. To this effect, Article 7(d) and 21(1) of the Maputo Protocol are directed towards addressing the challenges women face in pursuing their right to property (housing and land
among others) during divorce, separation, annulment or after the death of their spouse as highlighted below;

Article 7(d) of the Maputo Protocol recognizes that; “in case of separation, divorce or annulment of marriage, women and men shall have the right to an equitable sharing of the joint property deriving from the marriage.”

Article 21(1) also states that; “a widow shall have the right to an equitable share in the inheritance of the property of her husband. A widow shall have the right to continue to live in the matrimonial house. In case of remarriage, she shall retain this right if the house belongs to her or she has inherited it.”

2.3 Legal provisions establishing women’s property rights in Ghana

The Office of the United Nations High Commissioner for Human Rights states that;

by becoming parties to international treaties, States assume obligations and duties under international law to respect, to protect and to fulfill human rights. The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfill means that States must take positive action to facilitate the enjoyment of basic human rights.

Significantly, Ghana is a signatory to the UDHR and has ratified the Maputo Protocol. This means the country is bound by the provisions of the treaty and must fulfill its obligations accordingly. Ghana has therefore made some progressive efforts in translating the provisions of the Maputo Protocol into domestic legislations in order to protect women’s property rights. These developments are captured in the 1992 Constitution of Ghana, the PNDC Law 111 and Matrimonial Causes Act and as highlighted below.

The 1992 constitution
The 1992 constitution covers provisions for a comprehensive set of human rights goals and freedom. In addition to other rights such as economic rights, there is a provision for property rights for all. This is stipulated in Articles highlighted below. Article 18(1) of the 1992 Constitution of Ghana states that:

"every person has the right to own property either alone or in association with others". Article 22 (1) requires that, “a spouse shall not be deprived of a reasonable provision out of the estate of a spouse, whether or not the spouse died having made a will.(2) Parliament shall, as soon as practicable after the coming into force of this Constitution, enact legislation regulating the property rights of spouses.(3) With a view to achieving the full realization of the rights referred to in clause (2) of this article;(a) spouses shall have equal access to property jointly acquired during marriage; (b) assets which are jointly acquired during marriage shall be distributed equitably between the spouses upon dissolution of the marriage. Administrative bodies and administrative officials shall act fairly and reasonably and comply with the requirements imposed on them by law and persons aggrieved by the exercise of such acts and decisions shall have the right to seek redress before a court or other tribunal.42

Intestate Succession 1985 (PNDC Law 111)

Another step by Ghana towards property rights of women in the area of inheritance is the development of the Intestate Succession Law 1985 (PNDC Law 111) to regulate inheritance of families at intestate. This law is another legal effort by the government of Ghana towards protection of women’s property rights through intestate inheritance.43

Matrimonial Causes Act (MCA)

In addition, the Matrimonial Causes Act (MCA) addresses issues surrounding marriage and divorce between spouses. It is also another step in the direction of securing the property rights of spouses, as highlighted below.

Apart from the 1992 Constitution of Ghana and the PNDC Law 111, legislation Section 20(1) of the Matrimonial causes act states that; “the court may order either party to the marriage to pay to the other party, such sum of money or convey to the other party, such movable or immovable
property as settlement of property rights or in lieu thereof or as part of financial provision as the
court thinks just and equitable.”

Even though there is adequate legislation in Ghana to protect women’s property rights, the
reality of implementing the provisions of women’s property rights to ensure the realization of
their women’s human rights leaves much to be desired. Discussing this gap, Sheila Minka-
Premo, a member of Leadership and Advocacy for Women in Africa (LAWA-Ghana) stated that:

> over a long time in Ghana, husbands were presumed to be the sole bread winners of the
> family and as a result the law and society at large presumed that any property acquired
during the marriage belonged to the husband. The services of the wife in the house rendered
towards the progress of the family, acquisition of property through various
income generating activities were not duly recognized. This was until recently exhibited
in the judicial attitude which basically ignores the interest of married women who assist
their husbands in acquiring property. In reality, most couples contribute substantially to
the acquisition of property in the course of a marriage even though one person, usually
the male, is usually the legal owner.  

Property ownership is fundamental to women’s economic survival, empowerment, and liberation
from abusive relationships. Yet several women around the world, especially those in developing
nations like Ghana lose their rights to own, inherit, and manage property following the deaths of
their husbands.

For a Ghana to meet its human rights obligations in order for women to realize their rights to
property, these rights must be protected in law and practice.
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CHAPTER THREE
DOMESTIC ENFORCEMENT AND WOMEN’S RIGHTS TO PROPERTY IN GHANA

3.1 Implementation of the Maputo Protocol in Ghana

According to Article 26 of the Vienna Convention on Law of Treaties 1969, under the principle of "PACTA SUNT SERVANDA", “Every treaty in force is binding upon the parties to it and must be performed by them in good faith”.¹ This means, it is the responsibility of states who become parties to these treaties to ensure that they are fully committed to fulfill their obligations as spelt out in the various treaties. As a dualist state, Ghana considers certain procedures before agreeing to become a party to any international human rights treaty. Most dualist states differentiate between national law and international law even though effective implementation requires translation of international law into national law. In Ghana, treaties are signed by the Executive, ratified by the Legislature and implemented by the government.²

In a study by Mugwanya George, he analysed the African Charter and suggested that through institutional and normative reforms, the African human rights system will become better. To that effect, he proposed that an additional protocol should be adopted in order to improve women’s rights.³ Ghana has ratified the Maputo Protocol and as such passed laws that protect women’s property rights to that effect. However, some women are still faced with challenges of ownership to property.

