

**THE DECLARATION ON THE ELIMINATION OF VIOLENCE
AGAINST WOMEN AND WOMEN'S RIGHT IN GHANA: A
STUDY OF THE IMPLEMENTATION OF THE 2007 DOMESTIC
VIOLENCE ACT**

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DECLARATION

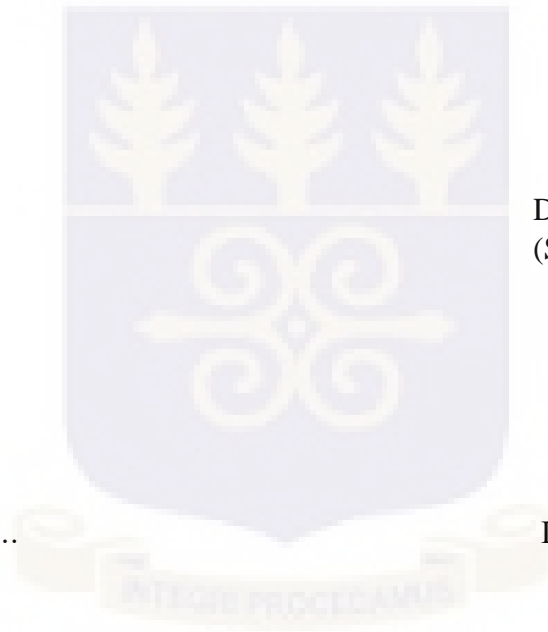
I declare that with the exception of specific quotation or paraphrases used in this study, which are duly acknowledged, the study was duly written by me and was carried out at the Legon Centre for International Affairs and Diplomacy (LECIAD).

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DEDICATION

Dedicated to the strongest woman I know, my mother, Hajia Mariama Mutari.



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LIST OF ACRONYMS

ACHPR	African Charter on Human and Peoples Rights
AU	African Union
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CHRAJ	Commission for Human Rights and Administrative Justice
CSO	Civil Society Organization
CSW	Commission on the Status of Women
DAW	Discrimination against Women
DEVAW	Declaration on the Elimination of Violence against Women
DOVVSU	Domestic Violence and Victims Support Unit
DSD	Department of Social Development
DV	Domestic Violence
DVA	Domestic Violence Act
ECOSOC	Economic and Social Council
ECOWAS	Economic Community of West African States
FGM	Female Genital Mutilation
FIDA	International Federation of Women Lawyers
GBV	Gender Based Violence

GBVRC	Gender-Based Violence Response Center
GoG	Government of Ghana
GPS	Ghana Police Service
GSS	Ghana Statistical Service
IPV	Intimate Partner Violence
LI	Legal Instrument
MoGCSP	Ministry for Gender, Children and Social Protection
MOWAC	Ministry for Women and Children Affairs
NPA	National Plan of Action
NGO	Non-Governmental Organization
OAU	Organization of African Unity
SADC	Southern African Development Cooperation
UNFPA	United Nations Population Fund
UNICEF	United Nations Children and Educational Fund
UN	United Nations
UNDHR	United Nations Declaration of Human Rights
UNGA	United Nations General Assembly
VAW	Violence against Women

WAJU Women and Juveniles Unit

WHO World Health Organization



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ABSTRACT

Domestic Violence (DV) is a serious issue that knows no geographical boundaries. It impacts men, women and girls across all societies with no distinction of culture, class, age, ethnicity, socio-economic or religious affiliations. The ‘Declaration on the Elimination of all forms of Violence against Women’ (DEVAW) was adopted in 1993 following the need to establish specific international instrument to tackle Gender Based Violence (GBV). Since then, many countries have passed legislations towards protecting and promoting women’s right. In Ghana, the most notable instrument is the 2007 Domestic Violence Act (DVA) in compliance to its international obligations. After a decade of passing the DVA in Ghana, the study assesses the extent to which the DVA is implemented. The study targeted a total of sixty (60) respondents comprising; 30 persons who have experienced DV; twenty (20) officials from the Domestic Violence and Victims Support Unit (DOVVSU) and ten (10) personnel from selected NGOs using semi-structured interviews and questionnaires. The findings showed that, although Ghana has developed institutions and policies to tackle GBV, DV persists in the country. This has been attributed to several challenges including patriarchal cultural perceptions, police knowledge about the provisions of international women’s rights instruments and the lack of resources for key institutions like DOVVSU. To achieve compliance, Ghana and stakeholders involved in the implementation of the DVA must as a matter of urgency, put in place mechanisms such as those recommended in this study to address these challenges.



CHAPTER ONE

RESEARCH DESIGN

1.0 INTRODUCTION

Domestic Violence (DV) is defined as the “intentional use of physical force or power, threatened or actual, against oneself, another person that either result in or have a high likelihood of resulting in injury or death”.¹ Ghana’s Domestic Violence Act (DVA) defines DV “to include indulging in acts that are interpreted as a form of provocation, threat or harm to a person or conducts likely to result in physical, sexual, economic, emotional, verbal or psychological abuse”.² This definition is in line with other definitions of DV as espoused by international women’s rights instruments like the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW). This study, will however, use the terms DV and intimate partner violence interchangeably.

Globally, 1 in 3 women have experienced either physical, sexual intimate partner violence (IPV) in their lifetime.³ IPV has been defined by the World Health Organization (WHO) as “conduct by an intimate companion or ex-partner that causes physical, sexual or psychological harm”.⁴ This may include physical aggression, sexual coercion, psychological abuse, and controlling behaviors”.⁵

Figures on DV in Ghana indicate that 33-37% of women have experienced DV in the form of IPV in their relationships.⁶ The forms of abuse range from emotional, psychological, physical abuse in the form of beating and sexual violence amongst others. This corroborates a 2008 domestic and health survey in Ghana which also found that, 38.7% of women between the ages of 1 and 49 have reported experiences of psychological, physical and sexual violence by their male partners. Addressing the issue of gender-based violence (GBV) at the international policy

level have included the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) adopted in 1979, the adoption of the Declaration on the Elimination of Violence against Women (DEVAW) in 1993 and the adoption of the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa (2003) amongst others.

Ghana has ratified international instruments on human rights which also seek to protect or promote the rights of women.⁷ They include DEVAW, the African Charter on Human and Peoples Rights (ACHPR) 1989, and CEDAW. While Ghana's constitution serves as a tool in advocating for women's rights, international human rights instruments do compliment the constitution. This is because first, "the constitution was itself influenced by international human rights conventions; for instance, there are provisions that are directly derived from the Universal Declaration of Human Rights (UDHR) and the ACHPR".⁸ The provision on affirmative action and gender equality can be deduced from Article 17 (2) which states that "each person is equal before the law and prohibits discrimination on the grounds of gender, race, color, ethnic origin, religion, creed or social or economic status".⁹

In addition to the above, 189 countries in 1995, unanimously approved the landmark Beijing Platform for Action at the Fourth UN World Conference including Ghana.¹⁰ The Declaration restates the provisions of the 1948 UDHR. It calls for the inclusion of women in leadership roles and ensuring equal access to power structures.¹¹

In Ghana, interventions to tackle DV and protect women's rights included the creation of the Domestic Violence and Victims Support Unit (DOVVSU) of the Ghana Police Service (GPS), two specialized GBV courts, shelter provision for survivors of DV and the adoption of the Domestic Violence Act (DVA) 732 on February 21, 2007.¹² This notwithstanding, DV cases in Ghana are still rife despite various governmental policies on protecting the rights of women. This

study focuses on the implementation of the 2007 DVA in Ghana: drawing insight from Article 4 of DEVAW which entreats governments to “condemn violence against women and should not invoke any custom, traditional or religious consideration to avoid their obligations concerning its elimination”.¹³

This study seeks to add to the knowledge of how the 2007 Domestic Violence Act is being implemented towards the advancement of women’s rights in Ghana in compliance with Ghana’s international obligations.

1.1 PROBLEM STATEMENT

VAW goes beyond harming women, it hinders the ideals of achieving universal equality, peace, and development. The long-standing failure to protect and promote these rights and freedoms in the case of VAW is a matter of concern to all States which should be addressed.¹⁴

International human rights agreements combined with advocacy by women’s right groups over the last 30 years have successfully convinced many governments to revise legislations on to GBV. This advocacy has in some cases, successfully seen the elimination of provisions that allow perpetrators of DV to escape criminal sanctions and revising criminal procedures to make it easier to prosecute offenders.¹⁵

Ghana ratified CEDAW in 1986, an international instrument dedicated to addressing women’s political rights. By ratifying CEDAW, states commit to ending discrimination against women in all forms. This includes domesticating the principles of equality in their legal system, as well as abolishing all discriminatory laws.¹⁶

The Declaration on the Elimination of Violence against Women recognized that VAW violates women's rights and their fundamental freedoms.¹⁷ It called on member states to work towards the eradication of VAW. Although “bounded” by this Declaration, Ghana is yet to implement fully

many of its international obligations on women's rights. Witch camps still enslave women in Northern Ghana, Female Genital Mutilation (FGM) is practiced in some communities and gender parity in education, politics and the economic sphere is yet to be achieved.

While there have been scholarly works on DV in Ghana, not much literature exists in the field on the implementation of the DVA and how declarations like DEVAW affect policy on DV in Ghana. The establishment of institutions such as the Domestic Violence and Victims Support Unit of the Ghana Police Service and the Gender Based Violence courts has been heralded as the most visible attempt by the government to tackle issues of domestic violence in Ghana. While the study acknowledges the broader topic of compliance, for the purpose of this study, attention will be paid to the analyses on the implementation of the 2007 DVA in Ghana. The study sought to understand the extent to which the DVA is being implemented and how customs affect DOVVSU's response to DV cases.

1.2 RESEARCH QUESTIONS

1. To what extent do the measures adopted by the government of Ghana to address DV constitute compliance with its international women's rights obligations?
2. How do patriarchal cultural norms affect police response to DV complaints?
3. What is the level of police knowledge of domestic and international women's rights instruments?

1.3 OBJECTIVES

The main objective of the study is to analyze the 2007 Domestic Violence Act of Ghana within the context of its implementation of international women's right instruments; the study further seeks to;

1. To assess the implementation of the Domestic Violence Act in Ghana as compliance with DEVAW.
2. To understand how patriarchal cultural norms, inhibits DOVVSU's response to DV complaints.
3. To assess the level of police knowledge of domestic and international women's rights instruments in Ghana.

1.4 SCOPE OF THE STUDY

The scope of the study covers Ghana's 2007 DVA and DOVVSU between 2005 and 2018. While the latter had been established since 1998 as part of the government's compliance with its obligation of creating institutions specifically to handle issues relating to women and girls, the DVA was passed into law in 2007 all in the bid to protect and compensate victims of domestic abuse. Also, the study period was chosen due to significant events that took place including the passage of the DVA in 2007, the passage of the Legal Instrument to the Act in 2016 as well as the establishment of gender based violence courts to handle the backlog of DV cases.

1.5 SIGNIFICANCE OF THE STUDY

The study will aid policymakers by providing information on Ghana's implementation of international agreements on women and how it affects government policies with regards to DV.

Students will find this study useful as it will provide the basis for further research into how Ghana implements international instruments on women's rights and processes by which the government works towards bringing about the changes espoused by these international instruments.

Also, this study will provide NGOs and Civil Society Organizations (CSO) the needed information to track government policies and better appreciate the status of the mechanisms adopted by the government to address DV.

1.6 HYPOTHESIS

Culture has hindered the implementation of Ghana's 2007 Domestic Violence Act and in effect, its compliance with international women's rights instruments.

1.7 THEORETICAL FRAMEWORK

The study uses compliance theory as its theoretical framework. The theory allows for a better view of the topic under study through the lens of implementation or adoption of international norms on women's rights. The compliance theory is used to understand how international agreements influence Ghana's domestic policies on women's rights.

First, when the actions of a given subject subscribe to a prescribed pattern of an act, compliance can be said to have occurred whereas violations will occur when actual conduct does not conform to an 'accepted pattern of conduct'.¹⁸ In other for there to be compliance, Oran Young agrees with Simmons by arguing that, "actual conduct of a subject must conform to prescribed behavior while non-compliance or violations occur when actual behavior departs significantly from prescribed behavior".¹⁹ Koh argues that "when transnational players interact, a pattern of behavior and norms emerge which are co-opted by the players".²⁰ Domestication of norms leads to their assimilation to domestic legal institutions of states which may lead to compliance. However, even though the domestication of norms in a state's institution may lead to compliance, certain conditions must be present.

Chayes and Chayes provided these conditions in their work stating that "states will comply with International Law or agreements when three factors are present. First, compliance eludes

the need to recalculate the costs and benefits of a decision, and therefore, saves transaction cost generating an efficient-based rationale for compliance. Secondly, Chayes and Chayes claim that treaties are consent-based instruments that, therefore, serve the interest of the participating states thus once a treaty is viewed as serving a state's interest, the state in question is likely to comply. Lastly, they argue that compliance is fostered by a general norm of compliance".²¹ In other words, an international norm that is adopted by many countries in the international system is likely to be complied with by all others.

In an interdependent world order, agreements made for mutual benefits or executions play a crucial role in maintaining the status quo. The adoption of domestic rules or regulations meant to facilitate agreements is a step at implementation but are not sufficient grounds for compliance. Thus, countries may be parties to conventions and declarations on women's rights but ratification in itself does not constitute compliance. Consequently, the internalization of international agreements hardly guarantees their potency. For instance, even though Ghana has signed various human rights instruments prohibiting the use of culture as a discriminating tool against women, the practice of FGM and Trokosi are still prevalent in some communities in the country.