To this effect, it is important to engage these women in order to find out the challenges they face with ownership and access to property and whether the government of Ghana has made progress towards the effective implementation of the Maputo Protocol. To provide answers to the research questions stated in this study, the interviews were grouped into three categories. The
first category covered urban poor women who have experienced some form of discrimination against their property rights. This was done to find out the hindrances to the realisation of their property rights in Ghana. The second category covered non-governmental organizations that work on promoting and protecting women’s right to property in Ghana. This was done to find out the level of awareness among women on property rights instruments in Ghana through the projects undertaken by these organizations towards the implementation of the Maputo Protocol. The third category covered government agencies that have the mandate to promote and protect women’s property rights. This was done to find out whether the government of Ghana has made progress towards implementing Article 7(d) and 21(1) of the Maputo Protocol.

The focus of this chapter is to analyze the data gathered from these interviews which would reveal the hindrances to women’s ownership and access to property in Ghana and the progress made by the government of Ghana towards implementing the Maputo Protocol. Based on the analysis of data, recommendations were proposed on the appropriate mechanisms that would serve as a tool for effective implementation of the Maputo Protocol by African countries. Even though it is the responsibility of the state to fulfill the obligations of the Maputo Protocol by implementing the provisions of the treaty accordingly, there are government agencies and non-governmental organisations that work at the domestic level to enforce women’s property rights in Ghana.

3.2 Women’s property rights enforcement in Ghana

In Ghana, there are various human rights institutions that are mandated to enforce the provisions of human rights treaties. These state institutions have the responsibility to enforce human rights and protect the vulnerable through appropriate policies. Other non-governmental organizations also exist to enforcement women’s rights treaties through coordination and monitoring. In this
regard, governmental and non-organisations usually collaborate to work towards implementing human treaties in Ghana.

In Ghana, there are various human rights institutions that are mandated to enforce the provisions of human rights treaties. These state institutions have the responsibility to enforce human rights and protect the vulnerable through appropriate policies. Non-governmental organizations also exist to enforcement women’s rights treaties through coordination and monitoring. In this regard, governmental and non-organisations usually collaborate to work towards implementing human treaties in Ghana.

3.2.1 Government enforcing women’s property rights

The Ministry of Gender, Children & Social Protection (MoGCSP) was established on 18th January, 2013. It replaced the then Ministry of Women & Children’s Affairs (MOWAC). MoGCSP is an amalgam of MOWAC, the Dept of Social Welfare and the Social Protection Division of the Ministry of Employment & Social Welfare. MoGCSP exists to contribute to national development by achieving gender equality and equity, and facilitate the enforcement of the rights and protection of the vulnerable through appropriate policies and strategies with adequate resources. The Department of Women (DOW), Domestic Violence and Victims Support Unit (DOVVSU), and the Family tribunal are all units in Ghana that are charged with the mandate to enforce human rights through coordination and monitoring at the domestic level. These structures work individually towards the collective enforcement of women’s property rights.

According to the project officer of the DOW; “We do not deal with cases of violations against women. What we rather do is advocacy, sensitization, lobbying among others, to empower women to know their rights to property and how to demand it. However, women are
not the only targets during the education. We involve the men in the community and other stakeholders that matter.” Data obtained from interviews conducted with government officials working on women’s property rights reveal that, although some projects have been undertaken by these agencies through advocacy and sensitization to promote women’s right to property there is still much work to be done to ensure that women’s rights to property are realised.

The DOW has made efforts towards enforcing women’s property rights through awareness creation and education in rural communities. They do this to educate men, women and other stakeholders in these communities about gender equality, women’s property rights and how these rights can be respected. In order to find out the level of enforcement within the domestic enforcement agencies in Ghana, the project officer was asked if the DOW follows up to check if these women are being offered assistance or not. She responded; “When these women come to us and we refer them to the appropriate agencies like DOVVSU, which in turn handle the cases. We do not monitor or evaluate to check if the women have received the needed help, since DOVVSU is there to assist them.”

DOW is entrusted with the mandate to coordinate affairs with other law enforcement agencies toward the enforcement of women’s property rights. Despite the efforts of the DOW towards promoting women’s property rights, DOW’s is not obliged to coordinate the role and the enforcement of women’s property rights at DOVVSU. This analysis is based on the fact that, the project officer of the DOW only directs reported cases to DOVVSU without checking whether these cases are fully addressed.

Data obtained from interviews with officials of DOVVSU reveal that, such cases are not been handled by them. Rather, they re-direct such cases to the Family Tribunal. Officials of the Family Tribunal also revealed through interviews that, they do not handle such cases and
therefore refer them to the CHRAJ. In an interview with officials of the CHRAJ to ascertain their role in dealing with such cases, it was established that, they have not carried out projects on women’s property rights.

Based on the above analysis, it appears this bureaucratic continuum sometimes frustrates victims who most often become reluctant to pursue such cases to the latter. Consequently, their cases might not be addressed. In this case, the limitation to the coordination and realization of women’s property rights could impede the implementation of Article 7(d) and 21(1) of the Maputo Protocol.

Interviews were also conducted with officials from the Commission on Human Rights and Administrative Justice (CHRAJ). CHRAJ has a broad mandate to protect those rights vested in the 1992 Constitution, including civil, political, economic rights among others. In an interview with the officer in charge of women’s property rights at the CHRAJ, she acknowledged that they have not executed any project or handled cases on women’s property rights. Furthermore, the CHRAJ official displayed low knowledge of the Maputo Protocol. That is, she has heard about the protocol but does not know its provisions and when Ghana ratified this women’s rights treaty. She stated that “I have heard about the Maputo Protocol but I do not know what the provisions of the Protocol states and when Ghana ratified this Protocol”. Officials from DOVVSU and Family Tribunal also made it clear to the researcher that they do not handle cases of women’s property rights. The complaints they receive are mostly with regards to domestic violence against women but not related to women’s property rights.

According to Chimere Obodo, one of the factors that impede the implementation of human rights instruments by the government of Ghana is the lack of domestic enforcement mechanisms. One
of such mechanisms he mentioned is the poor coordination among government institutions toward the effective implementation of human rights instruments.\textsuperscript{10}

As the project officer of DOW explained above their efforts towards protecting and promoting women’s property rights is based on sensitization and advocacy programmes. The mandate of the DOW is to contribute to national development by achieving gender equality and equity, and enforcement of women’s rights. The DOW can be said to be working towards fulfilling its mandate of gender equality but does not is limited in coordinating with other agencies to enforce women’s property rights. In this way, the DOW contributes towards the implementation of the Maputo Protocol through sensitization and advocacy.

Notwithstanding the striding efforts of the DOW to contribute towards the implementation of the Maputo Protocol through sensitization and advocacy, one impediment to the realization of this goal is the lack of knowledge on the Maputo Protocol among government officials who are tasked to promote and protect women’s property rights. An interview conducted with the officials of CHRAJ revealed that, they have little or no idea about the Maputo Protocol, let alone to talk about its implementation.

\textbf{3.2.2 Non-governmental organisations efforts towards women’s property rights}

Women in Law and Development in Africa (WILDAF) have undertaken a number of projects on women’s property rights. Some of the projects they undertook were towards advocating for enforcement of family laws (marriage, divorce and inheritance) for Ghana. This was a step taken by WILDAF to strengthen the legal system to ensure transparency, accountability and responsiveness towards enforcing family laws. With this project, they conducted advocacy programmes on the family law in relation to law reforms. Bernice Sam explains that:

One of the projects undertaken by WiLDAF in the area of women’s property rights had to do with legal literacy training organized for rural women. Some of these projects were
funded by international donors and lasted between one to three years. The projects were mainly undertaken in the rural areas of Western, Greater Accra, Central and Volta region. The focus of the projects was to create awareness on the legal reforms of Ghana and to enhance their knowledge on the legal provisions on women’s rights to property.\(^\text{11}\)

A number of non-governmental organisations in Ghana collaborate with the government to develop legal frameworks that protect and promote women’s rights as stated in human rights instruments. In addition to these advocacy programmes undertaken by non-governmental agencies, they play a role in the enforcement of human rights instruments. The Executive Director of WiLDAF has led the latter to make some efforts towards enhancing women’s property rights in Ghana. As part of contributions towards enhancing women’s property rights, WiLDAF (with Bernice Sam at the forefront) in collaboration with other non-governmental organisations such as Leadership and Advocacy for Women in Africa (LAWA) conducted a legislative advocacy and analysis of the Spouses Property Bill.\(^\text{12}\) This was done by researching some provisions that were not included in the bill and recommending them. They undertook this project by liaising with international human rights organizations to receive recommendations which could be adopted at the regional and domestic level.\(^\text{13}\)

Further, WiLDAF conducted a situational analysis of international human rights instruments and women’s issues to be resolved. Based on the findings of the research conducted by WiLDAF, women who were deprived of their property rights were given counselling and legal aid to empower them to claim their rights. This was done in the period of 2000 to 2007 by obtaining data from women who are victims of property rights deprivation. One of the publications that were developed as a result of this project is entitled; “It Rains in everybody’s home.”\(^\text{14}\) Bernice Sam asserted that there has been progress in the level of awareness on the legal provisions on property rights among women. However, there is still a gap between the legal provisions and the realization of women’s property rights in practice. She explained that, the
Maputo Protocol has been useful in Ghana. This is because it has guided the thought on a legal framework for spouses’ property rights, even though this bill has still not been passed into law. She emphasised that if the bill is passed into law, it would enhance the lives of Ghanaian women (married and divorced) through their property rights. Thus, Ghana would fulfil its obligation within the Maputo Protocol.\textsuperscript{15}

The Initiative for Gender Equality and Development in Africa (IGED-Africa) exists to promote gender equality by providing relevant, practical, legal and other sustainable solutions to the human rights challenges of women and the youth across the continent.\textsuperscript{16} In the area of women’s property rights, IGED-Africa in collaboration with other nongovernmental organizations in Ghana have conducted a sensitization and advocacy project for women and other stakeholders in the slum areas of Accra to empower them on the rights they have and how to claim them. Based on the research conducted by IGED-Africa, the organization partnered with other women’s rights organisations in Africa to move for the adoption of a resolution on “Women’s right to land and productive resources” during the ACHPR, 54\textsuperscript{th} Ordinary Session held in Banjul.\textsuperscript{17} The adoption of the resolution is another effort by IGED-Africa towards enhancing women’s access to and ownership to property.