Compliance with international agreements by states is largely a voluntary act. According to Keohane, "a vital mechanism for safeguarding compliance is related to reputation; states anticipate that they will pay a higher cost in the long term for agreements that they break to achieve immediate gain".²² Thus, compliance happens due to the state's concern with their image in the international community and the direct sanctions of violating the law where sanctions may consist primarily of subtle military or economic penalty and reputational losses.²³ Often, countries will go all out to protect their reputation hence the influence of reputation on

compliance. Shihata agrees with this position but further adds, “explanation for compliance relating to the image of a state is significant for developing countries that have an interest in developing status as the “rule of law” state”.²⁴

There have been a linkage between the type of governance a state practices and how it shapes its compliance with international behavior.²⁵ Further, compliance theorists consider that “democracies are more likely to comply with international legal obligations since democratic regimes share an affinity to prevalent international legal processes and institutions; they tend to be more willing to depend on the rule of law for their external affairs as well”.²⁶ Also, states that have autonomous judiciaries are posited to comply with agreements on judicial practices than states that have no independent institutions.²⁷

Koh agrees with Simmons’ position by arguing that, “domestic legal institutions play a critical role in the case of compliance of states to international norms as actual decisions to comply with or violate international norms is made by domestic institutions”.²⁸ He further adds that “domestic politics matter to the compliance question and that, the level to which a state complies with international law is influenced by domestic interest groups, the power of the executive relative to the legislature, the electoral cycle, the state of the domestic economy and so on”.²⁹

For instance, in drafting the DVA in compliance with Ghana’s obligation to international women’s right instruments it is a party to, marital rape became a contending issue. While CSOs were calling for the insertion of the marital rape section in the draft bill, several politicians including the Minister for Women and Children Affairs, Gladys Asmah opposed the bill. Largely citing customary and religious reasons, the opposition brought to fore on the draft proposal

informed the exclusion of marital rape in the final DVA draft. Thus, the domestic atmosphere in a country plays a significant role in its compliance with international obligations.

Fisher asserts that “rules will be better complied with when they follow commonly held notions of fairness and morality”.³⁰ Thus the idea of women having equal opportunities as men and enjoying the basic human rights and respect for dignity can be viewed as a notion of fairness which resonates widely. However, in instances where a state’s interest conflict with an agreement, governments may likely ignore international jurisdiction.³¹ For instance, the United States of America opted not to ratify the CEDAW as well as other international agreements even though they contain items for the advancement of the rights of women. Due to the commonly held notion of fairness and morality associated with human rights agreements, states are likely to comply with international customs even though there are exceptions.

It must be noted however, that compliance does not necessarily translate to effectiveness or implementation of agreements. While countries comply with international agreements for the preservation of their reputation or fear of sanctions, they may not necessarily make efforts at domesticating such agreements to provide the required effect in the spirit of the agreement, thus, attention must be focused on the actual implementation of agreements than of compliance.

For this study, compliance is measured in terms of domestication of international instruments through institutions, policies, and legislation. The study will also include the effectiveness of these measures in its determination of the extent to which Ghana complies with its international obligations on women’s rights.

This theory is ideal for the study as it provides a framework through which to analyze the implementation measures of Ghana. Consequently, since the passage of the 2007 DVA, there has

not been much work done in studying the implementation of the Act and its compliance with Ghana's international obligations.

1.8 LITERATURE REVIEW

Women's rights have become a focus of academic discourse in recent decades due to the clamor for respect and recognition of these rights through women's activism. For decades, women have suffered prejudices and considerable inequalities in all spheres of life ranging from politics, economics, and social life. While acceding to international human rights instruments on its own does not guarantee compliance, it is imperative that countries acknowledge this as a problem. This section reviews related literature on women's rights and compliance.

1.8.1 Women's Right and Human Rights

Oona Hathaway attempted to draw a distinction between human rights treaties and other treaties while exploring why countries commit to human rights norms. She argues therein that, "unlike other treaties such as those on fair trade and tariffs, human rights norms are not characterized by reciprocal benefits; hence offers no room for a tit for tat relationship".³² Krasner shared a similar view with the claim that, "unlike trade or security regimes which are settled because non-cooperation would leave each state worse off than it might have otherwise been, intergovernmental cooperation on human rights regimes are about negotiating generally accepted rules".³³ With reciprocity, for instance, countries might accord other countries some degree of respect in the hope of being treated in the same light. In the case of human rights norms, however, Hathaway is of the view that "a state will not be at liberty to violate the citizens of other countries in its territory just because the other country is violating its citizens".³⁴

Again, most human rights norms do not provide for sanctions or levy by international bodies for those who violate them. Schwarz et. al. acknowledge this shortfall in human rights treaties

thus characterizing them “weak” and “ineffective” as it does not apply force on states nor present rewards for compliance.³⁵ While this might hold in most cases, it must be noted that the moral obligation that binds treaties and resolutions sometimes compel compliance. In the case of DEVAW, although the declaration may not have an obligatory legal authority of a convention, it is universal in coverage and a strong statement of principle to the international community on VAW.

Arguably, current international human rights structures as various human rights norms fundamentally benefit men thus until recently, women’s rights issues were not seen as “human rights” per se. Qureshi argues that “within the ever-evolving human rights arena, the field of women’s rights has been constructed as a domestic affair more than others”.³⁶ She further asserts that “international human rights regimes are promotional and human rights implementation has remained largely a domestic affair”.³⁷ This limits the need to address women’s rights as cases of abuse or discrimination against women are termed as “private matters”.³⁸ Romany adds “human rights regime predominantly acts in the public sphere and overlooks what occurs in the private domain, where women’s human rights abuse takes place”.³⁹

Beasley, on the other hand argues that “men exist as public, legal entities in all countries, participate in public life and enjoy the full extent of whatever civil and political rights exist. Since most women need protection from harm in the private sphere, rereading of the International Covenant on Civil and Political Rights 1966 from a women’s perspective will help remove the dichotomies and will make these rights more meaningful”.⁴⁰ What all these authors share in common is their acknowledgment of the fact that, human rights violations are not necessarily always perpetrated by the state and that, there is the need to turn attention to the “home” where women’s rights are increasingly being violated.

Non-governmental actors are also influential players in domestic norm internationalization despite the state's significant role. Bunch argues that "When it is suggested that governments and human rights organizations should respond to women's rights as concerns that deserve such attention, several excuses are offered for why it cannot be done".⁴¹ She outlines these excuses as including; "sexual discrimination is too trivial or not as important, or will come after larger issues of survival that require more serious attention; abuse of women while regrettable is a culturally private issue, or individual issue and not a political matter requiring state action; while appropriate for other action, women's rights are not human rights per se; when the abuse of women is recognized, consideration of it is futile or will overwhelm other human rights questions".⁴²

In her work, Esther M. Kisaaye notes patriarchal culture as a key obstacle to the enjoyment of women's rights. Kisaaye argues that strain exists between women's human rights and patriarchal cultural norms thus playing a major role in impeding the execution agreements protecting women. She goes on further to outline three practices she viewed as discriminating and constituting the violation of women's human rights. She noted FGM, polygamy and bride price and argues that "FGM, for example, is a grave violation of a woman's right to life, health and, privacy".⁴³

Elizabeth Evatt noted that, "VAW is an issue of concern to women in many countries and that, women have worked to ensure that state accept responsibility to prevent and deal with such violence as a serious infringement of women's rights. Governments must, therefore, move the issue of violence from the area of private action to that of public responsibility".⁴⁴ Evatt outlined examples of gender based violations of women's rights to include "rape of detainees as a form of torture, sexual humiliation and abuse of prisoners, asylum seekers and refugees; threats and

harassment of women relatives of human rights activists”.⁴⁵ She further identifies cases of VAW to include “acid attacks, dowry death, bride burning, rape and abuse of women in custody, forced labor, torture, harassment of politically active women, and forcible denial of inheritance rights, sex tourism and, pornography”.⁴⁶ While Evatt sought to identify instances of VAW, she fails to mention the violence that occurs in the home thus DV as one of the most pervasive forms of VAW.⁴⁷

Andrew Byrnes admits that women are victims of human rights abuses along with men. He noted, however, “that there are gender specific parts involved in violating women’s rights and failure to identify these may mean that rights protected by the international norms on human rights will not be adequately recognized.”⁴⁸ Byrnes further maintains that “ some violations of women’s rights are ingrained in socio-cultural customs and culprits are often non-state actors whereas human rights law deals principally with state violations”.⁴⁹ He suggests that attention be given to recent developments in the area of state responsibility for acts of private individuals.⁵⁰

1.8.2 Violence against Women (VAW)

Women’s rights have taken the center of human rights discourse on several international platforms and have delivered significant political pledges to women’s human rights and equality.⁵¹ In a report, the United Nations (UN) special rapporteur to Ghana on VAW recalled that, DV against women is still pervasive and affects women of all social strata. He notes that “some harmful and degrading practices such as dowry-related violence, killings of people accused of witchcraft, child marriage, FGM and sexual harassment amongst others linger without efficient monitoring, punishment or redress, despite advances in legislation barring them”.⁵² A survey conducted in Uganda by a non-governmental organization indicated that 70% of male

respondents and 60% of female respondents believed that it was accepted for a man to batter his partner held a man was justified to beat his partner.⁵³

Atinmo adds that “police officers tended to remind wives who reported physical violence that their ‘Yoruba culture’ permits men to beat women”.⁵⁴ In her work, Rosemary also noted that all fifty respondents in a study conducted in Ghana also understood DV as the assault of a wife by her husband while others viewed it as including the beating of the children by either parent. She went on to conclude, wife-beating was viewed as a normal occurrence in a relationship largely due to perceived gender roles.⁵⁵

In sub-Saharan Africa where DV is deeply rooted in gender norms and inequality as elsewhere, feminist theorists have attempted to analyze DV as a result of a wider issue characterized by unequal gender relations.⁵⁶

At the international policy level, DV was first recognized in 1993 (DEVAW), which framed GBV as a human rights violation.⁵⁷ It defined GBV as violence committed by men against women and girls. Sources indicate that even though DV is prohibited by law, women in Ghana still face abuse and the prosecution of cases has proven difficult due in part to culture and the challenges to the implementation of the DVA.

1.9 DEFINITION OF CONCEPTS

The concepts of DV, VAW, discrimination and gender-based violence are used in this study.

Gender-based violence (GBV) is the general term used to capture “violence that occurs as a result of the normative role expectations associated with each gender, along with the unequal power relationships between the two genders, within the context of a specific society.”⁵⁸

Women and girls are more likely to be assaulted by someone they know than men and boys.⁵⁹

DV is defined as engaging in “acts that constitute a form of harassment, threat or harm to a person or behaviors likely to result in physical, sexual, economic, emotional, verbal or psychological abuse”.⁶⁰ This definition corresponds to other definitions of DV as espoused DEVAW. The office of VAW of the United States Department of Justice, on the other hand, defined DV “as a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner”.⁶¹ It identifies the forms of violence “as physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person”.⁶² This includes behaviors that “intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone”.⁶³

The two definitions outlined above recognize the sparse forms that DV may take thus, the institution of measures to identify and sanction perpetrators of such acts.

VAW is defined by the UN in its 1993 Declaration as acts which “results in, or is likely to result in physical or sexual or psychological harm or suffering to women, including threats of such acts, coercions, or arbitrary deprivation of liberty, whether occurring in public or private life”.⁶⁴ The definition of VAW by the United Nations encompasses many forms of violence suffered by women.

Further, DEVAW specifies that VAW is a manifestation of unequal power relations between men and women and a violation of women’s human rights. Article 3 of DEVAW lists examples of these rights, such as “the right to life, the right to equality, the right to the highest standard attainable of physical and mental health, or the right not to be subjected to torture, or other inhuman or degrading treatment or punishment”.⁶⁵

Discrimination against Women (DAW) is stated in CEDAW as “any distinction, exclusion or restriction made on the basis of sex which has effect or purpose of impairing or nullifying the

recognition, enjoyment of exercise by women, irrespective of their marital status, on a basis of equality of men and women of human rights and fundamental freedoms in the political economic, social, cultural, civil or any other field".⁶⁶

CEDAW and DEVAW both define VAW to include violence perpetrated by either, state officials or private persons such as family members, acquaintances or employers. In doing so, these instruments on women's rights close an important gap under international human rights law which originally was excluded from the human rights agenda the so-called private sphere in which many women's rights violations occur. VAW, therefore, cannot be understood in isolation from gender norms, social structures, and roles that influence women's vulnerability to violence.

1.10.1 SOURCES OF DATA

The study used primary and secondary data. Primary was sourced using interviews with informants and questionnaires. Also, secondary data in the form of books, journal articles, reports and policy documents were consulted.

The study obtained data from the DOVVSU Secretariat and National Headquarters of the Ghana Police Service with regards to DV response. The questions asked included the response strategies used by officers at DOVVSU and how culture affects police response to DV cases. The study also sought to inquire about the level of understanding of international women's right instrument and the DVA that officials are aware of and how these influences their operations in order to assess the implementation of the DVA.

Also, the Ministry for Gender, Children and Social Protection was consulted to ascertain their role in the implementation of international women's rights instruments, the implementation of the DVA in Ghana and their monitoring of other government agencies tasked with protecting women's right. Some victims of DV were interviewed to understand their perspective on the

level of intervention provided by DOVVSU as well as the role culture plays in their decision to report or not to report abuse.

1.10. Methodology

The study used qualitative and quantitative methods of research design. The rationale was to coherently gather data using semi-structured interview questions as well as questionnaires to obtain data.

The sampling method used is the snowball and purposive sampling technique.⁶⁷ This technique is extensively used in qualitative research for the identification and selection of information-rich cases.⁶⁸ It involves “identifying and selecting individuals or groups of individuals that are especially knowledgeable about or experienced with a phenomenon of interest”.⁶⁹ The individuals and organizations used for this study were chosen with the assumption that they possessed knowledge and experience in the field of GBV, policy drafting and implementation, law enforcement et cetera and thus are in the position to provide information that is both detailed and can be generalized.