3.3 Hindrances to realizing women’s rights to property

Based on interviews conducted, the women acknowledged that they are mostly denied their rights to property challenges with respect to property ownership either at the dissolution of marriage and during the death of their spouse. These obstacles are; discriminatory customary practices, a lack of awareness of the laws protecting women’s property rights and illiteracy.
3.3.1 Discriminatory Customary Practices

Due to the patrilineal family system of some ethnic groups in Ghana, like the Ewes and the Gas, inheritance and distribution of property are mostly controlled by men. These practices tend to give men authority over the distribution of property. These practices are common within the family system of Ghana. 18

In interview with the first respondent she establishes that;

Most families in Ghana adopt certain inhumane or discriminatory practices and align them with their customs. Some of these include family members interfering with the distribution of property which does not even belong to the family. The misconception by the family that the woman who is married to their son has come into the family to spend her husband’s money, the perception that the first wife of every man is the legitimate helper of the man irrespective of the type of marriage performed. Often, in some Ghanaian communities, it is perceived that men are the sole bread winners of the family and are more resourceful than women. For that matter, whoever the man brings home for a wife is perceived to be taken care of by the man. Based on these misconceptions by members of such families, the women who join these families tend to face challenges in their access to jointly acquired property either during marriage or at its dissolution. 19

These obstacles hinder women’s realization of their rights to property and impede the effective implementation of the Maputo Protocol. To find out the challenges woman face in their rights to property, ten women from diverse ethnic groups and cultures (Ewe, Ga and Akan) were interviewed. These women are low income earners (poor) and are Christians as well. The first respondent is a fifty four year old Ga woman who is a petty trader. She was denied her right to property by her husband’s family. In this case, the woman sought assistance from her family, but the first wife’s family came in and threw her out of the house because she had no children. The respondent consulted Human Rights Advocacy Centre (HRAC) and has been offered the necessary legal aid get the property back. Based on the interview with the first respondent, one would recognize that, due to discriminatory practices, she was denied access to the property.
Also, she was not aware of the laws that regulate women’s property until she consulted HRAC. According to her;

“I was threatened by my rival and stepchildren to leave the portion of the property my husband left for me and my children. The family is supporting the first wife on the grounds that the first wife started life with the deceased before he married me, so they will not allow me to get any share of the property we both worked together to acquire.”

She was directed by HRAC through legal officers to get her property back. As liberal feminists assert, the enforcement of women’s right to property requires the participation and commitment from stakeholders (government), civil society among others. Based on the above assertion by liberal feminist, HRAC has a role to play in the domestic enforcement of human rights instruments in Ghana. This step by HRAC will influence domestic enforcement of women’s property rights in Ghana.

An interview with the second respondent aged thirty eight revealed that she was verbally abused by her partner’s family after his death. According to her during her courtship with her partner, she had two daughters outside wedlock with the man (late husband) but because she was not married to him, they were not staying together. She managed with support from her mother to look after the children throughout their education. The respondent supported the deceased with his business by supervising sales anytime the man travels to get supplies for the shop. After his death, the family members accused her of killing the man. Even though the shop was handed over to the first daughter of the respondent by the man’s family, the respondent was given a strict warning not to go close to the shop.

Responses from the above interview further highlights that; based on the interview with the respondent above, she contributed to the upkeep of the children and supported the deceased with his business, so she has every right to own the business she nurtured with the deceased in order to earn some income. Unfortunately, due to discriminatory customary practices, she has been
deprived of her right to property. As a result, this would have an effect on her children because they depend on her for their personal needs and education. Since the respondent is not aware of the laws that establish property rights, she would struggle to cater for the children. This challenge faced by the respondent has therefore limited her access to property from which she could gain some income from.

The third respondent Ga woman aged forty explained how her husband’s family considers childlessness a tragedy. There is no such law in Ghana that states that women without children do not have rights to property. In some families, in Ghana, man’s relative, consider marriage a union between two families so they interfere in the affairs of their son (man) and his wife. For that matter, they tend to frustrate their son’s wife if she does not bring forth a year or more after marriage. This is an indication that, some family members in Ghana recognize childbirth as a blessing and childlessness as a curse. For that matter, any woman who has been married into their family and gives birth shortly after is respected than one who does not give birth. According to the third respondent, before she met her husband, he was an administrator in a secondary school, but he later lost his job. The respondent was a fashion designer so she was the one who provided for the home. With physical support from her husband and her financial support, they managed to construct an apartment on her husband’s family land. The house was registered in the name of her husband. After seven years of marriage (they got married when she was 33years), she could not bear a child with the man. The man’s family brought another woman into their matrimonial home claiming she has a child with the respondent’s husband and that the respondent had to leave. They claim childlessness is a tragedy and the land they built on is a family land, so she has no place in their matrimonial home. The respondent became sick for months and could not get support from anywhere to take up the issue.\textsuperscript{22}
The respondent was made to go through such treatment because of the issue of childlessness. She has therefore been discriminated against even though international, regional and domestic human rights instruments clearly ensure the protection of one’s right irrespective of any status. Apart from that, the 1992 Constitution states clearly, everyone’s right to property (whether man or woman) as well as protection of women’s property rights. In this case, her right to property has been violated due to discriminatory customary practices and the fact that she does not know how to claim her right to property. These discriminatory practices contribute to the limitations of women’s property rights and would impede the effective implementation of the Maputo Protocol in Ghana.