The snowball sampling method was used to collect data on victims of abuse. Respondents were reached through referrals from three NGO’s in Accra. Respondents signed a consent form that spelled out the purpose of the study and assurance of the confidentiality of any information they provide. Besides, the NGO’s made provision for a clinical psychologist to be present while respondents answer questions. This was done to give the respondents reassurance as well as attend to the respondent’s psychological needs should the need arise. Respondents were asked how easy or otherwise it is for them to report violence against them. Again, the study asked respondents how satisfied they are with the response from DOVVSU when they launched a

report against an abuser. Victims were again asked whether, in their opinion, they believe society or culture determines how they respond to or report DV.

The sampling size consists of 60 persons comprising 30 victims of DV who have interacted with the police, 20 officials and officers from DOVVSU, Ministry of Gender, Children and Social Protection. And 10 persons from ARK foundation, Women in Law and Development-Africa (WiLDAF), ActionAid Ghana, Amnesty International and International Federation of Women Lawyers (FIDA) to understand Ghana's compliance with its international obligations.

The research population for this study was people and organizations working in the area of DV and women's rights activism. The target population for collecting data also consisted of "abused" women, officials from government agencies, officials from NGOs such as ActionAid Ghana, ARK Foundation, WiLDAF and FIDA amongst others. This is to have a broad representation of stakeholders involved in advancing the implementation of international women's rights acts in domestic policy.

1.11. ARRANGEMENT OF CHAPTERS

The study is organized into **four** chapters.

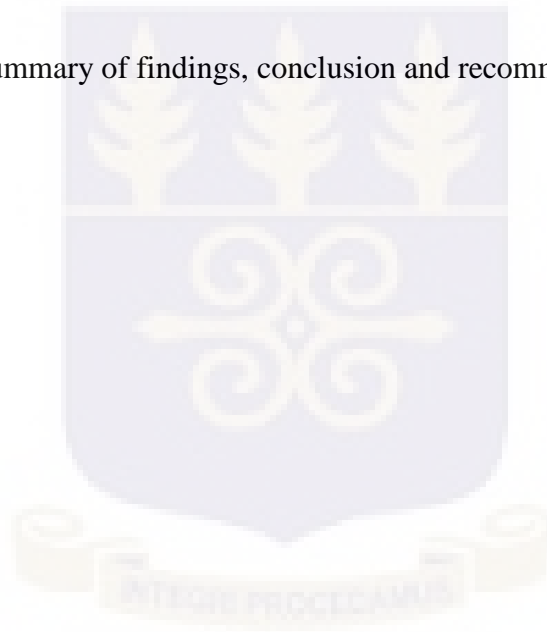
Chapter one comprises the Background to the study, Statement of the Research Problem, Research Questions, and Objectives of the Study, Scope of the Study, Rationale of the Study, Hypothesis, Literature Review, Conceptual/Operational Definitions, Sources of Data, Research Methodology and the Arrangement of Chapters.

Chapter two discusses the literature on women's rights in Africa. It further discusses DEVAW Article 4 and its implication for state parties and African states' adoption of international instruments, treaties, and their translation into domestic policies and its

implementation. The Chapter also discusses police response to GBV on the continent and in Ghana.

Chapter three presents the analysis and discussions of data obtained on Ghana's compliance with international instruments on human/women's rights. The chapter further analyzes the measures instituted by the government of Ghana to address DV, how patriarchal cultural norms affect police and victim's response to DV as well as the level of knowledge of officials on domestic and international women's rights instruments and, how these shape their response to DV cases.

Chapter four entails summary of findings, conclusion and recommendations from the study.



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CHAPTER TWO

THE IMPLEMENTATION OF INTERNATIONAL WOMEN'S RIGHTS INSTRUMENTS AND POLICE RESPONSE TO DOMESTIC VIOLENCE

2.0 INTRODUCTION

This chapter discusses women's rights and DOVVSU response to DV cases. It also presents an overview of the implication of the provisions of DEVAW on state parties and how African states comply with international women's rights instruments through domestication and implementation. The chapter also discusses how the institution of police created by states to deal with GBV handles DV cases in Africa.

2.1 HISTORY OF WOMEN'S RIGHTS

Since the 1940s, issues of women's rights have been at the forefront of the international discussions for the recognition of the issues that women face in the policy debate arena. The close of the Second World War and horrors of the war witnessed in Kosovo amongst others moved the international women's rights debate into a new realm for policy discussions. Over the past years, gender equality norms have been integrated into international law and multilateral institutions to an unprecedented degree. This has largely been in part as a result of the creation of the UN and the approval of the UN Charter in 1945.

The Commission on the Status of Women (CSW) is the principal global intergovernmental body exclusively dedicated to the promotion of gender equality and the empowerment of women established in 1946. It serves as a functional committee of the Economic and Social Council (ECOSOC). Its main aim is the preparation of recommendations to the council on political, economic, civil, social and educational fields of women's rights.¹

The growing mandate of the Commission saw in 1996 an ECOSOC resolution expanding its mandate to assume a principal role in observing and receiving advancement and problems, in the execution of the Beijing Declaration and Platform for Action, and in mainstreaming gender perspectives in UN works.

The Commission is responsible for drafting initial international conventions on women's rights such as the 1953 Convention on the Political Rights of Women. This was the first international instrument recognizing and protecting the political privileges of women. With women's rights issues still lagging due to shortfalls in the Universal Declaration of Human Rights, which did not do much to advance women's rights, an attempt at consolidating standards on women's rights were made in 1963 by the United Nations General Assembly (UNGA).² The Commission requested CSW to draft a declaration on the elimination of discrimination against women which was subsequently adopted in 1967. Building on this declaration, the Commission further drafted CEDAW.³

CEDAW is a legally binding treaty which entreats governments who ratify it to ensure that laws, policies, customs and practices do not discriminate against women directly or indirectly.⁴

2.2 THE DECLARATION ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN (DEVAW)

One of the boldest statements on the recognition of VAW as a pervading women's rights issue was the adoption of DEVAW in 1993, following the Vienna Conference earlier in the year. Based largely on General Recommendation 19,⁵ DEVAW complements the work of CEDAW.⁶ Unlike previous texts on women's rights such as CEDAW, which did not spell out the issue of VAW as an abuse of their human rights except the reference to human trafficking or prostitution,⁷ DEVAW explicitly mentions DV by name. In its preamble, DEVAW affirms that

“VAW constitutes a violation of the rights and essential freedoms of women and impairs their enjoyment of those rights and freedoms”.⁸

The Declaration, recalling previous treaties and conventions summarizes three forms of violence as violations of international law. They include:

2.2.1 Violence in the family

Recognizing DV as a pervasive issue in the family cuts across cultures, lines of income and class, the declaration provides for an outline of the types of violence that occurs in the home and serves as a barrier for women’s realization of their fullest potentials. It explicitly states the forms of abuse that constitute DV in the family which include marital rape, FGM and battery amongst others.

2.2.2 Public Violence

Another area of importance that was addressed in DEVAW is the issue of violence faced by women in the public space such as the workplace and their society. With historically unequal gender relations in many societies across the world, women are delimited to the private space and face a great deal of discrimination and violence when they venture into the public space. The declaration recognized ‘rape, sexual harassment and coercion at work and educational institutions as some of the violence women face in the general community’.

2.2.3 Violence condoned by the state wherever it ensues

Inaction or inadequacy of protection granted to women in states does not absolve the state of its responsibilities to guard the rights of all of its peoples irrespective of their gender. Often, issues regarding women are delimited to the private space far from the reaches of national laws. This creates a situation where many perpetrators of VAW can escape the law without sanctions. At other times, states themselves have been perpetrators of violence especially in times of war.

DEVAW acknowledges the danger posed to women by the actions or inactions of states thus making provision for VAW to be noted as physical, sexual and psychological violence overlooked by the state wherever it occurs.⁹

Further, the declaration instructs states to “establish disciplinary, civil, labor and administrative sanctions in local legislation to punish perpetrators of VAW, develop comprehensive, preventive approaches of a legal, political, administrative and cultural nature that promote the protection of women against any form of violence while making the justice system accessible to victims of violence. More importantly, DEVAW instructs states to allocate budgetary resources towards the activities of eliminating VAW”.¹⁰

2.3 DECLARATION ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN AND COMPLIANCE

Compliance with international instruments signed by states has largely been based on many factors from internal to external. From the rational actor perspective, states will comply with international law when they are assured of gaining more rewards than other states.¹¹ While many governments have been quick to append their signatures to international instruments on women’s right, actual compliance with the letters of the treaties has been lagging. This is all the more glaring in the face of the fact that DEVAW is only a declaration of position without the legal force of a treaty. Although the declaration does not have the binding power of a convention or treaty, it is general in coverage and a tough proclamation of a standard to the international community.¹²

Many countries have domesticated their texts as well as those of other instruments in their national laws to fight VAW. However, since compliance is largely a voluntary act or may sometimes be induced by external pressures such as CSOs or human rights bodies, DEVAW

appoints a special rapporteur who reviews issues of VAW and assesses whether state legislation, agendas and policies require additional inquiry and attention by conducting country visits to monitor and appraise progress on the implementation of DEVAW.¹³

2.4 WOMEN'S RIGHTS IN AFRICA

Women's rights in Africa has been a contested issue for many years. While DAW is a global issue that has featured in world conferences on women's rights, the situation in Africa is quite peculiar with religion and culture used as justification for harmful and violent practices against women.¹⁴ It is, therefore, not out of place to link VAW to "gender discrimination partly because, there has been evidence suggesting that VAW is closely linked to patriarchal gender norms that romanticize women's subservient status to men in many societies, and partly as a matter of convenience".¹⁵

This view is reiterated in the preamble of DEVAW which recognizes that "VAW is an expression of the historically unequal power relations that existed between men and women thus leading to the discrimination of women by men".¹⁶ VAW as an affront to the full realization of women's rights has been recognized as an issue that hinders the development of women and infringes on their right as espoused in the preamble of the Maputo Protocol.¹⁷

Although strides have been made towards promoting women's rights in Africa and eliminating GBV, reports indicate that 1 in 3 women in Africa has experienced physical or sexual IPV in their lifetime.¹⁸

Six countries namely, Burkina Faso, Cote D' Ivoire, Egypt, Lesotho, Mali and Niger have no legal instruments protecting women against DV. This to a large extent is as a result of women being considered second class citizens, thus, government efforts at promoting their rights are given lower priority.¹⁹ Elen contends that "following the shift of discussions of DV into the

political sphere, DV now has global attention thus breaking the silences associated with it”.²⁰ He further argues that “DV law becoming a hotly contested issue is also as a result of numerous women’s rights movements to combat VAW worldwide”.²¹ In the case of Ghana, various women’s right movements, as well as stakeholders, played instrumental roles in the drafting and passage of the DVA in 2007.

With the growth of women’s rights crusade in recent years, fervent campaigns and conventions on DV laws, an increasing number of countries have introduced DV laws including many African countries. For example, 125 countries in the world have passed specific legislation on DV, while 46 countries, including 6 countries in Africa as named above have no legislation to that effect.²² While adoption of these laws have been to comply with various declarations and treaties states accede to, the laws have often appeared incomplete with weak implementation mechanisms. Challenges to implementation transcend beyond logistics and political will to challenges such laws pose to the patriarchal structure and issues of marriage and family in many conservative African societies.²³

2.5 WOMEN’S RIGHTS IN GHANA

The Ghanaian society has largely remained conservative with patriarchy dictating the relationship between men and women. Often, men wield the political and economic power with only a few exceptions. Pre-colonial Ghanaian society acknowledged women as carriers of children, traders in fish and planters.²⁴ It must, however, be noted that despite this ‘belief’, women have played significant leadership roles in these societies and participated in profitable economic ventures.

As the vessels through which a lineage is preserved however, women are barely given control of their bodies with decisions relating to their bodies made by males or their extended family

members. Studies have for instance revealed that men in sub-Saharan Africa have more say than women in decisions of using contraceptives and the number of children the couple must bear.²⁵ According to the Commonwealth Secretariat, “patriarchy in addition to poverty, illiteracy and unemployment are factors that increase women’s vulnerability to GBV and other related sexually transmitted diseases”.²⁶

Regarding economic activities, women in rural Ghana are largely engaged in non-commercial activities such as working the land which belongs to the male heads of the family. On the coastal stretch, men go to fishing while women sell the fish using the benefits accrued for the upkeep of the home.²⁷ Men, on the other hand, reinvest their monies in their enterprises out of reach of women thus, the traditional division of wealth placed women in subordination to men.²⁸ This gap is being bridged as women can be found in all sectors of the workforce in Ghana albeit underrepresented.

The quest for a seat at the political decision-making arena for women have been fraught with many barriers. Women are barely represented at the parliamentary level even though almost all African countries including Ghana have ratified various treaties that call for women participation in politics. Between 1960 and 2004, however, there has been an average increase in women representatives in Africa parliaments from as low as 1% to 14.6% with the largest increase occurring between 1990 and 2004.²⁹

In Ghana, slow progress is being made towards women participation in politics with the number of women parliamentarians increasing from 16 out of 200 in 1995 to 25 out of 230 in 2004.³⁰ In 2016, the number of women legislators stood at 35 out of 275 seats which represent 12.75% of the entire parliament.³¹ While there is a steady improvement, serious questions remain as to why women are underrepresented in Ghanaian politics. One notable factor has been the

view of politics as a male sphere demanding male characteristics. The second stems from the fact that many of the politically active women belong to elite groups with better education and wealth thus; gendered interest becomes secondary to their political agenda.³²

Ghana has ratified CEDAW and its protocol as well as the Maputo Protocol. Besides, Ghana has adopted the Human Trafficking Act which criminalizes human trafficking as well as the creation of DOVVSU in compliance with its international obligations. Section 17 of the Ghanaian constitution prohibits discrimination based on gender and religion while subsection 3(27) stipulates, “women shall be guaranteed equal rights without any impediment from any person”.³³ Notwithstanding these guarantees of women’s rights, discrimination and VAW are still rife.