3.3.2 Lack of awareness and Illiteracy

Angela Banks, in her study, explained what a successful domestic enforcement entails in most states. She asserts that adaptation is one of the concepts that states need to adopt in order to ensure an effective domestic enforcement. The adaptation concept has to do with states, creating awareness to ensure their nationals gain full knowledge of the various international and human rights treaties they ratify.23 The assertion Banks gave is peculiar to Ghana in the sense that, the interviews with the urban poor women revealed that, lack of knowledge of the Maputo Protocol (Women’s human rights treaty) by women is considered an impediment to the enforcement of these treaties. Seven out of ten of these women displayed their lack of knowledge on the Maputo Protocol and other women’s rights provisions.

The fourth respondent was denied ownership of property she acquired herself due to the fact that, her husband knew she was illiterate and would not be in the position to identify the changes he made to the documents of her property. Unfortunately, she does not know about the laws in Ghana that protect women’s property rights. In this situation, the respondent has been deprived
of her self-acquired property because she is illiterate and does not know where or how to seek help. Illiteracy has been a major stumbling block in the realization of property rights of the respondent. She is thirty five years old and Ga as well. Her right to property was trampled upon by her husband. The respondent acquired the property single handedly without her husband’s support. According to her; “I have been married to my husband for three years. My husband cheated me and took my self-acquired assets by changing all the legal documents of my properties.”

The forty two years Ga (fifth respondent) woman who mentioned that her rights were also violated because she is illiterate and unaware of the provisions of the legal framework describes her experience explaining that she lives with her husband in the same compound, but different apartment all belonging to her husband. Her husband lost his job, so they moved in to join her in her apartment and rented out his apartment. Her husband is dead now but the family of the deceased made several attempts to drive her away from the house. There were instances where they abused her verbally. She added that she has not made any complaints to any law enforcement agency also because she feels it is a family issue and should be dealt with at that level.

The sixth respondent aged thirty seven, Ewe and was interviewed. She described her experience after the death of her husband and how her sister in law came in to take the property from her. She explained;

I was married but lost my partner later within 3 years of the marriage, my husband died, leaving two children behind. Due to the fact that I am a housewife, it became difficult to provide for the children. My husband died, leaving myself and kids, two apartments so I decided to remain in the house, my husband left and rent out the other apartment, but my late husband’s sister wants to take this property from me and I have nowhere to go.

Based on the response from the sixth respondent, her sister in-law has taken her through this for a year now, but she does not have money and anyone to support her to take the case up, even
though she would have loved to take it up. The respondent is being deprived of her right to the
property her husband left for her and the children, but due to illiteracy and lack of awareness, she
cannot enjoy her rights which would have provided some income for her family since she is the
only one taking care of the children.

The seventh respondent is a forty five year old widow and Akan who got married under
customary law. She lived in her father in-law’s house with her husband and two children and
suffered violation of her property rights.
She explained that; later in their marriage, four children from her husband’s previous marriage
lived with them in her father in-law’s house. Before the respondent’s husband died, she
supported him financially throughout his sickness single handedly. After his death, the children
from the man’s previous marriage threatened and assaulted the respondent and asked her to
vacate the house. She went through this ill treatment for four years until she identified WiLDAF.
With the support of WiLDAF, she filed a caveat in the Circuit Court to prevent the grant of
letters of administration.27

Based on the interview conducted with the respondent above, non-governmental organisations
with their participation and commitment mostly collaborate with the government to implement
the Maputo Protocol. An example of such organizations is WiLDAF. WiLDAF has influenced
the lives of Ghanaian women through the realization of their property rights. The Executive
Director of WiLDAF stated that; “the organization has undertaken a number of projects. For
instance, they went to the rural areas to educate the women and stakeholders on laws that govern
marriage, property and divorce.”28

This is a step in the right direction to improve peoples’ knowledge or awareness on the laws that
govern women’s property rights. This effort contributes towards implementing the Maputo
Protocol because the more women become aware of their property rights, the more likely they are to demand for a better realization of the property. Thus, this would ensure the effective implementation of the Maputo Protocol. In that case, WiLDAF has played a role in the promotion and protection of women’s property rights through domestic enforcement.

Another woman who was interviewed is a Christian and Ga aged thirty eight acknowledged that she is ignorant of how to claim her right to property. Based on the interview, the respondent’s right to property was violated by the family of her late husband. In this case, she has been denied access to the house she acquired with her husband and other properties which could generate income for the upkeep of the family and her children’s education. She is not an illiterate and has heard about intestate succession law. She did not know about the right to claim her property until recently that she heard about IGED-Africa. It is unfortunate that women toil with their husbands to acquire some properties but do not get access to this property because the family members who did not make any effort towards the acquisition of this property deny one’s access of what she has worked tirelessly to acquire. Lack of awareness has been a huge challenge for many in their rights to property that they jointly acquired with their spouses. She explained that “before my husband died, he was wealthy. We had six children. With my support, we built one mansion with a number of apartments in the same compound. Even though he had the mansion, we agreed to live in the house his father willed to him. We rented three of the houses my late husband inherited from his dad and he was the one who collected the money. Even though he had other siblings, his dad gave all his assets to him before he died Due to this there is some element of rivalry among the family members of my late husband. When my late husband got sick, I took care of my late husband without the support of his family until he died. Before he died, he handed over the keys to the mansion to me and instructed the tenants that rents should be paid to me. I came back from the village to find out my late husband’s family changed the locks of the mansion with my personal goods inside,
seized all his entire business documents and other belongings. The family now use the cars and collect the income generated by the bus without assisting with the children's education. Although I have the key to the house we jointly built, I'm afraid of being there and so live with my children in a rented apartment in the same town”.\textsuperscript{29}

Furthermore, two other respondents; one who is Akan aged 40 years, the other woman is also Akan aged 42 years were all faced with same challenges that prevented them from getting access to property that was jointly owned with their husband.

From the respondents; they were married to their husbands but had no children. The two responded supported the home financially from the income they made from their petty trade. The first respondent’s husband was a mechanic engineer and the little income he made was used to pay only utility bills. The first respondent was later driven away by her husband for reasons that are not known to her. As a result, she had to join her sister in her small room because she is homeless and poor. She does not even know where to claim her rights.\textsuperscript{30} The second respondent quarreled with her husband’s girlfriend after she caught the husband and his girlfriend on their matrimonial bed. As a result, the second respondent’s husband rented their apartment to someone without his wife’s knowledge and left the woman homeless.\textsuperscript{31} The ninth and tenth respondents are illiterates and think they are too poor to fight for their property rights.

The interviews conducted have revealed the challenges women face in the various suburbs of Accra. These are Nima, Fadama and Abelemkpe. The women interviewed cases involved urban poor (low income) and middle aged women who are Christians and have experience challenges with their rights to property. These women are widows, married women and cohabitants. At the end of the interview, the challenges women face in their ownership to property and how they demanded these rights were revealed.
3.4 Conclusion

The interviews above are a demonstration of how husbands, rivals and in-laws trample upon women’s rights to property. Some customary practices are discriminatory in the sense that, women are discriminated against when it comes to their property rights. This is because most women are ignorant of the laws that establish women’s property rights in Ghana, and as such do not know how to demand them. Lack of awareness of these rights and illiteracy have become the common obstacles that hinder women’s access to property.

Based on these interviews, non-governmental organisations in collaboration with governmental organisations have made progressive efforts towards women’s property rights through sensitization, advocacy and legal assistance. However, many widows are disadvantaged and discriminated against mostly by their late husband’s family and rivals. In some cases, the respondents were taken through unfair treatments by their husbands. As a result, these women are exposed to violence, hunger and homelessness. Women are entitled to certain rights because they are human. However, according to one of the project officers from the DOW and the Executive Director of WiLDAF, women do not realize their property rights due to obstacles such as discriminatory practices and a lack of awareness of women’s property rights laws. The obstacles to women’s property rights as highlighted by the above mentioned officials are peculiar to the findings of this study that established that discriminatory customary practices, women’s lack of awareness of property rights and illiteracy are obstacles to the realization of women’s property rights in Ghana. Until these challenges women face in their pursuit to property are addressed, the limitation to women’s property rights and realization of these rights will continue to impede the implementation of the Maputo Protocol in Ghana.
In conclusion, the African Commission on Human and Peoples’ Rights (ACHPR) has also played a role in protecting and promoting women’s rights in Ghana as well as property. As mandated by the African Charter (Article 45), the ACHPR gathers information, undertake studies and researches on African human rights issues or challenges, organize seminars, symposia and conferences and make recommendations to government. For instance, the ACHPR sessions are organized twice every year where African countries such as Ghana, Nigeria, Kenya, Uganda among others are invited to give their human rights reports and NGOs to give their shadow reports on countries’ human rights. This puts a check on countries to fulfil their obligations within human rights treaties.\textsuperscript{38}

Furthermore, Fareda Banda, acknowledges that, African states have made progressive efforts towards ratification of human rights instruments, but there are still challenges at the level of regional legislation. She therefore highlighted the provisions of the Maputo Protocol and explained that the protocol recognizes the impediments of accessing rights in Africa.\textsuperscript{32} On the contrary, based on analysis in the case of women’s property rights in Ghana, progressive efforts have been made by ratifying the Maputo and promoting women’s rights at the legal front but there are still challenges in the realization of women’s property rights.

In as much as Ghana has a number of successes in the implementation of women’s property rights, the situation encountered by the urban poor women leave much to be desired. This study shows that, seven women out of ten urban poor women who were interview from both patrilineal and matrilineal family systems such as Ga, Ewe and Akan face challenges with their rights to property. However, based on findings from the interview, women belonging to the patrilineal family system are increasingly confronted with challenges of their rights to property due to discriminatory customary practices, lack of awareness on specific laws protecting

\textsuperscript{38} http://ugspace.ug.edu.gh/
women’s property right and illiteracy. The women from the women from the patrilineal family system may also be known to be facing these challenges because the man (a husband or father) has the authority over any decision on property distribution or inheritance. In this regard, the women are mostly discriminated against by these men or by their family members. Based on the interviews conducted, it was deduced that, Ghana has made some progress towards implementing women’s property rights through the participation and commitment of non-governmental organizations. However, some of the gaps hampering the effective implementation of the Maputo Protocol include; ignorance of the existence of the Maputo Protocol as well as its provisions among governmental officials who are tasked to protect women’s property rights and lack of monitoring and evaluation of women’s property rights in Ghana.
Endnote