The problem thus has not been lack of laws or compliance but the effective implementation of domesticated laws. Also, Ghana’s legal system operates with constitutional, customary and religious laws thus creating inconsistencies in areas of women’s rights including marriage and family laws and inheritance and property rights. In effect, culture and religion have a deep-rooted influence on women’s rights in Ghana thus Oware et al, concluding in a report, stated that, “no amount of legislation alone would help women until the traditional attitudes leading to prejudice and exclusion in the public arena are overcome”.³⁴

2.6 INSTRUMENTS ON WOMEN’S RIGHTS IN AFRICA AND COMPLIANCE

There has been widespread ratification of international human rights instrument all of which protect women from gender-based discrimination across the world.³⁵ Almost all countries have ratified CEDAW which seeks to ensure women’s rights are promoted in a significant way by the international community, albeit some, with reservations.³⁶ More than half African states signed the Africa Union’s Protocol on the Rights of Women in Africa in 2003. Further, the African

Union Commission and its human rights arm have also espoused obligatory arrangements to govern issues with regards to the rights of women. They include the “African Charter on Human and Peoples Rights, the Convention Governing the Specific Aspects of Refugee Problems in Africa; the African Charter on the Rights and Welfare of the Child; and the Protocol on the Statute of the African Court of Justice and Human Rights”.³⁷

Although African states have participated and ratified many international women’s rights instruments, they have not greatly improved the lives of women on the continent as compliance is weak in most states. For instance, while the adoption of the African Platform for Action in 1994 was seen as a landmark moment for emphasizing the case of VAW in the region,³⁸ women still face discrimination on the continent with culture, civil and religious conflicts catalyzing the violation of women’s rights.

2.6.1 THE AFRICAN CHARTER ON HUMAN AND PEOPLE’S RIGHTS AND THE MAPUTO PROTOCOL

The ACHPR, also known as the Banjul Charter, sets standards and establishes the groundwork for the promotion and protection of human rights in Africa.³⁹ Among its key provisions, the Charter recognizes the indivisibility of all rights following the steps of the UNDHR. While it spells out in the rights and freedoms of individuals and obligations of states, it also sets out the duties for individuals under chapter two. With these rights and guarantees notwithstanding, there was the need for a more robust set of guidelines governing the advancement and guard the rights of women thus the consultations and subsequent adoption of the Maputo Protocol to the ACHPR.

Adopted in July 2003, the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa, also known as the Maputo Protocol is the most recent comprehensive text on guaranteeing the rights of women in Africa. Its texts provide for the rights

of African women to participate in politics and enjoy equality with men while owning the choice over their sexual reproductive health.⁴⁰

It must, however, be noted that Article 60 of the ACHPR obliges it to refer to principles enshrined in other international instruments thus; the Protocol consulted a wide range of international instruments. A landmark document on women's right on the African continent, 49 states have so far signed the Protocol and out of that number, 37 have ratified and submitted the Protocol at the Commission.⁴¹ To ratify these documents is to be morally and legally bound by their provisions thus many continents influenced by these international instruments have taken steps to institute legislation in their respective countries to fight discrimination and VAW.

It must nonetheless be noted that, for women's right to be safeguarded within the global community, women will have to assume dynamic roles in the development of international law thus amongst other things, the Maputo Protocol in its provisions in Article 9(1) "entreats State parties to take specific positive actions to promote participative governance and the equal participation of women in the political life of their countries through affirmative action amongst others".⁴²

2.7 IMPLEMENTATION OF INTERNATIONAL WOMEN'S RIGHTS INSTRUMENTS

At the continental and international levels, issues of women's rights have stirred up heated debates as many provisions go to challenge the very foundations of patriarchy as well as other cultural and religious held views on women's rights. Thus, having ratified women's rights instruments, states are faced with the challenge of compliance from multi-facet areas. While the Maputo Protocol spells out a several provisions on women's rights, this section will consider the implementation of three interrelated Articles relevant to this work. They include Article (2),

Elimination of Discrimination against Women; Article (5), Elimination of Harmful Practices; Article (4), The Rights to Life, Integrity and Security of the Person.

2.7.1 Sexual Violence

Sexual abuse and violence are one of the grave acts of discrimination women are exposed to the world over. Often, it is directed at women who lack the economic and social status to resist it with religion and culture sometimes used as justifications.⁴³ Sexual VAW is a prevalent issue in sub-Saharan Africa with surveys indicating that 40 per cent of Zimbabwean women, 46 percent of Ugandan women, 42 per cent of Kenyan women and 60 per cent of Tanzanian women reporting physical abuse.⁴⁴

Having ratified international instruments such as CEDAW and parties to declarations such as DEVAW, African states have taken measures at addressing violence against women. Policies and several national laws institute provisions against VAW including DV and GBV in conflict situations.⁴⁵ In compliance with its international obligations, many countries have passed laws against DV which encompass physical abuse to emotional or psychological abuse.

Although not explicitly stated in the Maputo Protocol, the Protocol places obligations on state parties in Article 4(2) a for “states to enact and enforce laws to prohibit all forms of violence against women including unwanted or forced sex whether the violence takes place in private or public”.⁴⁶ The Protocol goes further in Article 4(2) b to oblige states “to adopt such other legislative, administrative, social and economic measures as may be necessary to ensure the prevention, punishment and eradication of all forms of VAW thus African states drafting DV laws to tackle cases of VAW”.⁴⁷

In compliance with Article 4 of DEVAW, many African states have enacted DV legislations while setting up specialized institutions to aid in the implementation of these laws. In Zimbabwe,

victim-friendly police units have been legally created in a bid to effectively implement the DVA.⁴⁸ This attempt is also evident in South Africa as the Southern African DVA of 1998 provided for special police units manned by female investigators who handle all DV cases reported to it.⁴⁹ Similarly, in Ghana, a specialized institution, the DOVVSU of the GPS is tasked with handling DV cases and implementing the provisions of the Act together with other government departments and agencies.

Despite these specialized institutions, DV cases still go underreported. As noted by Chira-Mugomba, negative police cultural attitudes may influence the reporting patterns of victims. She further stated that police attitudes towards reports of DV may be affected by the assumption that DV issues are essentially private and should not be a police matter in Zimbabwe.⁵⁰

This notwithstanding, the Act has been noted to have encouraged more women to report DV cases and has alleviated DV in many areas in Zimbabwe.⁵¹ Chuma and Chazovachii concluded that “the implementation of the DVA in rural areas, for instance, is problematic as several factors militate against its effectiveness. First, ways in which public awareness programs on VAW can be raised are limited and secondly, the dual system that operates in the rural areas where customary and general laws operate side by side was identified as a major factor impeding the effective implementation of the act in consonance with Article 4 of DEVAW”.⁵²

A major challenge that confronts the implementation of the DVA in Zimbabwe stems from culture as Zimbabwe’s DVA conflicts with its cultural norms. Zimbabwe operates a dual legal system where customary laws operate alongside criminal and civil laws,⁵³ thus while statutory laws tend to conform to CEDAW for instance, the customary law continues to shield discriminatory elements. Zimbabwe included in its constitution in 2006, the prohibition of marital rape within the Criminal Law Act section 68 (a). Many African states expressed

reservations on the issue of marital rape arguing that the institution of marriage is sanctified and thus, a private space where government laws should not pry. Therefore, the inclusion of marital rape in Zimbabwean statutes in compliance with Article 2(a) of DEVAW became a landmark victory for women's rights in Zimbabwe. Contrary to Zimbabwe's inclusion of marital rape in its statutes, Nigeria and Ghana have not been successful in this regards. Both countries had to drop the provision on marital rape before the passage of their respective DVAs.

2.7.2 Discrimination against Women (DAW)

DAW is one of the most pervasive challenges to the development of women worldwide. These discriminations have been manifested in various practices of societies over the years thus making it an acceptable way of life. Women are largely brought up in most patriarchal cultures as subordinate beings to men and thus, live on the dictates and whims of their male counterparts. Recently, however, DAW has faced fierce international and societal opposition.

While DAW can find its traces in unwritten traditions, customs and procedures which have been enforced over the years through traditional practices, DAW may vary largely from various groups or societies across the world. Also, religious practices and doctrines have proven to be a locus for discrimination against women as many religious groups accept text and practices that do not benefit women. Some of these religious rules are drafted into national laws thereby instituting systematic discrimination against women. For instance, the Zimbabwean Inheritance Law as drafted in its national constitution was drawn from a customary law which prohibits women from inheriting properties such as lands.⁵⁴ The case of Zimbabwe is peculiar as the Zimbabwean state operates a dual legal system which gives customary practices and ruling credit.

Where women have been discriminated upon, seeking justice becomes a hurdle to cross as some legal systems are silent on cases of DAW thus; several women have been denied justice around the world.⁵⁵ While this holds, the inability of women who are discriminated against to seek justice presents itself in two folds; “first, society socializes women to normalize abuse and subordination; secondly, victims are mostly not aware of justice-seeking mechanisms available to them in the case of GBV especially”.⁵⁶ Where justice is purported to be granted to victims, they are mostly lenient or play into the stereotypical gender-based discrimination. For instance, Moroccan Penal Law allows a perpetrator of rape to escape imprisonment provided the rapist marries their victim in the protection of the girl’s pride.⁵⁷

Beyond religion and ethnicity, socio-cultural practices have also placed many women at a disadvantage. Acts that discriminate against women also include FGM, ritual servitude, widowhood rites and widowhood inheritance. FGM, for instance, is prevalent in Africa and other countries around the world.⁵⁸ According to a report published by UNICEF in 2007 on FGM, more than 125 million women and girls in about 29 African countries have undergone FGM.⁵⁹ In Ghana, although laws criminalize FGM, it is still a practice carried out in some parts of the country with a 3.8% prevalence rate countrywide.⁶⁰

Sparingly, some states have reviewed laws that discriminate against women and instituted more gender-friendly legislation as part of their commitment to advancing women’s rights. For instance, Sierra Leone amended its Citizenship Act to allow both sexes equal rights to confer nationality on their children.⁶¹ Before, only men reserved the right to pass on their nationality on their children. Again, in the area of land ownership, Sierra Leone has taken steps to comply with its international commitments to repeal laws that disallow women from owning properties. This

commitment and ratification of international instruments have, however, not translated into the total elimination of discrimination against women.

In addition to CEDAW, African states are parties to conventions, protocols and declarations such as DEVAW that morally or legally obliges them to remove discriminatory practices that hinder the development of women. Article 2 of the ACHPR recognizes that “every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the Charter without any distinction to race, ethnic group, colour, sex, language, religion, political or any other opinion”.⁶² The provision serves as the basis for the non-discrimination clause for the Charter with Article 18(3) further calling on state parties to ensure the elimination of every DAW and also, to ensure the protection of the rights of women and the child as stipulated in other international declarations and conventions’.⁶³

2.7.3 Police Response to Domestic Violence in Africa

The police serve as a critical linkage between victims of DV and the criminal justice system thus their importance to the protection of women’s right cannot be underestimated. Policing in Africa has, however, not had the most promising of records in dealing with DV with some scholars describing police forces in African states as corrupt, undertrained, inefficient and lacking the respect for human rights.⁶⁴⁶⁵ Thus to Richmond and Alpine, “poor training and the lack of adequate funding for Africa’s police forces make them part of the problem rather than a solution to GBV on the continent”.⁶⁶

Also, Peace notes that “poor training, patriarchal norms, corruption and lack of resources have rendered police response to DV cases in Liberia deficient”.⁶⁷ Other scholars contributing to this argument theorize that the ineffectiveness of police in Africa to deal with DV cases also stem

from the fact that, police in Africa are largely male-dominated institutions that do not necessarily seek to enforce laws aimed at protecting and promoting women's right.⁶⁸

Peace Medie argues that “despite the passage of progressive anti-rape laws in many African countries, formal justice system remains inaccessible to many women, particularly evident for the poor and marginalized”.⁶⁹ On rape as a form of GBV, she further notes that “while the amendment of the 2005 Liberian rape law strengthened pre-existing penal statutes on rape, police withdrawal of cases of rape from the courts presented a challenge to law enforcement in Liberia and many other African countries”.⁷⁰ In the case of Liberia, she again notes, “besides defining the offence and role of the police in the fight against rape, the new rape law and gender policies have signaled to police that rape is a serious offence that should be prosecuted”.⁷¹

While institutional lapses affect the functionality of police forces in Africa, culture has been noted to play an important role in police response to DV cases. A report published by UN Women indicated that police disposition to pursue and investigate cases, arrest suspects and prosecute in the case of DV and other forms of VAW is justified and trivialized by patriarchal norms.⁷² Jawkes in her work also noted that “many cultures across the continent tolerate abuse of women by men in certain circumstances thus police trivializing reports of domestic strife”.⁷³ In response, Peace notes in the case of Liberia that, “training of the police teaches that, victims of GBV are not to blame thus overturning rape myths that have traditionally affected police treatment of rape victims”.⁷⁴

In Africa, women's movement and coalitions have been at the forefront of holding governments to account regarding their international obligations on human rights. In Ghana, the Domestic Violence Coalition, comprising women's right movements and advocates played a vital role in drafting, lobbying and the final passage of the country's DVA in 2007.⁷⁵ However,

the adoption of policies does not constitute implementation or effectiveness. While governments in recent years have passed women's rights legislation, the political will and resources needed to fully implement them are lacking thus,⁷⁶ proving to have little effect on addressing VAW.