5 Interview with Bernice Sam, Executive Director of WiLDAF, 13th July, 2015
6 Interview with Vera, project officer from the Project, Monitoring and Evaluation Unit of the Department of Woman (MoGCSP), 3rd June, 2015.
7 Interview with the Project officer from the Project, Monitoring and Evaluation Unit of the Department of Woman (MoGCSP), 3rd June, 2015.
9 Interview with officials from DOVVSU and Family Tribunal, 6th July, 2015.
11 Interview with Bernice Sam, Executive Director of WiLDAF, 13th July, 2015.
12 Ibid
13 Ibid
14 Ibid
15 Ibid
16 Interview with the Women’s Empowerment Coordinator of IGED-Africa, 13th July, 2015.
18 Interview with the first woman from Old Fadama, 9th June 2015.
19 Ibid
20 Ibid
21 Interview with the second woman from Abelemkpe, 16th June 2015.
22 Interview with the third woman from Fadama, 9th June 2015.
24 Interview with the fourth respondent from Old Fadama, 9th June 2015
25 Interview with the fifth woman from Old Fadama, 9th June 2015
26 Interview with the sixth woman from Abelemkpe, 16th June 2015.
27 Interview with the seventh woman from Old Fadama, 9th June 2015.
28 Interview with Miss Bernice Sam, Executive Director of WiLDAF, 13th July, 2015.
29 Interview with the eighth woman from Old Fadama, 9th June 2015
30 Interview with the ninth woman from Nima, 9th June 2015
31 Interview with the tenth woman from Nima, 7th June 2015.
CHAPTER FOUR

SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS

4.0 Introduction

The Maputo Protocol came into force in 2005 and Ghana ratified in 2007. Ghana can be considered among the few African countries that ratified the Maputo Protocol shortly after it came into force. The aim of this study is to find out the progress made by the government of Ghana towards implementing Article 7(d) and 21(1) of the Maputo Protocol. In order to achieve the goal of the study, personnel from governmental and non-governmental organizations were interviewed to find out the projects that they have undertaken to promote women’s rights to property. To find out the hindrances to women’s property rights, some women were selected based on recommendation from women’s rights workers from different settings and interviewed. These women belong to matrilineal and patrilineal family groups and speak Ga, Akan and Ewe. This chapter presents a summary of the findings of the research and outlines some recommendations on how to improve the effective implementation of Article 7(d) and 21(1) of the Maputo Protocol in Ghana.

4.1 Summary of Findings

Ghana has the responsibility of putting in place, all the mechanisms that would ensure that women’s property rights are realized according to Article 7(d) and 21(1) of the Maputo Protocol since it’s a party to this Protocol. In addition, Ghana has a role to play in changing the discriminatory practices that deprive women of their right to property.
Despite the existence of national legislation to establish and regulate women’s right to property, there are still impediments to the realization of these rights.

Chapter one, which highlighted the research design, provided a background to the study and indicated that women’s lack of access to and ownership of property can be traced from Africa’s patriarchal system and colonial period. A literature review was conducted on women’s human rights implementation in order to identify the gaps in the implementation of women’s property rights instruments. Based on the literature reviewed, most of the writers identified lack of implementation mechanisms, lack of awareness, lack of monitoring and evaluation as the impediments to implementation of women’s human rights. On the contrary, others identified culture and application of customary laws as the hindrances to the implementation of women’s human rights. Chapter two also highlights the various international, regional and domestic human rights instruments that establish women’s rights as well as the Maputo protocol. Chapter Three also describes the analysis of data gathered from the interviews, explaining the situation of women’s property rights in Ghana. The objectives of the study are identifying the impediments to the implementation of the Maputo Protocol, identifying women’s awareness on the provisions that protect their rights to property and finding out whether the government of Ghana has made progress in implementing Article 7(d) and 21(1) of the Maputo Protocol. In order to achieve the above mentioned objectives, three categories of people were interviewed. These are; governmental officials with the mandate to promote women’s human rights, non-governmental officials working on women’s property rights and women from three different settings in Accra and speak Akan, Ewe and Ga were interviewed. Based on the interviews conducted with these women, the study identified some hindrances to women’s property rights. These hindrances are women’s lack of awareness on the women’s property rights provisions as stipulated in the
national laws as well as the Maputo Protocol and the level of Illiteracy among urban poor women from patrilineal family lines.

Based on the hindrances above, the study identified certain limitations to the implementation of the Article 7(d) and 21(1) of the Maputo Protocol. These limitations are; the government officials that are charged with the mandate of women’s property rights lack knowledge on the Maputo Protocol.

Government agencies with the mandate to promote women’s property rights do not monitor and evaluate its domestic enforcement. Chapter four summarized the entire findings of the study and gives the conclusion and recommendations for consideration.

4.2 Conclusion

Women’s property rights are very sensitive, particularly in Africa. As a result, there was a need for an Optional Protocol, which draws inspiration from the African Charter on Human and Peoples’ Rights. This Optional Protocol is referred to as the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol). The Maputo Protocol has detailed provisions that explicitly protect women against discrimination of all kinds and stipulates that women have rights to equitable shares of property and inheritance as highlighted in Article 7(d) and 21(1).

Ghana has made progressive efforts towards promoting women’s property rights through creating a favourable legal environment and relevant state institutions to promote women’s property rights. Despite these efforts by the government of Ghana, drawing from the interviews, some women are still faced with challenges to owning and accessing property. This state of affairs can be attributed to several challenges identified by the study. Therefore, Ghana needs to
put mechanisms in place including those recommended by this study to address the challenges impeding the effective implementation of the Maputo Protocol.