The police are one of the foremost stakeholders in the implementation process thus any attempt at interrogating the effectiveness of policing in any state must include the institution of the police. Peace Medie notes that "various factors explain the way policy implementers such as the police behave and they include political control, organizational control, individual-level characteristics and external pressures".⁷⁷

2.7.4 Policing and Domestic Violence in Ghana

The police in Ghana like other African countries are responsible for handling cases relating to GBV. Like their counterparts in other parts of the continents, the GPS is not immune to allegations of corruption and lacking the effectiveness needed to fight GBV. A survey in 2005 by the Ghana Integrity Initiative revealed that 78.6 per cent of Ghanaians considered the police to be the most corrupt institution.⁷⁸ Again, some scholars have argued that the quality of policing in Ghana can be attributed to lax in training and widespread improprieties.^{79,80} This view seems to be universal with most forces on the continent and has critically affected their response to DV.

In an attempt at better policing of DV cases, the Ghanaian State established DOVVSU (previously named WAJU) as a specialized unit of the GPS tasked with addressing issues of DV. This Unit according to Medie, was used as a module for establishing Liberia's specialized unit, the Women and Children Protection Section (WCPS).⁸¹

In a study, Laura Mitchell found that the unavailability of logistics presents a challenge to the fight against DV. Laura again notes that "there is a high level of cases that do not proceed to the courts thus; few perpetrators get prosecuted for offences committed".⁸² This can be confirmed

from DOVVSU's second-quarter statistics from 2016 which indicates that, of the 3,814 cases recorded, only 49 convictions were handed down to perpetrators with the remaining cases either pending or closed.⁸³

The police in Ghana like elsewhere on the continent are important gatekeepers between victims of DV and justice delivery. The GPS and its specialized unit, DOVVSU, have been noted to be corrupt and sometimes unwilling to prosecute cases. Other challenges that plague their counterparts in other parts of the continent have been noted to contribute to the police response to DV cases. They include insufficient funds, lack of training and culture thus to overcome this challenges, Laura recommends the provision of specialized training to DOVVSU officers, allocate funds and needed resources to the Unit amongst others to help tackle the issue of DV in the country.⁸⁴

2.8 MONITORING COMPLIANCE WITH REGIONAL INSTRUMENTS

Compliance with international women's rights instrument is based on several factors. Thus weighing alternatives, a state may choose to comply with an instrument due to the perceived reputational cost attached. Although the adoption of the marital rape law was opposed by many sections of the Zimbabwean society, it was eventually included in the statutes. This came as a result of Zimbabwe's quest to be seen as democratic and possessing respect for women's rights.

Although morally and legally bound by treaties they sign, compliance can largely be unsatisfactory and where states adopt domestic policies to address women's rights issues, there have not been a guarantee for its effectiveness. All treaties, conventions or declarations are imbued with compliance monitoring mechanisms to be able to track states' progress and fulfilment of their commitments. For instance, the CEDAW Committee serves as the

“watchdog” for monitoring states’ compliance with the convention with country reports expected from states within a given period.

The African Commission on Human and Peoples Rights monitors implementation of states’ commitments as set out in the Charter and the Maputo Protocol. Other monitoring mechanisms include the African Committee of Experts on the Rights and Welfare of the Child which monitors the implementation of the African Charter on the Rights and Welfare of the Child. Further, Article 26 of the ACHPR requires states “to submit every two years, periodic reports on administration, legislative or other measures taken at the national level to give effect to the provisions of the Protocol”.⁸⁵

However, since its inception, only four countries out of the 37 that ratified the Protocol have submitted reports to the African Commission on Human and Peoples Rights under the Maputo Protocol. In contrast, 46 African States have reported to the UN Committee on the Elimination of Discrimination against Women.

This goes to purport that African states have deep reservations on some provisions in the protocol as expressed by Tunisia, Sudan, Kenya, Namibia and South Africa’s reservation of Article 6 of the protocol.⁸⁶ Meanwhile, “Burundi, Senegal, Sudan, Rwanda and Libya hold reservations with Article 14, relating to the “right to health and control of reproduction”.⁸⁷

2.9. Conclusion

DAW exists in many forms all around the world. In certain societies, it is ingrained in their social fiber with tradition and religion as well as other practices used as a basis for these discriminatory practices. CEDAW and DEVAW have conveyed the question of DAW into the international discourse with an obligation on state parties to work towards ending discrimination. In Africa, the ACHPR and its Protocol have become strong statements on human/women’s rights

on the continent taking a cue from international instruments such as CEDAW and DEVAW. While state parties have done some work towards compliance, there are many other areas of DAW that require the commitment of states to uproot. It can, however, be said that the increasing passage of DV laws by African states goes to show the level of commitment to compliance with international obligations. This notwithstanding, there has been resistance to the passage of DVA in several countries with Nigeria and Ghana dropping the provision recommended in DEVAW on marital rape from its final DVA.



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CHAPTER THREE

THE IMPLEMENTATION OF THE 2007 DOMESTIC VIOLENCE ACT IN GHANA

3.0 INTRODUCTION

This chapter begins with an overview of Ghana's compliance with international human rights instruments. It further discusses the 2007 DVA under four themes and proceeds to discuss the measures adopted by the government of Ghana to address DV as evidence of compliance. The chapter analyzes data on how culture affects police and victim's response to DV, the level of police knowledge of international women's rights instruments and the DVA and its implication on DV cases. The chapter concludes by outlining some challenges facing the implementation of the DVA and in effect, Ghana's compliance with its international obligations to address VAW.

3.1 Ghana's Compliance with International Human Rights Instruments

The constitution of Ghana places an obligation on the state to promote respect for international law, treaty commitments and the settlement of international disputes by peaceful means. Further in Article 40 (d), the constitution obliges states to "adhere to the principles enshrined in the Charter of the UN, AU, the Commonwealth Treaty, Treaty of ECOWAS and any other organization of which Ghana maybe a member".¹

The preamble of DEVAW stresses the importance of State Parties accession to other Human Rights Instruments such as CEDAW as a step towards further promoting and protecting women's right. It also establishes that the accession to the Human Rights Instruments obliges state parties to protect women.

Ghana is a signatory to the Charter of the United Nation and the UDHR (1948) which guarantees the respect of dignity and equal rights of all persons including men and women. Subsequently, Ghana acceded to the International Covenant on Civil and Political Rights (1966);

the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (1948); Convention on the Rights of the Child; and the UN Millennium Declaration.

Although having ratified previous instruments such as the CEDAW that placed an obligation on Ghana to domesticate the CEDAW by ensuring that the provisions in the national constitution and national laws conform to international provisions, DEVAW has further guided Ghana to draft policies and measures towards the protection and promotion of women's right.^{2 3} In compliance with previous international obligations, Ghana's constitution provides that, "A person shall not be discriminated against on the grounds of gender, race, colour, ethnic origin, creed or social or economic status".⁴ Article 17 (3) further defines discrimination.⁵

The constitution of Ghana in Article 33 (5) affirms that human rights are binding on Ghana as they are inherent in a democracy. Article 40 also indicates Ghana's acquiescence to adhering to the principles and ideals enshrined in international, regional and sub-regional treaties, conventions or declarations. Additionally, in compliance with its international human rights obligations, Ghana has amended its Criminal Code of 1960 to provide tougher penalties for rape and defilement and outlaw practices such as FGM, widowhood rites, ritual servitude amongst others.

Further, in compliance with Article 4 (d) of DEVAW,^{6 7} legislation on women's rights such as the DVA has been promulgated with Section 42 (g) placing a requirement for consent for sex at all times in marriage. Again, Ghana passed the Marriage and Divorce Law and Labor Act of 2003 with other landmark bills such as the Affirmative Action bill still being debated in parliament.

In compliance with its international obligations on protecting and promoting women's rights, Ghana has created the necessary legal environment conducive to advancing women's rights.

These legislations are an important step towards compliance but they are not by themselves sufficient thus, implementation of these legislations remain key. While these legislations seek to blur the line between the ‘private’ and public arena of DV, some policy implementers continue to put the preservation of the private sphere above women’s safety.⁸ The subsequent paragraphs will present an overview of the DVA and analyze the measures put in place by the government of Ghana to address DV as constituting compliance.

3.2 3.2 MEASURES ADOPTED BY THE GOVERNMENT OF GHANA TO ADDRESS DV

3.2.1 THE 2007 DOMESTIC VIOLENCE ACT (OVERVIEW)

After years of women’s movements fight for a legislation that will provide safety for women and girls, the DVA was finally passed in 2007. The draft legislation is meant to offer a holistic and effective legal framework for addressing DV in Ghana; provide broad redress for cases of DV, sanctions on perpetrators and protective remedies for victims; and to improve Ghana’s compliance with its legal obligations under international human rights instruments. In drafting the DVA, reference was made to the constitution, the Criminal Code 1960, Act 29, Criminal Procedure code 1960, Act 30, the Courts Act 1993, Act 459 and the Matrimonial Causes Act 1971, Act 367.⁹ It is organized in sections and clauses that explain actions to take.

I will discuss these overviews under four main thematic areas; definition of DV, the prohibition of DV, police assistance and court jurisdiction in DV cases.

3.2.2 Definition of Domestic Violence

Section 1 of Act 732 defines DV and outlines the various forms of violence capturing them under physical, sexual, economic and emotional abuse with parallels to Article 2 of DEVAW.¹⁰ It offers an in-depth composition of acts that constitutes violence to encompass a wide range of

behaviors. The Act further establishes the basis for the definition of a domestic relationship which establishes the link between a complainant and the perpetrator.¹¹

3.2.3 Prohibition of Domestic Violence

One of the equivocal points raised in the texts of DEVAW is for state parties to draft legislation prohibiting DV. The DV Act spells out sanctions in compliance with DEVAW Article 4(d) provision which entreats state parties “to develop penal, civil, labor and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence”.¹²

To this regard, the Act calls for the imposition of sanctions or a prison sentence not exceeding two years. While the Act is lauded as an important action in the fight against DV in Ghana, the penalties as spelt out in the Act is seen to be lenient and thus, would not serve as a deterrent for perpetrators.

The draft bill repealed section 42 (g) of the Criminal Code, 1960 (Act 29) which states that “sexual consent between partners is given at the time of marriage thus a woman cannot refuse her spouse sex”.¹³ The repealed section of the Criminal Code was replaced by a section in the DVA which ‘prohibits’ the use of violence based on consent from the time of marriage. This provision was not approved by many MPs including the Minister for Women and Children’s Affairs Gladys Asmah who argued that the definitions of DV being used is a western ideal and unfit for the Ghanaian setting due to cultural differences.¹⁴

3.2.4 Police Assistance

In dealing with DV cases, law enforcement agencies play a very crucial role both in the implementation of the DVA and bringing perpetrators to justice. However, before the passage of the DVA, the police did not have a comprehensive document or set of rules to guide them in

their response to DV thus they had to resort to using their discretion in deciding which offences to classify as DV and whence to refer a victim for medical treatment.¹⁵

This gap in police assistance created a scenario where most abuse cases are neglected as victims are not encouraged by the process to seek justice. In admission to this issue, the Deputy Inspector General of Police, Elisabeth Mills Robertson, stated that victims do not receive an adequate response when they report DV cases.¹⁶

This she attributes to “a hamstrung of many factors including lack of requisite skills and expertise by police personnel in receiving complaints, investigation, apprehension and prosecution of perpetrators in DV cases”.¹⁷ Mills was speaking at an intra-consultative workshop on DV in Accra. In compliance with its international obligations of promoting and protecting women’s right, the DVA specifically outlines measures a victim or associate may take to report a perpetrator to the police and what actions the police may take. The Act further enjoins the police to provide all the assistance and protection needed once a victim launches a report.

Most importantly, the Act provides for victims to receive free medical treatment wherever necessary and the police is to ensure the victim is safe and protected but according to an interview, this service is mostly absent to victims of abuse. Victims are turned away from medical facilities for lack of payment of medical fees tends to dissuade some women from further carrying on with the process.¹⁸ Additionally, the DVA grants the police the power to effect the arrest of a perpetrator with or without a warrant.¹⁹

3.2.5 Court Jurisdiction

Access to justice is one of the most challenging issues facing women in the developing world. Ghana’s international obligations in promoting and protecting women’s right can be inferred from DEVAW which stipulates that “women subjected to violence should be provided with

access to mechanisms of justice and as provided for by national legislation, to just and effective remedies for the harm that they have suffered”.²⁰

Taking this into account, the DVA provides that, “a court with original jurisdiction may hear and determine a DV case and issue a protection order where it is deemed to be needed”.²¹ It must be noted however, that before the passage of the DVA courts were generally trying cases of DV which have been specified by law although not explicitly. However, the courts were hindered by delays in the justice system, an inefficient investigative process and a dearth of judges and magistrates conversant with the human rights approaches specific to gender issues.²²

Also, where cases are taken to court, the courts are constrained by the notion of the public and private sphere of marriage or relationship where domestic issues were regarded as private and thus, needed to be solved at home rather than in the courts. The passage of the DVA allayed this to a large extent as it provided specific instructions to the courts on how to receive and process complaints.

3.2.6 Miscellaneous

The concluding parts of the 2007 DVA make miscellaneous provisions including the relation of the Act to the Criminal Code 1960 with regards to punishment. It again provided for the courts to promote reconciliation and out of court settlement.²³

Perhaps one of the most important Sections in the DVA is Section 29 which establishes the Victims of Domestic Violence Support Fund. This is in recognition of the financial constraints that inhibit victims from either reporting cases or following through the legal processes to attain justice. Monies from the Fund as indicated in the objectives of the Fund, “is to be spent towards the basic material support of victims of DV; for training the families of victims of DV; any matters concerned with the rescue, rehabilitation and reintegration of victims of DV; the

construction of reception shelters for victims of DV in regions and districts; and for training and capacity building of persons connected with the provision of shelter, rehabilitation and reintegration”.²⁴

The funding sources are crucial to the sustenance and implementation of the DVA. The Act indicates the sources of funding as individual contributions, organizations and the private sector; monies approved by parliament for the Fund; and monies approved by the Minister responsible for finance. The Act further outlines how the Fund will be managed. The provision for an annual report of the Fund is also expressed as well as the institution of a Management Board.²⁵

3.3. Ministry for Gender, Children and Social Protection (MoGCSP)

In 2001, the Government of Ghana (GoG) created the MOWAC with a minister having a cabinet status. The new ministry created the National Gender and Children Policy to mainstream gender concerns in the national development process to improve the social, legal or civic, economic and cultural conditions of the people of Ghana, particularly women and children.²⁶ The Ministry also advocated the development of institutional measures such as the DOVVSU to protect women’s right. In 2013, however, an Executive Instrument was signed changing MOWAC to MoGCSP.

The new ministry placed social protection and welfare within mainstream governmental Policy direction alongside the issue of gender and children thus being meagre of MOWAC, Department of Social Department (DSD), National Coalition on Persons with Disability(NCPD) as well as Social Protection Division (SPD). This was part of institutional measures adopted to better coordinate issues relating to women at the national level. An interviewee commenting on the role of the ministry in fighting GBV stated that:

This ministry is one of the most important ministries in the country coordinating the activities relating to protecting women and children. But it is the ministry that receives the least budgetary so it stalls our programs and activities.²⁷

In line with implementing the DVA, the MoGCSP launched a helpline to enable victims of DV report cases towards promoting the welfare and rights of children, the vulnerable, persons with disability and the excluded.²⁸ Among other initiatives, the ministry launched research into studying DV in ‘Ghana: Incidence, Attitudes, determinants and consequences’ the results of which was published in 2016. The report gave insight into the trends in DV in Ghana presenting statistics and detailed argument on the state of DV in Ghana.

3.3.1. Domestic Violence and Victims Support Unit (DOVVSU)

While drafting laws and policies may be actions undertaken by governments towards their compliance with their international obligations, effective implementation of these policies remain a key component to compliance. Implementing landmark legislation on women’s right such as the DVA required an institutional structure dedicated to the realization of its ideals. In this regard, DOVVSU was instituted as one of the institutions dedicated to responding to issues of DV and also, as one of the implementing agency of the DVA.

DOVVSU was founded under the then Ministry of Women and Children’s Affairs (MoWAC) to help in monitoring, coordinating and evaluating the implementation process. It was established first as the Women and Juveniles Unit (WAJU) in 1998 as a specialized unit within the ambit of the GPS. By 2002, WAJU has branches in all regional capitals in Ghana with functions including the investigation of all offences committed against women and children, handling cases of DV. Currently, the unit has 104 stations across the country. Its hierarchy consists of the National Headquarters in Accra presided over by the Director-General of Police; the regional commands

of DOVVSU is headed by the regional police commander followed by the divisional command which operates at the municipal level. The lowest level of DOVVSU's operations is at the district level.

According to a DOVVSU police officer interviewed, "even though DOVVSU falls under the general operations of the GPS, the services we render are unique. As you know, we are responsible for implementing the DVA and it's not easy. But we are up to the task".²⁹

DOVVSU works in collaboration with other agencies of state thus, the success of their interventions in responds to cases of DV depends on the relationship between DOVVSU and other stakeholders such as Department of Social Development(DSD), NGOs like ActionAid Ghana, FIDA, The Ark Foundation, WiLDAF-Ghana, the legal aid scheme, Ghana health services and other CSO's that offer assistance to victims.³⁰

3.3.1.2 SERVICES/MANDATE

As a specialized unit under the GPS, DOVVSU derives its mandate from the 2007 DVA. The Act outlines the services and interventions that DOVVSU is required to provide victims of violence. These include police assistance and protection, the receipt of complaints, advising victims of violence, providing a safe space for victims and providing psychological support for the victim as may be required. DOVVSU however, is barely able to provide all of these services in fulfilment of this mandate under the DVA.

A DOVVSU inspector interviewed for this study explained that "we are trying our best under the circumstances, but there are factors that go against us, especially resources".³¹ Asked which resources hinder their ability to provide basic services to victims, the police inspector added that "budgetary allocation to our department is very minimal and we do not have enough tools to

even function. Sometimes my officers have to pick ‘trotro’¹ to follow up on victims or arrest perpetrators’.³²

On the provision of safe spaces and psychological support services for victims as spelt out in the DVA, 3 DOVVSU officers interviewed at the Unit at Weija in Accra indicated that ‘although the DVA instructs the government to provide shelters in every district to house victims of DV, none is existent’.³³ The unit at Weija did not have a clinical psychologist present to attend to victims and the same was observed at the Unit at Nima. Again, when asked how they handle victims who feared going back home to their abusers, the officers indicated, they are unable to provide victims with the option of shelter since there is no such facility available.³⁴ According to Officer 1:

sometimes we call some of the NGOs to see if they can help. Ark Foundation is the only NGO that has a shelter facility, but it is a small place and cannot house the many victims that we receive. Moreover, the shelter has even been closed for some time now.³⁵

The unavailability of shelters in the country is a major challenge to the implementation of the DVA and the work of DOVVSU. Shelters do not only provide a haven for survivors of domestic abuse but also, a place for rehabilitation and reintegration. Shelters are a protective measure designed to offer protection from the abuser which in turn prevents future abuse as well as allowing for rehabilitation.³⁶ Many victims who report abusive partners end up having to go back home to these partners. An officer with the DOVVSU division at Nima stated:

Often we either invite the partner to warn him against assaulting the woman while investigations continue, or we advise the victim to go live with a relative or friend while the case is being processed.³⁷

¹ ‘Trotro’ is a popular and cheap mode of public transport in Ghana.

The constraint suffered by the Unit in investigating cases makes the option of living with friends or relatives unrealistic as some of the cases may drag on for years. A victim interviewed confirmed this by stating that:

After I reported my husband the police advised me to go and live with my parents while they conduct investigations. I spoke to my parents and they allowed me. But I have been with my parents for almost one year now and I still don't know what's going on with the case.³⁸

3.3.1.2 TRAINING OF DOVVSU OFFICIALS

DOVVSU officials are recruited as part of the 'normal' police recruitment process thus officers are only assigned to the Unit without necessarily having training on how to respond to DV cases. An interviewee from the Ark Foundation noted how this poses a challenge to service delivery for victims of DV. In her response she noted that:

The lack of inadequate training these officers receive robs victims of their rights and privileges as spelt out in the law. Sometimes some officers do not even know what to do when a victim approach them. And another worrying trend we have discovered is that the few who receive training are sometimes transferred to different units and replaced with other officers who do not have knowledge of the processes and mandate aside arresting a suspect.³⁹

An official at the DOVVSU headquarters in Accra confirmed this stating that, 'the truth is that most of our officers are not trained in how to receive or process DV cases. And yes there are times when the trained ones are transferred to units outside DOVVSU. We are trying to work on that, recently a training manual on GBV has been added to the curriculum at the police training school to aid officers in better dealing with this issue. However, some of the officers already in

the field from time to time receive training from some NGOs and that helps build their capacity a lot'.⁴⁰

Another interviewee, an Inspector at the Weija division also disclosed that “there are times when the national headquarters or the regional units meet facilitators to undergo training on GBV. However, these are not regular and it is also very selective”.⁴¹

As part of its mandate, DOVVSU is expected to conduct advocacy and awareness creation in schools, market places and places of worship, however; the unavailability of resources does not permit the Unit to carry out this mandate. An informant with the outreach department stated that “we have not carried out any outreach program in the last four months because we don’t have funds. But it is important that we do these outreaches because people need to be aware that DV is real and women and children are suffering”.⁴²

3.3.2 Commission for Human Rights and Administrative Justice (CHRAJ)

DV as a women’s right issue also falls at the doors of the Commission on Human Rights and Administrative Justice (CHRAJ) which among its mandate under the CHRAJ Act 1993, Act 456, is required to protect fundamental human rights of all persons.⁴³ As part of its work, CHRAJ receive complaints on DV and other human rights abuse cases in line with their functions as outlined in the 1992 constitution of Ghana.⁴⁴ Although these functions complement the works of other stakeholders in the implementation phase of government policy on DV, CHRAJ deals with a broader mandate which includes issues on governance, enterprises and other institutions to ensure people’s rights are not violated either by public officials or institutions or private enterprises.⁴⁵

In its bid to tackle GBV, CHRAJ has engaged in a campaign against cultural practices that are harmful to women including FGM, widowhood rites, forced marriages, ritual servitude and maltreatment of women accused of witchcraft.⁴⁶

3.3.3 Domestic Violence Secretariat (DVS)

In line with Section 40 of the DV Act passed in 2007, the GoG established the Domestic Violence Secretariat (DVS) managed by a 13-member management board to help with the implementation of the DV Act. The Secretariat operates under the MoGCSP to reduce incidences of DV in Ghana; ensuring survivor's safety and enhancing their empowerment; ensure systems responsiveness and accountability through the use of protocols and promote community involvement or participation in addressing issues of DV amongst others.⁴⁷

Some initiatives the DVS has taken towards achieving its objectives has been the establishment of Gender-Based Violence Response Centers (GBVRC) in market centers as a way of bringing response units closer to the people. In October 2015, a response unit was established at the Mallam Atta Market to receive and handle cases while referring others to appropriate agencies for redress.⁴⁸ The secretariat works in conjunction with DOVVSU to address cases of DV.

3.3.4 Domestic Violence Management Board

Section 35 of the DVA established the Victims of DV Management Board. The Board is very critical to the implementation of the DVA with far-reaching functions including making recommendations for a National Plan of Action (NPA) against DV, monitor and report on the progress of the NPA through the Minister, managing the DV Fund, Conduct and propose and promote strategies to prevent and combat DV amongst others.⁴⁹

In 2009, a twelve-member DV Management Board was constituted by the then Minister for Women and Children Affairs and Board Chairman Ms. Sena Akua Dansua.⁵⁰ Among its tasks was to finalize the Legislative Instrument (LI) on DV, make recommendations for an NPA against DV amongst others.⁵¹

The board was again reconstituted in 2014 by the Minister for Gender, Children and Social Protection with sixteen members tasked again with making recommendations for an NPA against DV and also, promoting and combating DV in the country.⁵² Its task also included the finalization of the LI to the DVA which is supposed to serve as a guide to the implementation of the DVA. In an address, the Minister for Gender, Children and Social Protection, Nana Oye Lithur noted that there is an emerging trend of VAW in the form of cyber-based violence that exposes minors to sexually explicit materials.⁵³ In 2016, the LI to the DVA was passed thus; the full operationalization of the DVA came into effect.

3.3.5 Domestic Violence Fund

Recognizing the need for a funding pool to implement the DVA, the 2007 DVA in Section 29 established the Victims of DV Support Fund to be managed by the Victims of DV Management Board.⁵⁴ The Fund is integral to the implementation of the DVA in compliance with DEVAW Article 4(h). Despite its relevance to the implementation of the DVA, the Fund has not yet been established. With the unavailability of the Fund, victims are left to cover their medical costs at hospitals which violates Section 8 of the DVA that makes provision for free medical care for victims.⁵⁵ This deters victims from going forward with their case as some claim to pay as much as GHC200 for a medical exam.⁵⁶

NGOs and other stakeholders have called on the government to operationalize the Fund in fulfilment of the provision of the Act. In an attempt to ‘compel’ the government to operationalize

the fund, a lawyer filed a civil suit against the government of Ghana which led to a High Court decision giving the government until October 2017 to set up the Fund.⁵⁷ This order has not been followed through by the government as the Fund is still not in operation.

3.3.6 Gender-Based Courts

The recognition of VAW as a pervasive human rights issue required that specific measures are instituted in order to address this problem in its entirety. Women's rights movement has made calls for the establishment of a specialized gender-based court to try cases involving domestic violence as a way of the judiciary's responsiveness to DV.⁵⁸

The need for specialized courts is seen to have many advantages of which expertise is critical. Thus, the dedication of courts to try cases of DV will allow judges and prosecutors develop enough expertise in that area as well as the ability to try cases more quickly and reducing the risk of offenders intimidating their partners into abandoning the charges.⁵⁹

In Ghana, the need for specialized DV Courts has become dire in that, victims of domestic abuse usually go through the same criminal judicial processes which are often intimidating and costly to victims. In line with the mandate spelt out in the DVA and the government's move to improve access to justice for domestic violence victims, specialized courts that are dedicated to domestic violence were created.

A respondent at the DOVVSU headquarters in Accra had this to say regarding the establishment of the gender-based courts:

I am happy there is a special court to try cases on DV. The normal channel is mostly choked and some of our clients get frustrated with proceedings so much that they drop their case.⁶⁰

The first of such courts were established in Accra in March 2009 and the second in Kumasi in September 2015. These courts are mandated to specialize in offences outlined in the DVA such as matrimonial, adoption, physical, emotional, economic or verbal abuses against a partner.⁶¹

According to Ms Sandhu-Rojon, resident representative of UNDP in Ghana at the inauguration of the Kumasi GBV Court, “the setting up of the court is to speed up the trial of GBV cases in the country and for part of the judicial reforms aimed at improving the administration of justice through specialized courts”.⁶²

Investigative processes and many other factors prevent some DV cases from reaching trial. However, the creation of these specialized courts has done little to ameliorate the delays and frustrations that characterize DV trials of the few that make it. A DOVVSU prosecutor interviewed stated that ‘it is good to have a court for gender-related issues, but I am afraid it hasn’t done much to solve the issue of delays in the courts since there is only one of its kind here in Accra. So many cases still go through the circuit courts’.⁶³

The prosecutor, however, admitted that there are other reasons beyond a large number of cases handled by the single gender-based court in the capital. He cited the difficulty in obtaining evidence from the investigation team and sometimes victims do not show up in court thus; cases have to be adjourned.