Significantly, as stated in the literature that has been reviewed, states need to go through the process of adoption and adaption to fulfill their obligations to human rights treaties to achieve domestic enforcement.¹

In Ghana, the Maputo Protocol after being adopted through the process of signing and ratification has to move to the stage of adaption, through effective education or awareness creation to deepen the knowledge of citizens on the ratified treaty and how it can be implemented.

At the legal front, the study has identified that Ghana has made progress in the application of the legal provisions establishing women’s property rights. However, there is a need to hasten the process of passing the Bill on Intestate Succession property rights spouses, to bridge the gap that exist in the implementation of the Maputo Protocol. She added that this would help correct the issues surrounding property rights of women, irrespective of the type of marriage they are in.²

In conclusion, the analysis of data gathered for the study and findings helped to achieve the objectives of the study. The theoretical framework; liberal feminism used in the study helped to understand how women’s property rights are considered as human rights and the importance of women’s rights to the development of a nation. The findings of the study are inadequate records on women’s property rights from governmental and non-governmental organisations, which made it difficult for data to be gathered, little knowledge on the Maputo Protocol by the officials in charge of women’s property rights which made it difficult for them to speak to the issues on the ground, the negative perception of officials regarding interviews which limited
audio recordings during interviews, the level of bureaucracy in governmental organisations that delayed data gathering. Regardless of the above stated limitations of the study, the objectives of the study were achieved and the hypothesis affirms that effective domestic enforcement would enhance women’s right to property on according to Article 7 (d) and 21 (1) of the Maputo Protocol in Ghana.

4.3 Recommendations

After careful analysis and conclusion of findings, some concrete recommendations were proposed. This can help to improve the implementation of Article 7(d) and 21(1) of the Maputo Protocol in order to improve the lives of women in Ghana. These recommendations include:

- The need for the Cabinet of Ghana to expedite the passing of the bill on Spouses property rights in order to enhance women’s property rights through the implementation of the Maputo Protocol.

- The government of Ghana should establish more institutions that can monitor and evaluate the task of institutions that are responsible for implementing documents, policies or treaties on the rights of women. It is imperative for Ghana to support and strengthen the Department of Women and the Commission on Human Rights and Administrative Justice through educational programmes to enhance their knowledge on the provisions of various human rights treaties in order to improve access to courts and other enforcement mechanisms.

- Another point worth noting is that, for an effective implementation of the Maputo protocol, there is a need to deepen community education. This can be done through a project to create awareness, sensitization and using members of the community like the traditional, political leaders and other stakeholders. These stakeholders can be trained as
paralegals to reach out to other members of the community in a language that is familiar to them and that can be understood by all to enhance a better understanding of policies, documents and protocols on women’s property rights.

- There is also a need to strengthen education among government officials (those with the mandate to enforce women’s rights on the various treaties that are being ratified by the government of Ghana. This would enable these officials to gain an in-depth knowledge on the provisions of the treaty for effective enforcement of women’s rights treaty.
Endnotes


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Interview with a woman from Abelemkpe, 16th June 2015.

Interview with a woman from Old Fadama, 9th June 2015.

Interview with a woman from Nima, 7th June 2015.
APPENDICES

APPENDIX I

UNIVERSITY OF GHANA

LEGON CENTER FOR INTERNATIONAL AFFAIRS (INTERVIEW GUIDE FOR THE
GOVERNMENT OFFICIALS AND NON-GOVERNMENTAL ORGANISATIONS)

TOPIC: AN ANALYSIS OF THE PROTOCOL TO THE AFRICAN CHARTER ON
HUMAN AND PEOPLES’ RIGHTS ON THE RIGHTS OF WOMEN IN AFRICA: A
CASE OF WOMEN’S PROPERTY RIGHTS IN GHANA

Data obtained from this interview is for academic purpose thus confidentiality is fully assured.

1. What is your position/role in this organization?

2. What specific projects have the organization undertaken (alone or in collaboration with
others) towards implementing Article 7 (d) and 21(1) of the Maputo Protocol?

3. What is the time frame within which these projects were undertaken, which people were
involved and what were their various roles?

4. Has the Maputo protocol been useful in advancing women’s property rights in Ghana
and to what extent has the government of Ghana implemented Article 7(d) and 21(1) of
the Maputo protocol and how?

5. In your opinion, how would you rate the level of awareness for the women at the
grassroot level?

6. Has your organisation developed policies and programmes that are aimed at protecting
women’s property rights in Ghana?

7. What are the challenges and successes of the projects and programmes for women?
8. What are the prospects for the implementation of the provisions of Article 7(d) and 21(1) of the Maputo Protocol in Ghana?

9. Do you have any recommendations on how Ghana can better implement the provisions of the Maputo Protocol to enhance women’s right to property?
APPENDIX II

INTERVIEW GUIDE FOR THE URBAN POOR WOMEN

1. What are your social status/marital status/occupation/religious/education background?

2. Were you employed or earning any income before the situation and how about currently?

3. Can you please describe how you were denied right to access, own and control property, the specific people involved and practices that hindered you from enjoying your right to property and the people involved?

4. What is the timeframe within which you had this experience as stated in question (3) property?

5. Do you know about the provisions that protect women’s property rights as well as the Maputo protocol and have they been useful to you?

6. Where did you seek help, whom did you talk to, what advice were you given?

7. Did you experience any challenges or successes in pursuing your right to property?

8. Do you have any recommendations on how Ghana can protect and promote women’s right to property?