3.4. ROLE OF OTHER STAKEHOLDERS

CSO’s have been instrumental from the drafting stages of the bill until it was passed into law. They have been an important pool of stakeholders in helping to bring the issue of women’s right to public discourse. While many stakeholders are helping in the implementation of the DVA, some organizations stand out in their effort. They include the Ark Foundation, WiLDAF, Legal Aid, Action Aid and FIDA amongst others.

One of the areas these organizations work towards the implementation of the Act is through advocacy and education. For instance, ActionAid collaborates with the Ark Foundation in “promoting the rights of women and girls; providing support to survivors of violence by meeting their immediate needs; and offer counselling to victims suffering trauma from domestic abuse”.⁶⁴

WiLDAF, on the other hand, works in various areas of women’s rights activism including the “provision of legal aid; counselling, mediation and legal representation to victims of DV”.⁶⁵ They also serve as a monitoring group where they monitor the implementation of the DVA by tracking the usage of the Act by prosecutors and judges through its Court Watch project.⁶⁶

3.5 Culture, Police and Victims Response to Domestic Violence

Concerning research question two, the study sought to understand whether patriarchal gender norms have any bearing on DOVVSUs response to cases of DV.

Although a part of the institutional structure, individual actions of DOVVSU officers invariably affect their response to DV cases.

Family values, beliefs and attitudes have a broader import for access to justice as they contribute to an environment in which DV is tolerated with a culture of impunity in Ghana.⁶⁷ This presents a challenge to the implementation of the DVA in many instances. A survey in Ghana in 1998 revealed that “violence is a reality for a substantial number of women”.⁶⁸ In this survey, seventy-two per cent of the respondents reported that men beating their wives is a common occurrence in their community. The survey identified other violent acts like “rape, defilement, widowhood rites, forced marriages and female circumcision that women experience”.⁶⁹

In its response to the CEDAW Committee, Ghana cited difficulty penetrating through the walls of the Ghanaian culture where issues of sexual and GBV are often seen as a private matter, dealt

with within families and communities.⁷⁰ In a study, Amoakohene found that although her respondents were aware of organizations to receive help from like CHRAJ, FIDA, DOVVSU, Ark Foundation and the Gender Center, they preferred not to report abuse due to stigmatization since wife-beating is justified in their ethnic group as a show of a husband's love and affection for his partner.⁷¹ This notion is confirmed in an interview with a police officer who stated:

“There were times I asked them to go home and settle with their husband/boyfriend because it is their private problem. If you go and arrest the husband, she will be the same person to come and say you should release him.”⁷²

What this officer failed to explain was the reasons behind women's decision to withdraw cases out of the police station or opt for out of court settlement. However, a respondent from the Ark Foundation gave possible reasons for women's withdrawal of abuse cases from the police station and courts. He notes that ‘mostly men are the main providers for these families, so when they are arrested it is the woman and possibly her children that suffer. Thus the reluctance for some women to pursue cases against their abusers’.⁷³

It must, however, be noted that other reasons may account for police or women's decision to withdraw a case beyond the patriarchal gender roles that assign mothers to the home and fathers as providers thus entrenching male dominance in the spheres of resources and power. When asked whether gender norms affect how police respond to DV cases a chief inspector at DOVVSU stated:

For the most part, I will say it affects how we respond to DV cases. And it is mostly negative because sometimes we don't take some cases seriously because you listen to it and realize that the woman shouldn't have behaved like that to her husband. As a man I

don't think someone should be jailed because he beat his wife small. Who will take care of the children when he is in jail?⁷⁴

Recent trends in DOVVSU's statistics, however, indicate that more people are coming forward to report cases of abuse, however, this does not correspond to the number of cases that are sent to court. In my interview of 30 victims of DV, 70% of the respondents indicated that their decision not to report abuse to the authorities was borne out of their perception of DV being a private issue.⁷⁵

Pressure from family members and the fear of stigmatization from the community often deters women who are abused from pursuing the case. This pressure is all the more evident in rural settings where gender norms and attitudes have not evolved rapidly as noted by Peace.⁷⁶ A victim noted in an interview that:

My mom asked me not to report because, in our culture, women do not divorce their husbands and taking your husband to the police station is equal to divorcing him.⁷⁷

A police woman interviewed shared a view on why some victims do not report abuse cases. According to her "they (victims) don't want to come out for people to know that they have been assaulted because they feel people might laugh at them".⁷⁸

20% of the respondents indicated that their decision to report was due to the excessive nature of abuse while the remaining 10% stated that, they were constrained by the religious belief of the "virtuous woman" thus staying in an abusive relationship.⁷⁹ From the responses, there may be several issues that may inform a victims choice to report an abuse.

The police serve as the first point of call into the legal system for victims of DV thus the role of the police in the implementation of the DVA cannot be underestimated. A survey of the role culture play in police response to DV cases yielded some alarming outcomes. 60% of the 20

respondents sampled indicated that their perception about the role of women in the “home” and the nature of the case influences how they handle a particular issue. In some instances, officers have asked victims to return home and plead with their husband to be forgiven as it is their fault that they were beaten.

This was confirmed in an interview with Mrs Margaret Brew-Ward of ActionAid Ghana who indicated that police officials sometimes turn women away because they believe “the cultural role of the woman is to be submissive and respectful to her husband”.⁸⁰ According to the remaining 40% of respondents, they strictly go by the law and do not allow cultural biases to influence how they deal with a case.⁸¹

This notwithstanding, the police are also exposed to societal pressure and are sometimes torn between the law and religious or cultural values. In an interview, a prosecutor with DOVVSU stated that “sometimes politicians or chiefs or imams come with the victim to plead with you to drop the case. It is a difficult position to be in. Sometimes we give in, other times we still go ahead to prosecute. But that makes you get a bad name among the community people”.⁸² He further adds that “the police are not at liberty to drop or proceed with cases. Everything we do must be about what the victim wants. If the complainant decides to move forward with the case, we cannot say no. And if she decides to withdraw there is nothing we can do”.⁸³

The withdrawal of cases from the police station or courts as noted by Peace signifies continuing spiral of impunity for sexual violence committed against women.⁸⁴ Even though there are instances where patriarchal gender norms play a role in police response to DV cases, ultimately, the decision to proceed or drop a case rests on a complainant whom as my interviews

with police officers and victims reveals, may from time to time opt to withdraw a case due to varying reasons.

International women's right texts have called on governments to ensure that culture or religious beliefs are not employed as a basis for perpetrating VAW.⁸⁵ As noted from the discussions above, while this study cannot make a generalized conclusion that culture and religious beliefs affect both women and police response to DV cases, it does to a large extent affect Ghana's compliance with its international obligations. Mrs. Brew-Ward concluded that "we cannot separate culture from how police handle cases because these police officers are socialized within a society that largely privileges them over women. This has proven to be one of the major problems Ghana is facing in complying with all the agreements we have signed to protect women".⁸⁶

3.6 Knowledge of International Human Right Instruments and the Domestic Violence Act

Countries all around the world have in place various legislations aimed at promoting or protecting women's right. Objective three of the study sought to understand how knowledge of international human rights instruments and the DVA could influence the way officers to address DV cases in Ghana.

As law enforcement officers and implementation agents of the DVA, DOVVSU officers and prosecutors are required to be abreast with the law in order to effectively implement them. Mrs. Essel of WiLDAF Ghana in an interview stated that "the lack of knowledge of international women's rights standards on the part of judges and prosecutors effectively impinges the implementation of other domestic laws such as the DVA".⁸⁷ She further noted that "for DV cases to receive the urgency it requires, both judges and prosecutors must be required to appraise

themselves with domestic laws on DV as well as international women's right instruments such as DEVAW".⁸⁸

In response, the MoGCSP in collaboration with the DV Secretariat and other agencies in implementing the DV has translated the DV Act into six local languages and organized workshops and seminars to appraise stakeholders in the justice delivery system on the need to acquaint themselves with DV laws in the country.

A court-watch report published by WILDAF in 2018 found that few courts apply laws from the DVA with a majority of judges either not abreast with the DVA or prefer to use the Criminal Code 1960 to try cases like rape and incest.⁸⁹ The reason provided was that Section 3(2) of the DVA provides for a maximum prison sentence of two years whereas the Criminal Code allows for a lengthy and tougher punishment.⁹⁰

In an interview of 20 officials of DOVVSU including prosecutors, results found that 45% of the respondents admitted to having no knowledge of specific obligations under international law on women's right. 30% answered in the affirmative of having knowledge on international instruments on women's right such as DEVAW. 15% of the respondents did not know any international instrument and 10% abstained.

On knowledge of domestic laws such as the DVA, 60% of the respondents knew about the existence of the law but have no adequate knowledge of its provisions. The remaining 40% of respondents answered in the affirmative that, they are aware of such provision as well as other laws such as the Anti-Trafficking Act, Children's Act and the Criminal Code. None of the respondents admitted no knowledge of any provision on women's right. According to an interviewee,

I am very well informed about international women's right treaties. I can tell you about CEDAW, then there is DEVAW and the Beijing 'Pledge' and also some few ones Ghana has signed. As for the DVA, I am very familiar with it, it provides specific instructions on how to deal with cases and makes our work very easy".⁹¹

However, knowledge of the law does not translate to actual usage or implementation as they are barely used by prosecutors and judges. WILDAF in its court watch project noted that, prosecutors often do not file their cases under provisions of the DVA and where they do, they charge individuals with offences that do not correspond to the legal reality of the cases.⁹² The report thus noted a wider ignorance of the DVA within the police service. An interviewee from DOVVSU stated:

I am only aware of the Criminal Code provisions and that is what I use in court. We barely use the DVA here. I have only gone through it once and I don't remember much from it.⁹³

This was reiterated by Maame Tiwaa, the Director-General of the Criminal Investigations Department of the Police Service at a seminar for crime officers in Accra. In outlining the need for the seminar, she remarked "the seminar was necessary due to her realization that most crime officers haven't actually read the DVA or haven't even seen the Act".⁹⁴

Concerning the use of the DVA, a prosecutor with DOVVSU stated that "while we are at liberty to choose which of the statutes to file our case under in court, most of us prefer to use the Criminal Code because we can secure stiffer punishment. Some of the men need to be taught a lesson and the two years or small fine that the DVA imposes doesn't work for some of us".⁹⁵

3.7 CHALLENGES TO THE IMPLEMENTATION OF THE DOMESTIC VIOLENCE ACT

3.7.1 Lack of Funding

One major challenge that hinders the implementation of the DVA is the lack of adequate funding for state institutions tasked with carrying out the implementation process. While state budgetary allocation goes to institutions such as DOVVSU, the need to support victims with maintenance and medical amongst others informed Section 29 of the DVA which established a DVV Fund.

In its report to the CEDAW Committee in 2011, Ghana stated that it had established the DVVF in 2011 and it became operationalized with its first disbursement in May 2014.⁹⁶ This position has been contradicted with many reports from NGOs which indicate that the Fund has not been functional since its establishment. In an interview, an informant from the Ark Foundation stated that, as far as CSOs are concerned, the DV Fund has not been functional.⁹⁷

This position was further supported by the programs officer for Gender Studies and Human Rights Documentation Center (GDHRDC), Mrs Nicholina B. Asare who called for the Fund to be functional to provide the needed support to victims of DV.⁹⁸ She further stated that “the Fund would ensure that there was enough money to aid DVV and serve as an encouragement to victims”.⁹⁹

Calling on the government to comply with Section 29 of the DVA as well as 3(b) of DEVAW, an Accra based lawyer sued GoG regarding the operationalization of the DV Fund in 2017.¹⁰⁰ In its ruling, the court compelled the government to within six months’ deposit money into the to make it fully functional. Yet this has not materialized.

3.7.2 Domestic Violence Management Board

The DV Management Board was set up by the DVA with extensive functions including the management of the DV Fund.¹⁰¹ In 2016, the MoGCSP inaugurated new board members to see the implementation of the DVA. According to an informant on the Board representing an NGO, “the board has not been convened since we were sworn in”.¹⁰² The absence of an effective and

efficient DV Management Board is a challenge to the overall implementation of the DVA and slows down work of other stakeholders in the implementation phase as the Board is expected to provide guidance and direct execution of policies.

3.7.3 Institutional Challenges

A major impediment to the implementation of the DVA has been the challenges faced by one of its most prominent institutions, the DOVVSU. DOVVSU was created as a protégé to the defunct WAJU to serve the needs of victims of DV. As a specialized unit of the GPS, DOVVSU is staffed by regular officers of the GPS who are trained on how to handle DV cases. Stakeholders including the United Nations Population Fund (UNFPA) help train DOVVSU to enhance their knowledge and capacity in supporting and providing justice to victims of Sexual and GBV.¹⁰³ An informant at the DOVVSU Secretariat intimated that “a problem facing the capacity of the Unit to handle DV cases is the regular transfer of trained officers to other duty stations”.¹⁰⁴ This position was reiterated by WILDAF where they observed in a study that the regular transfer of officers harms the operations of DOVVSU Units as the new officers are mostly untrained and cannot effectively handle DV cases.¹⁰⁵

Tied to the issue of officer turnovers is the poor allocation of resources to Units in other for them to carry out their mandate. In a report by WILDAF, it was revealed that most DOVVSU units lack resources to fully investigate DV cases and provide support services to victims.¹⁰⁶ In certain instances, the report reveals, DOVVSU does not have vehicles to go to crime scenes on time to collect evidence or meet with victims.¹⁰⁷ This leaves victims with little choice but to discontinue their case or frustrated to report the case. Further, most DOVVSU offices do not have psychological or social workers to provide services for victims.¹⁰⁸ This was confirmed in

my visit to a DOVVSU unit where I was informed that a psychologist has not been posted to the facility in over two years.

Again, DOVVSU units do not have safe environments or spaces for victims to feel comfortable in reporting or speaking to officers. Most DOVVSU officers are relatively small with no private rooms thereby exposing victims to the burden of having to narrate their stories in the open. In an interview, a victim stated, “I was shy to say everything my husband did to me in front of all the people sitting there so I couldn’t tell the police everything”.¹⁰⁹ The lack of private spaces for victims to freely and confidently express themselves does not allow officers to fully understand the scale of the problem the victim is presenting.

3.7.4 Lack of Shelter

The lack of shelter as provided for in the DVA is one of the impediments to the implementation of the DVA. The DVA calls for the establishment of a shelter in every region of the country to serve as a haven for victims of abuse. These shelters are to serve as avenues for rehabilitation and training for survivors. However, after a decade of the passage of the DVA, the establishment of a shelter in each region of the country is yet to materialize.

According to a government report to the CEDAW Committee, the states three shelters are no more running due to lack of funding to maintain them.¹¹⁰ There is only one shelter operated by the Ark Foundation Ghana for victims of domestic abuse.¹¹¹ The facility only houses 26 persons at a time including staff. With over 10,000 cases being received by DOVVSU annually and over 2000 in need of shelters, there is the need to place emphasize the building of shelters as provided for in the DVA. However, it must be noted that the effective functioning of the DV Management Board and the operationalization of the DVVF is key to the provision of shelters for victims of DV.

3.8 CONCLUSION

This chapter discussed Ghana's compliance with international women's rights instruments and the state's obligation under national and international law to protect and preserve the rights of women. In answering research objective one, the study examines the various measures put in place by the government of Ghana to address DV as evidence of compliance. These measures include the passage of the DVA, the MoGCSP, the DOVVSU of the GPS, the DOVVSU Secretariat, CHRAJ and the drawing of the National Gender Policy.

Research objective two sought to understand how culture affects police and victim response to DV. In answering objective two, the study analyzed data from interviews with DOVVSU officials including prosecutors, victims of domestic abuse who have interacted (reported) to the police and respondents from NGOs. The study did identify that patriarchal gender norms that prescribe roles to either gender do play a role in how police perceive and handle cases, and as well, why victims choose to report.

Objective three of the study was answered by again analyzing data from interviews with respondents from DOVVSU and NGOs to understand whether DOVVSU officials are abreast with international and domestic women's right instruments and its implication on their response to DV cases.

The chapter concludes by outlining some challenges to the implementation of the DVA and in effect, Ghana's compliance with its international obligations on women's rights. Although Ghana has created the legal environment and instituted policies and measure to address DV in compliance with its international obligations, there remains a vast problem that confronts these institutions, key amongst them, the police. It is therefore important to reiterate that, adoption of policies and legislation in themselves do not lead to effectiveness even though there is evidence

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CHAPTER FOUR

SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATION

4.1 INTRODUCTION

It has been eleven years since the DVA came into force and twenty-five years since the UNGA Declaration in 1993 on VAW. It was thus prudent to examine the extent to which the DVA is being implemented in Ghana noting the measures adopted by the government and its compliance with DEVAW. The study examined the extent to which the DVA is being implemented in Ghana against the benchmark of DEVAW Article 4(h). This chapter presents a summary of the findings of the study and outlines recommendations on how to better implement the DVA towards the objectives of DEVAW in eliminating all forms of VAW.

The need for respect of human rights amongst other reasons led to the establishment of the UN and its subsequent landmark statement through the UDHR. Further attempts at recognizing the rights of women led to UN conferences on women, the adoption of CEDAW and in 1993, the unanimous Declaration on the Elimination of all forms of Violence against Women. Chapter one constituted the research design, it provided a background to the study outlining the trends in DV against women as a pervasive issue around the world.

Chapter two discussed the implementation of women's right instruments in Africa. The chapter discussed women's rights as captured in DEVAW under three thematic areas. They included Violence in the family, Public Violence and Violence that is condoned by the state irrespective of where it occurs. It further discussed DEVAW and compliance recognizing how DEVAW has brought a clear definition of VAW and the need to draw up legislation to protect women. It again looked at regional human rights instruments and how they protect women's rights. The chapter also discussed police response to DV in Africa.

Chapter three then examined the extent to which Ghana is implementing the DVA in line with international women's rights instruments particularly DEVAW. The chapter outlined the measures that are adopted by the government of Ghana to ensure the implementation of the DVA as evidence of compliance. It then addressed the question on the knowledge of DOVVSU officials of international human right instruments and the DVA and its implications for service delivery. It again identified some challenges that are inhibiting the implementation of the DVA.

4.2 SUMMARY OF FINDINGS

A UN declaration, Ghana is only morally bounded to the provisions of DEVAW. However, findings from this study point out that it has aided policymakers in addressing GBV. This includes but not limited to, drawing up policies and legislation to create a favorable environment towards the elimination of DAW in whatever form it manifests. Further, Ghana is expected to ensure that, VAW is no more viewed as a private issue as it has been for years thus administrative and programmatic measures must be instituted to ensure total elimination of VAW in compliance with international women's rights instruments.

On the objective of how measures adopted by the government of Ghana constitute compliance, the study found that Ghana has a fairly high compliance rate with international human rights instruments it is a party to. Ghana has put in place policies and legislation that compliments provisions in CEDAW, DEVAW and other international women's rights instruments. As one of the foremost institutions that implement the DVA, the study noted that DOVVSU has in place mechanisms for implementing the DVA however, challenges such as inadequate resources to investigate cases, political will, lack of knowledge of the DVA and poor coordination between institutions hinders the implementation of the DVA.

The study also found that, although the DV Management board, have been reconvened, they are yet to meet to operationalize the DV Fund which is critical to the implementation of the DVA and the operations of DOVVSU. Also regarding service provision for victims, the study found that the unavailability of shelter services greatly affects the response of the Unit. As the findings show, many victims are either advised by officials to live with relatives while investigations are ongoing, or are forced to stay with their abuser. This exposes the victim to further abuse.

Objective two sought to investigate how culture affects police response to DV cases. The study found that, although provisions in DEVAW, as well as other international women's rights instruments, have obliged state parties to ensure that culture is not used as a basis for discrimination or perpetrating VAW, culture has a significant measure of influence on victims reporting DV cases and how police handle cases.

The study reveals that an officials view of DV could inform how seriously he treated a case and in some instances, officials would rather ask the victim "what did you do", which rather pushes blame on the victim rather than the perpetrator. Another notable find is the level of 'acceptance' of violence as 'normal' in relationships in Ghana. Some of the victims of DV interviewed to shed light on how their parents or friends tell them abuse in relationships are normal and that, it is better to endure abuse than getting divorced.

Under objective three, the study sought to assess the level of police knowledge of international and domestic women's rights instrument and how it translates to their handling of DV cases. The study found that the knowledge of women's right instrument and laws does influence how personnel of DOVVSU handle DV cases. Madam Margaret Ward-Brew of ActionAid Ghana noted that, knowledge of the law is a very important part of the implementation process because "if you don't know the law, how do you apply it?" interestingly however, there is a significant

number of DOVVSU officials (89%) who took part in the study had little or no knowledge of any international women's rights instruments. The remaining 11% had a fair amount of knowledge of some instruments notably, CEDAW, DEVAW and in Ghana, the DVA.

The study also found that a fair number of DOVVSU officials did not have any knowledge of the DVA and some have not even seen the Act all. The few DOVVSU officers I interviewed who are abreast with provisions of the Act disclosed that some of the sections in the Act are not realistic although they failed to indicate which. Another interviewee also noted that, due to the 'lenient' nature of the punishment under the Act, she doesn't see the Act as being fair although she has the option of filing a case under the criminal code.

The 'low' level of knowledge of the DVA among the group interviewed presents a huge challenge since most DOVVSU prosecutors are police prosecutors and not lawyers. Without knowledge of the Act, DOVVSU prosecutors largely file cases using the Criminal Code (1960) rather than file under the DVA. However, the knowledge of the DVA is also lacking among judges who try cases as was noted in an interview with WiLDAF.

The study revealed that the implementation of the DVA goes beyond DOVVSU with stakeholders like CHRAJ, DSW FIDA, WiLDAF, ActionAid Ghana, Health Institutions and traditional as well religious leaders playing important roles in advocacy and community education. However, the lack of coordination between stakeholders and institutions presents a major challenge to the implementation efforts.

Ghana has, however, chalked some success with regards to the implementation of the DVA. Notable amongst them is the expansion of DOVVSU office to 102 locations across the country. This has brought the services of DOVVSU closer to people who needed them. Another notable achievement is the establishment of Gender-Based Courts in two regions of the country to try

DV cases. This initiative is to mitigate the problem of long delays in justice delivery for victims of DV.

Despite these efforts at the full implementation of the DVA and Ghana's compliance with DEVAW, Discrimination and VAW against women persist. This has been attributed to some deficiencies in DOVVSU some of which have been enumerated above. Lack of funding has hindered DOVVSU's functionality and expansion into rural areas where they are perhaps needed most. The study again noted that, apart from CSO's, there isn't effective governmental monitoring of the implementation of the DVA. The study also revealed that, despite the passage of the DV LI in 2016 that was expected to give guidance to the implementation of the DVA, the absence of a 'functional' DV Management Board has stalled progress in operationalizing the DV Fund.

4.3 CONCLUSION

Ghana has made significant progress towards the elimination of discrimination and domestic VAW in compliance with its international obligations. This can be seen in its legal environment and institutional structures put in place to tackle this all-important issue. The passage of the DVA in 2007 and the coming to fruition of its LI in 2016 demonstrates to an extent, the political will of governments to tackle the issue of DV.

However, implementation of these laws has not been achieved thus, DV remains an issue facing 1 in 3 Ghanaian women due to some major obstacles that hinder the implementation process. It must, however, be noted that beyond the measures put in place, effectiveness remains key and thus far, most of these institutions have not lived up to their mandate.

Ghana's DVA has been hailed as a module for other African countries to emulate yet there is still more that needs to be done to address the challenges outlined above. This will invariably ensure the full implementation of the DVA and its effect of helping eliminate VAW.

4.4 RECOMMENDATIONS

Taking note of the findings of this study, it is important for Ghana to institute measures to ensure that the challenges impeding the full implementation and compliance with the DVA are addressed to achieve the ideals of DEVAW. In this regard, the study posits the following recommendation to the GoG and stakeholders on women's right in Ghana.

There must be a drive to resource agencies that are at the forefront of the implementation of the DVA. As noted earlier, funding remains a major challenge to the implementation of the DVA. The MoGCSP receives the lowest budgetary allocation than other government ministries and agencies. DOVVSU, therefore, must be provided with enough funding, expertise and the required logistics in other for the Unit to execute its mandate and further ensure the implementation of the DVA. Accordingly, the government must make the funding of DOVVSU and its allied agencies a priority in its budget allocation in compliance with DEVAW provisions. This could be achieved through the mobilization of funds internally and externally.

To address this, it is recommended that government fully establishes the DV Fund. The Fund is aimed at providing the necessary financial resource needed to fully implement the DVA as well as help victims of DV with the necessary support as spelt out in the DVA. A key to operationalizing this Fund is for the government to deposit money into it and remain consistent with its contribution.

The study also recommends that DOVVSU offices be provided with 'safe spaces' where victims could easily and comfortably speak to officials without feeling intimidated. This will

require investment into acquiring independent structures for DOVVSU offices and ensuring the provision of clinical psychologist at all of its offices.

Again, a key component of the implementation of the DVA in its entirety is the establishment and functioning of the DV Management Board. Its function is instrumental in the implementation of the DVA thus it is recommended that the government takes steps to reconvene the Management Board to work towards the implementation of the DVA. It must, however, be noted that, since the reconstitution of the DV Management Board in 2016, the Board has not met to deliberate on issues on the DVA. It is recommended that the Ministry reconvene the Management Board and provide them with the necessary tools needed to push for the full implementation of the DVA. This includes the management of the Fund and creation of shelters all critical in helping victims of abuse in compliance with international human rights instruments Ghana is a party to.

The study also recommends that Ghana adopts the plan of jointly developing Action Plans with the various stakeholder involved with women's rights activism in Ghana. This is to allow for a coordinated effort directed at achieving the same goal of eliminating discrimination and VAW. The National Gender Policy on Domestic Violence is in this light, a good initiative. However, its implementation has not yielded comprehensive results as anticipated due to the lack of engagement with stakeholder.

Further, CSO's must intensify their advocacy on better implementation of government policies on women's rights, specifically, the DVA. It is noted in this study that, WiLDAF carried out court-watch to ascertain the level of implementation of the DVA after which they published a report on the extent to which the DVA is being implemented in selected courts in 5 regions.¹ More CSO's must push for free medical services for victims of DV as it is one of the areas that

present a challenge to DV victims access to justice. Again, the work of Legal Aid and FIDA Ghana is highly commendable in providing legal counsel to victims, it is however recommended that the government mainstream their activities into its policies.

It is recommended that, in compliance with DEVAW and addressing the cultural and traditional perceptions and practices that normalizes DV, government and stakeholders must involve traditional and religious authorities by implementing focused programs to each group aimed at addressing discrimination and VAW without necessarily attacking the foundation of their beliefs. It is also imperative for government and stakeholders to develop programs that include men in the fight against DV. Currently, the He4She campaign being run by the Gender Ministry is a good initiative in this regard. However, it must be moved beyond formal settings to rural communities, markets and churches as well as mosques to include men from all facets and backgrounds. This is in recognition of the role all men have to play in the realization of a violence-free society.

Also, the study recommends a review of the Act to meet current trends of violence facing women. After a decade of its existence, new threats to the enjoyment of women's right has evolved and requires a place in the statute books. The case of cyber violence/bullying and VAW is a case in point which should be considered in a possible review of the act.

Endnote

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